

Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
Tel: 215.963.5000
Fax: 215.963.5001
www.morganlewis.com

Morgan Lewis
C O U N S E L O R S A T L A W

Thomas P. Gadsden
Partner
215.963.5234
tgadsden@MorganLewis.com

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September 10, 2010

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

VIA FEDERAL EXPRESS
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v. PECO Energy Company,
Docket No. R-2010-2161575

Dear Secretary Chiavetta:

Enclosed for filing are an original and nine (9) copies of the **Main Brief of PECO Energy Company (Main Brief)** in the above referenced matter. Also enclosed is a disk containing the Main Brief in a searchable PDF format.

As evidenced by the attached Certificate of Service, a copy of the Main Brief has been served upon Administrative Law Judges Marlane R. Chestnut and Christopher P. Pell and all parties. Pursuant to 52 Pa. Code §1.11(2), the enclosed Main Brief shall be deemed filed on the date shown on the express delivery receipt attached to the delivery envelope.

Kindly time stamp the extra copy of the Main Brief we have enclosed and return it to us in the postage-paid return addressed envelope provided. Should you have any questions please contact me directly at 215.963.5234. Thank you.

Sincerely,



Thomas P. Gadsden

TPG/ap
Enclosures
c: Certificate of Service (w/encls.)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY
COMMISSION**

v.

**PECO ENERGY COMPANY -
ELECTRIC DIVISION**

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DOCKET NO. R-2010-2161575

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**MAIN BRIEF OF
PECO ENERGY COMPANY**

**Before Administrative Law Judges
Marlane R. Chestnut and Christopher P. Pell**

Anthony E. Gay
(Pa. No. 74624)
Jack R. Garfinkle
(Pa. No. 81892)
Exclon Business Services Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101-8699

Thomas P. Gadsden
(Pa. No. 28478)
Anthony C. DeCusatis
(Pa. No. 25700)
Catherine G. Vasudevan
(Pa. No. 210254)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921

September 10, 2010

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I. INTRODUCTION

A. Procedural History

This proceeding was initiated on March 31, 2010, when PECO Energy Company (“PECO” or the “Company”) filed with the Pennsylvania Public Utility Commission (the “Commission”) Supplement No. 2 to Tariff Electric – Pa. P.U.C. No. 4. Supplement No. 2 reflected an increase in annual distribution revenues of \$289.7 million (which included \$1.4 million in forfeited discounts), and an increase of annual transmission revenues of \$26.7 million. By Order issued May 20, 2010, the Commission instituted a formal investigation to determine the lawfulness, justness and reasonableness of PECO’s existing and proposed rates, rules and regulations. Accordingly, Supplement No. 2 was suspended by operation of law until December 30, 2010. This case was then assigned to Administrative Law Judges Marlane R. Chestnut and Christopher P. Pell (the “ALJs”) for purposes of conducting hearings and issuing a Recommended Decision.

The Company was served with Petitions to Intervene of the International Dark Sky Association (“IDA”), dated April 2, 2010; International Brotherhood of Electrical Workers Local 614, AFL-CIO (“IBEW”), dated April 12, 2010; Dominion Retail, Inc. (“Dominion Retail”), dated April 16, 2010; the City of Philadelphia (“City”), dated May 21, 2010; Citizens for Pennsylvania’s Future (“PennFuture”), dated May 26, 2010; the Commercial Group (“CG”), dated June 7, 2010; the Philadelphia Housing Authority (“PHA”), dated June 30, 2010¹; and C. Stanley Stubbe, dated July 14, 2010. Notices of Appearance were served on behalf of the Office of Small Business Advocate (“OSBA”) along with its Complaint on April 20, 2010; the Office of

¹ PHA filed a revised Petition on July 12, 2010.

