

**Legal Department**

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August 5, 2010

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Second Floor  
Harrisburg, PA 17120

**Re: Petition of PECO Energy Company Requesting A Declaratory Order to Terminate a Controversy or Remove Uncertainty Regarding Application of PECO's Rate Schedule GS for Public Utility Service Provided to Wireless Philadelphia**

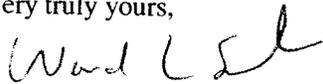
**Docket No. P-2009-2109629**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is PECO Energy Company's Petition for Leave to Withdraw its Petition filed in the above referenced case.

I have enclosed a Certificate of Service showing that a copy of the Petition for Leave to Withdraw was served on the interested parties. Also enclosed is an extra copy of this letter, which I request that you date stamp and return to me in the envelope provided as proof of filing. Thank you for your time and attention on this matter.

Very truly yours,



Ward L. Smith  
Counsel for PECO Energy Company

Enc.

cc: Administrative Law Judge Angela T. Jones

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Petition of PECO Energy Company Requesting</b>	:	
<b>A Declaratory Order to Terminate a Controversy</b>	:	
<b>Or Remove Uncertainty Regarding</b>	:	
<b>Application of PECO’s Rate Schedule GS</b>	:	<b>Docket No. P-2009-2109629</b>
<b>for Public Utility Service Provided to</b>	:	
<b>Wireless Philadelphia</b>	:	
	:	

**PECO ENERGY COMPANY’S  
PETITION FOR LEAVE TO WITHDRAW  
IT’S PETITION FOR DECLARATORY ORDER**

Pursuant to 52 Pa. Code § 5.94, PECO Energy Company (“PECO”) respectfully petitions the Commission, through presiding Administrative Law Judge Angela T. Jones, for Leave to Withdraw its Petition for a Declaratory Order to Terminate a Controversy or Remove Uncertainty Regarding Application of PECO (the “Petition”). The parties have reached an amicable resolution of this matter fully resolving the controversy. Therefore, it is in the public interest to grant PECO’s request to withdraw the Petition. In support thereof, PECO states as follows:

1. On May 22, 2009, PECO filed a Petition for Declaratory Order. In its Petition, PECO sought to clarify the application of its Rate Schedule GS to electric service provided Wireless Philadelphia (now “Digital Impact Group,” or “DIG”). The clarification was sought to resolve a billing dispute thereby enabling PECO to recover cost for electric services provided to DIG.

2. On July 13, 2009, DIG filed an Answer in response to PECO’s Petition, in which the City of Philadelphia (the “City”) joined. Respondents stated that its application of facilities to those of the City is ancillary thus; the Rate SL-P already billed to and paid by the City is the required payment for the electric service provided. In the alternative, Respondents claimed that

Rate SL-P is applicable to its facilities. As part of their Answer, Respondents sought affirmative relief and requested an evidentiary hearing.

3. On August 3, 2009, PECO filed a response to Respondents New Matter and a Motion for Judgment on the Pleadings. On August 28, 2010, Respondents filed an Answer to PECO's Motion for Judgment on the Pleadings.

4. On December 15, 2009, this matter was assigned to the Office of Administrative Law Judge for hearing.

5. PECO and Respondents filed pre-hearing memoranda on January 22, 2010 and January 25, 2010, respectively.

6. On February 9, 2010, Respondents filed a Supplemental and Amended Answer to PECO's Petition.

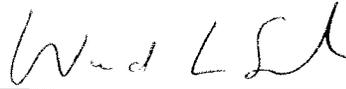
7. This matter has not yet been litigated, but the Administrative Law Judge has ordered the filing of written testimony by all parties, and evidentiary hearings, briefs, and other filings would be necessary to resolve this matter on a litigated basis.

8. The parties have reached a full resolution of the controversy and billing dispute. Allowing withdrawal of PECO's Petition will conserve the resources of the parties and the Commission by avoiding the need for additional litigation proceedings. Therefore, it is the public interest that the withdrawal be granted.

9. Respondents have authorized PECO to state that they do not object to the withdrawal.

**WHEREFORE**, PECO requests that Your Honor grant PECO's Petition for  
Leave to Withdraw its Petition for Declaratory Order.

Respectfully Submitted,



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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of PECO Energy Company Requesting** :  
**A Declaratory Order to Terminate a Controversy** :  
**Or Remove Uncertainty Regarding** :  
**Application of PECO's Rate Schedule GS** : **Docket No. P-2009-2109629**  
**for Public Utility Service Provided to** :  
**Wireless Philadelphia** :

**VERIFICATION**

I, Ward L. Smith, hereby declare that I am counsel for PECO Energy Company; that as such I am authorized to make this verification on its behalf; that the facts set forth in the foregoing Pleading are true to the best of my knowledge, information and belief, and that I make this verification subject to the penalties of 18 Pa. C.S. § 4904 pertaining to false statements to authorities.

Date: August 5, 2010

  
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Ward L. Smith

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Petition of PECO Energy Company Requesting</b>	:	
<b>A Declaratory Order to Terminate a Controversy</b>	:	
<b>Or Remove Uncertainty Regarding</b>	:	
<b>Application of PECO's Rate Schedule GS</b>	:	<b>Docket No. P-2009-2109629</b>
<b>for Public Utility Service Provided to</b>	:	
<b>Wireless Philadelphia</b>	:	
	:	

**CERTIFICATE OF SERVICE**

I, Ward L. Smith, hereby certify that I have this day served a copy of PECO Energy Company's Petition for Leave to Withdraw in the above matter upon all interested parties as follows:

**Via Federal Express and/or Email**

Greg Goldman, CEO  
Wireless Philadelphia  
121 S. 13th Street, 4th floor  
Philadelphia, PA. 19107

Michael Athay  
Office of the Solicitor  
City of Philadelphia  
Municipal Services Building  
1401 JFK Boulevard  
Philadelphia, PA 19102

Alan Kohler  
Eckert, Seamans  
213 Market Street, 8<sup>th</sup> Floor  
Harrisburg, PA 17101  
Counsel for Network Acquisition Company

**Via First Class Mail**

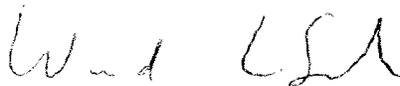
Office of Trial Staff  
Commonwealth Keystone Building  
400 North Street, Second Floor  
Harrisburg, PA 17120

Office of Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor  
Forum Place  
Harrisburg, PA 17101-1923

Office of Small Business Advocate  
DCED 1102 Commerce Building  
300 2<sup>nd</sup> Street  
Harrisburg, PA 17101

Dated at Philadelphia, Pennsylvania, August 5, 2010

Respectfully Submitted,



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