Trial Staff (“OTS”), dated April 22, 2010; and the Office of Consumer Advocate (“OCA”), dated April 26, 2010, along with its Complaint. In addition, formal Complaints were filed by the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (“TURN, et al.”), dated May 14, 2010; the Philadelphia Area Industrial Energy Users Group (“PAIEUG”), dated May 20, 2010; the Trustees of the University of Pennsylvania/The Hospital at the University of Pennsylvania (“UPENN”), dated May 28, 2010²; and Pennsylvania Communities Organizing for Change, Inc. (“PCOC”), dated June 29, 2010. Several Complaints also were filed by individual residential customers. The ALJs granted the Petitions to Intervene of IBEW, IDA³, Dominion Retail, the City, PennFuture and CG in Prehearing Order # 1, issued June 15, 2010.

Pursuant to the litigation schedule established at the Prehearing Conference, written direct, rebuttal and surrebuttal testimony was submitted by various parties. In addition, the parties engaged in extensive discovery. Throughout this proceeding, the parties discussed the possibility of resolving some or all of the issues by settlement.

B. The Partial Settlement

The hearings scheduled for August 16 through August 20, 2010 were cancelled after the parties advised the ALJs that: (a) a settlement of all but one issue had been achieved amongst the Joint Petitioners⁴, (2) the parties had reserved the outstanding issue for briefing; and (3) cross-examination of witnesses on the remaining issue had been waived. The terms of the Settlement

² UPENN withdrew its Complaint by letter dated July 21, 2010 and the Commission closed the docket for UPENN’s Complaint on July 22, 2010.

³ IDA filed a Motion to Withdraw on June 30, 2010, which was granted by Order dated July 6, 2010.

⁴ The following parties joined in the Settlement: PECO, OCA, OSBA, OTS, PAIEUG, PCOC, IBEW, Dominion Retail, the City, TURN, et al. and CG (collectively, the “Joint Petitioners”). PennFuture, PHA and C. Stanley Stubbe did not oppose the Settlement.

are set forth in a Joint Petition for Partial Settlement of Rate Investigation (“Joint Petition”) filed on August 31, 2010, which also contains the Joint Petitioners’ Statements in Support of the Settlement. In accordance with instructions from the ALJs, a Motion For Admission of Testimony and Exhibits was filed along with the Joint Petition.

C. The Reserved Issue

The item reserved for litigation involves whether PECO should be required to unbundle its generation-related uncollectible accounts expense from its distribution rates for collection from residential and small commercial default service customers through a Merchant Function Charge (“MFC”) and also purchase electric generation supplier (“EGS”) receivables at a discount which includes a component based on PECO’s corresponding uncollectible accounts expense rate. In accordance with instructions from the ALJs, the Company’s proposed findings of fact, conclusions of law and ordering paragraphs related to the reserved issue are attached to this Brief as Appendix A.

II. SUMMARY OF ARGUMENT

The OTS has failed to establish that its proposal to unbundle generation-related uncollectible accounts expense from PECO’s distribution rates is necessary to enhance the competitive environment in PECO’s territory. PECO’s recently approved revised electric purchase of receivables program (“Revised Electric POR Program” or “Program”) creates a level playing field for EGSs and PECO by recovering all uncollectible accounts expense, whether derived from accounts purchased from EGSs or from customers receiving default service, through the Company’s distribution rates. As part of the Revised Electric POR Program proceeding, the very same unbundling issue was raised by the OTS and rejected by the Commission. The OTS has provided no new evidence in this proceeding to suggest that a

different approach for recovery of uncollectible accounts expense is now appropriate and in the public interest.

III. RESERVED ISSUE: UNBUNDLING GENERATION-RELATED UNCOLLECTIBLE ACCOUNTS EXPENSE

The OTS proposes unbundling uncollectible accounts expense related to default service generation supply revenues by removing that expense from the Company's distribution rates and having the Company recover it through a MFC that would be a separate, by-passable adjustment clause included in PECO's price to compare for default service. *See* OTS St. No. 2-SR, p. 3.

The OTS also recommends that the uncollectible accounts expense associated with purchased EGS receivables be recovered through a receivable discount, instead of in distribution rates.⁵ *Id.* OTS contended in its direct testimony that unbundling would "support establishing a more optimal competitive market by reflecting the true costs of electric supply in the Company's price to compare." *See* OTS St. No. 2, p. 5. Interestingly, in surrebuttal, the OTS concludes that "the unbundling of uncollectibles does not appear to have an effect on competition." *See* OTS St. No. 2-SR, p. 4.

In any event, the Company does not agree that the OTS' unbundling proposal is necessary to enhance competition. PECO has already taken a major step to enhance competition in its service territory by adopting the Revised Electric POR Program. *See Petition of PECO Energy Company For Approval Of Its Revised Electric Purchase of Receivables Program*, Docket No. P-2009-2143607 (Order entered June 18, 2010). As part of the Program, the Company proposed to continue to recover all uncollectible accounts expense through its distribution rates because, as the purchaser of receivables from participating EGSs, PECO will

⁵ The OTS has not quantified this discount or identified how it should be calculated.

bear the cost of uncollectible accounts for all customers, whether they purchase default service from the Company or purchase generation from an EGS. Specifically, PECO will bear the uncollectible accounts expenses of default customers, just as it does now. Additionally, because it will purchase accounts receivable from EGSs at face value without a discount for uncollectible accounts, it will bear the uncollectible accounts expense associated with the purchased receivables as well. *See* PECO St. No. 9-R, pp. 5-6.

In the Revised Electric POR Program proceeding, a settlement was reached with all parties (including the OCA, OSBA and several major EGSs) except the OTS, subject to the reservation for litigation of an issue that is not relevant to the issue discussed here. In that proceeding, the OTS advocated the same position it has in this proceeding, namely, “unbundling” default service generation uncollectible accounts expense and recovering it in a separate, by-passable charge. All parties, including the EGSs, opposed the OTS’ proposal. In its June 18, 2010 final Order (p. 48) approving PECO’s Revised Electric POR Program, the Commission rejected the OTS’ position and approved PECO’s proposal to continue to recover electric uncollectible accounts expense as part of electric distribution rates, stating: “Based upon the discussion above, we shall adopt PECO’s proposal to include the entirety of uncollectible accounts expense within its distribution service base rates.” In short, the proposal being advanced by the OTS in this case was rejected by the Commission only three months ago in PECO’s Revised Electric POR Program proceeding.

Despite the Commission’s recent rejection of its position, the OTS resurrects its arguments in this proceeding and contends that the Commission should reverse its June Order. In particular, the OTS argues that the recovery of uncollectible accounts expense in distribution rates (including the expense associated with purchased EGS receivables) will increase EGSs’

“realized profit margin” and may force shopping customers to “pay the uncollectible expense twice,” once in distribution rates and again in EGS supply charges. *See* OTS St. No. 2-SR, pp. 3-6. It also notes that the Commission has approved other electric POR programs that include uncollectible accounts expense in the discount established for EGS receivables. *Id.* at 6-7. Finally, the OTS cautions that if unbundling does not occur in this proceeding, it will become “uneconomical” and will never occur. *Id.* at 7.

The OTS’ arguments are without support. First, because uncollectible accounts expense as a percent of revenue does not vary based on whether a customer buys electricity from PECO or an EGS, recovering an overall average rate of uncollectible accounts expense from all customers through distribution rates does not disproportionately burden or benefit any customer group. In addition, there is simply no evidence that an EGS would include a premium in its prices for an uncollectible accounts expense which it was not incurring. Indeed, EGSs are looking to meet or beat their competitors’ prices in order to serve customers, and thus could not afford to include extra charges. Thus, in other words, customers will not pay the uncollectible expense twice as OTS surmises – once in distribution in rates and again in EGS charges. Rather, under PECO’s proposal all customers would pay for uncollectible expenses just once – in distribution rates. The OTS appears to acknowledge this fact when it states that “[p]ricing offered by an EGS to PECO’s customers will be set to cover the supplier’s cost of service and will consider pricing offered by other EGSs in PECO’s service territory.” *See* OTS St. No. 2-SR, p. 6; *see also* PECO St. No. 9-R, p. 5.

Second, the fact that other electric POR programs recover uncollectible accounts expense through a supplier discount simply confirms that POR cost-recovery mechanisms are appropriately determined on a case-by-case basis – and that determination has already been made

for PECO in the Revised Electric POR Program proceeding. Finally, PECO does not agree that this rate proceeding presents a “now or never” decision point with respect to this unbundling issue.

IV. CONCLUSION

For the reasons set forth above, PECO’s proposal to continue to recover generation-related uncollectible accounts expense in its distribution rates and implement its Revised Electric POR Program consistent with the Commission’s final Order at Docket No. P-2009-2143607 should be approved.

Respectfully submitted,



Thomas P. Gadsden (Pa. No. 28478)
Anthony C. DeCusatis (Pa. No. 25700)
Catherine G. Vasudevan (Pa. No. 210254)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
Phone: 215.963.5234
Fax: 215.963.5001
tgadsden@morganlewis.com

Dated: September 10, 2010

Anthony E. Gay (Pa. No. 74624)
Jack R. Garfinkle (Pa. No. 81892)
Exelon Business Services Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101-8699
Phone: 215.841.4635
Fax: 215.568.3389
anthony.gay@exeloncorp.com
jack.garfinkle@exeloncorp.com
Counsel for PECO Energy Company

APPENDIX A

PROPOSED FINDINGS OF FACT

1. On August 31, 2010, PECO Energy Company (“PECO” or the “Company”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), the Office of Trial Staff (“OTS”), the Philadelphia Area Industrial Energy Users Group (“PAIEUG”), Pennsylvania Communities Organizing for Change, Inc. (“PCOC”), the International Brotherhood of Electrical Workers Local 614, AFL-CIO (“IBEW”), Dominion Retail, Inc. (“Dominion Retail”), the City of Philadelphia (“City”), the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (“TURN, et al.”), and the Commercial Group (“CG”) (collectively, the “Joint Petitioners”), by their respective counsel, filed with the Pennsylvania Public Utility Commission (the “Commission”) a Joint Petition For Partial Settlement Of Rate Investigation (“Joint Petition” or “Settlement”) of all but one issue in the above-captioned proceeding and requested that the Administrative Law Judges approve the Settlement without modification.¹

2. The item reserved for litigation involves whether PECO should be required to unbundle its generation-related uncollectible accounts expense from its distribution rates for collection from residential and small commercial default service customers through a Merchant Function Charge (“MFC”) and also purchase electric generation supplier (“EGS”) receivables at a discount which includes a component based on PECO’s corresponding uncollectible accounts expense rate.

¹ Citizens for Pennsylvania’s Future (“PennFuture”), the Philadelphia Housing Authority (“PHA”) and C. Stanley Stubbe did does not oppose the Settlement.

3. PECO currently recovers its generation-related uncollectible accounts expense through its distribution rates and did not propose to change its methodology for recovering that expense in this proceeding.

4. Pursuant to PECO's recently approved revised electric purchase of receivables program ("Revised Electric POR Program"), the Company will purchase accounts receivable from EGSs at face value without a discount for uncollectible accounts, and will therefore bear the uncollectible accounts expense associated with the purchased receivables as well. *See Petition of PECO Energy Company For Approval Of Its Revised Electric Purchase of Receivables Program*, Docket No. P-2009-2143607 (Order entered June 18, 2010).

5. Recovering an overall average rate of uncollectible accounts expense from all customers (shopping and non-shopping) through distribution rates does not disproportionately burden or benefit any customer group. *See* PECO St. No. 9-R, p. 6.

6. The OTS is the only party opposing the Company's approach for recovering uncollectible accounts expense. It proposed unbundling uncollectible accounts expense related to default service generation supply revenues by removing that expense from the Company's distribution rates and having the Company recover it through an MFC that would be a separate, by-passable adjustment clause included in PECO's price to compare for default service. *See* OTS St. No. 2-SR, p. 3. The OTS also recommends that the uncollectible accounts expense associated with purchased EGS receivables be recovered through a receivables discount, instead of in distribution rates. *Id.*

7. In the Revised Electric POR Program proceeding, the OTS advocated the same position it has in this rate proceeding, namely, "unbundling" default service generation

uncollectible accounts expense and recovering it in a separate, by-passable charge. All parties, including the EGSs, opposed the OTS' proposal.

8. In its June 18, 2010 final Order (p. 48) approving PECO's Revised Electric POR program, the Commission rejected the OTS' position and approved PECO's proposal to continue to recover electric uncollectible accounts expense as part of electric distribution rates.

PROPOSED CONCLUSION OF LAW

1. The recovery of all generation-related uncollectible accounts expense in distribution rates (including the expense associated with purchased EGS receivables) will produce rates for recovering such costs that are just, reasonable, non-discriminatory and consistent with the Public Utility Code and the Commission's Revised Electric POR Program Order at Docket No. P-2009-2143607.

PROPOSED ORDERING PARAGRAPH

1. PECO shall implement distribution rates that reflect all generation-related uncollectible accounts expense, whether derived from accounts purchased from EGSs or from customers receiving default service.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY
COMMISSION**

v.

**PECO ENERGY COMPANY -
ELECTRIC DIVISION**

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DOCKET NO. R-2010-2161575

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the **Main Brief of PECO Energy Company** on the following persons in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54:

VIA ELECTRONIC MAIL & FEDERAL EXPRESS

Honorable Marlane R. Chestnut
Administrative Law Judge
Pennsylvania Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107
machestnut@state.pa.us
kniesborel@state.pa.us

Honorable Christopher Pell
Administrative Law Judge
Pennsylvania Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107
cpell@state.pa.us
starks@state.pa.us

Tanya J. McCloskey
Senior Assistant Consumer Advocate
Candis A. Tunilo
Assistant Consumer Advocate
Office of Consumer Advocate
Forum Place, 5th Floor
555 Walnut Street
Harrisburg, PA 17101-1923
tmccloskey@paoca.org
ctunilo@paoca.org
jhorner@paoca.org

Sharon E. Webb
Assistant Small Business Advocate
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101
swebb@state.pa.us

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Johnnie E. Simms
Adelou A. Bakare
Office of Trial Staff
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
josimms@state.pa.us
abakare@state.pa.us

Todd S. Stewart
Hawke McKeon & Sniscak LLP
P.O. Box 1778
100 North Tenth Street
Harrisburg, PA 17105-1778
tsstewart@hmslegal.com
Counsel for Dominion Retail, Inc.

Gary A. Jeffries
Assistant General Counsel
Dominion Retail, Inc.
501 Martindale Street, Suite 400
Pittsburgh, PA 15212-5817
Gary.A.Jeffries@dom.com
Counsel for Dominion Retail, Inc.

Charles T. Joyce
Spear Wilderman, P.C.
230 South Broad Street, Suite 1400
Philadelphia, PA 19102
ctjoyce@spearwilderman.com
*Counsel for International Brotherhood of
Electrical Workers Local 614, AFL-CIO*

Charis Mincavage
Vasiliki Karandrikas
Carl J. Zwick
McNees Wallace & Nurick LLC
P.O. Box 1166
100 Pine Street
Harrisburg, PA 17108-1166
cmincavage@mwn.com
vkandrikas@mwn.com
czwick@mwn.com
Counsel for PAIEUG

J. Barry Davis
Chief Deputy City Solicitor
Scott J. Schwarz
Senior Attorney, Regulatory Affairs Unit
City of Philadelphia Law Department
One Parkway Building
1515 Arch Street, 16th Floor
Philadelphia, PA 19102-1595
j.barry.davis@phila.gov
scott.schwarz@phila.gov
Counsel for City of Philadelphia

Thu B. Tran, Esquire
Philip A. Bertocci, Esquire
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102-2505
ttran@clsphila.org
pbertocci@clsphila.org
Counsel for TURN, et al.

C. Stanley Stubbe
1438 Shaner Drive
Pottstown, PA 19465
csstubbe@cs.com

Charles McPhedran
Law Staff Chair
John Baillie, Senior Attorney
PennFuture
1500 Walnut Street, Suite 502
Philadelphia, PA 19102
mcphehdan@pennfuture.org
baillie@pennfuture.org
Counsel for PennFuture

Roger D. Colton
Fisher, Sheehan and Colton
34 Warwick Road
Belmont, MA 02478
rcolton.fsc@comcast.net

Brian Kalcic
Excel Consulting
225 S. Meramec Avenue, Suite 720-T
St. Louis, MO 63105
excel.consulting@sbcglobal.net

Richard Baudino
J. Kennedy & Associates, Inc.
570 Colonial Park Drive, Suite 305
Roswell, GA 30075
rbaudino@jkenn.com

Stephen J. Barron
J. Kennedy & Associates, Inc.
570 Colonial Park Drive, Suite 305
Roswell, GA 30075
sbaron@jkenn.com

Arthur Z. Schwartz, Esquire
Advocates for Justice and Reform Now, P.C.
c/o Schwartz, Lichten & Bright
275 Seventh Avenue, Suite 1760
New York, NY 10001
districtleader@msn.com
Counsel for PCOC

Philip L. Hinerman
Jill A. Guldin
Fox Rothschild LLP
2000 Market Street, 20th Floor
Philadelphia, PA 19103-3222
phinerman@foxrothschild.com
jguldin@foxrothschild.com
Counsel for Philadelphia Housing Authority

Clarence L. Johnson
CJEnergy Consulting
3707 Robinson Avenue
Austin, TX 78722
cjenergy@grandecom.net

Holly Rachel Smith
Holly Rachel Smith, PLLC
Hitt Business Center
3803 Rectortown Road
Marshall, VA 20115
holly@raysmithlaw.com
Counsel for the Commercial Group

David C. Parcell
Technical Associates, Inc.
1051 East Cary Street
James Center III, Suite 601
Richmond, VA 23219
david.parcell@tai-econ.com

James T. Selecky
Brubaker & Associates, Inc.
P.O. Box 41200
St. Louis, MO 63141-2000
jtselecky@consultbai.com

VIA FIRST CLASS MAIL ONLY

Cynthia Gallagher
1130 Fanshawe Street
Philadelphia, PA 19111

Ryan Miller
9912 Medway Road
Philadelphia, PA 19115

Rita Griggs
202 East Sharpnack Street
Philadelphia, PA 19119-2261

VIA ELECTRONIC MAIL ONLY

James J. Schneider
Kimberly-Clark Corp.
1400 Holcomb Bridge Road
Roswell, GA 30076
james.schneider@kcc.com

Date: September 10, 2010



Thomas P. Gadsden (Pa. No. 28478)
Anthony C. DeCusatis (Pa. No. 25700)
Catherine G. Vasudevan (Pa. No. 210254)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
Phone: 215.963.5234
Fax: 215.963.5001
E-mail: tgadsden@morganlewis.com

Anthony E. Gay (Pa. No. 74624)
Jack R. Garfinkle (Pa. No. 81892)
Exelon Business Services Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101-8699
Phone: 215.841.4635
Fax: 215.568.3389
E-mail: anthony.gay@exeloncorp.com

Counsel for PECO Energy Company

TPG #00705 #001515-0003

1701 Market Street
Philadelphia, PA 19103-2921

Morgan Lewis
COUNSELORS AT LAW

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

ORIGIN ID: REDA (215) 963-5317
MAILROOM
MORGAN LEWIS & BOCKIUS LLP
1701 MARKET STREET

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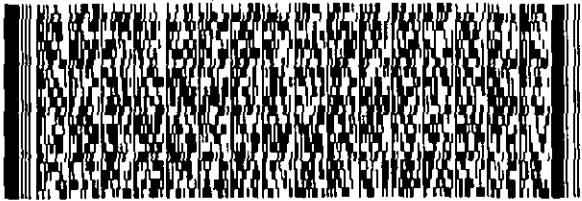
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HARRISBURG PA 17120

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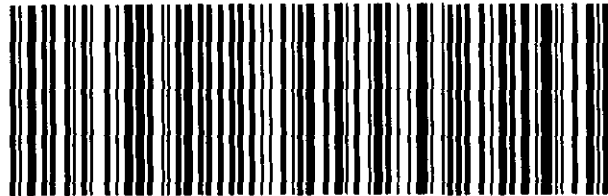
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