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November 8, 2010

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Via E-File and First Class Mail

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17105-3265

Re: William R. Edwards v. Commerce Energy
Docket No. C-2010-2200827
And
William R. Edwards v. PECO Energy Company
Docket No. C-2010-2200634

Dear Secretary Chiavetta:

Attached please find Commerce Energy's unopposed Motion to Consolidate and Response to PECO Energy Company's Motion to Join an Indispensable Party at the above referenced Docket Numbers.

This document has also been served on the parties of record as shown in the Certificate of Service.

If you have any questions, please contact me.

Very truly yours,

RYAN, RUSSELL, OGDEN & SELTZER P.C.

Bridgid M. Good / LRS

Bridgid M. Good

Enclosures

BMG:lds

c: As per Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

WILLIAM R. EDWARDS :
Complainant :
v. : Docket No. C-2010-2200827
: :
COMMERCE ENERGY :
Respondent :

WILLIAM R. EDWARDS :
Complainant :
v. : Docket No. C-2010-2200634
: :
PECO ENERGY COMPANY :
Respondent :

CERTIFICATE OF SERVICE

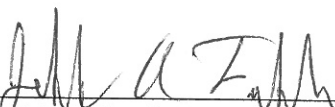
I hereby certify that I have this day served a true copy of Commerce Energy's Motion to Consolidate and Response to PECO Energy Company's Motion to Join an Indispensable Party upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by First Class Mail, postage prepaid, addressed as follows:

William R. Edwards
7 South York Road
Hatboro, Pennsylvania 19040

Tishekia Williams
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P.O. Box 8699
Philadelphia, PA 19101-8699
Counsel for PECO Energy Company

Dated: November 8, 2010



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Attorneys for
Commerce Energy

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

WILLIAM R. EDWARDS	:	
Complainant	:	
v.	:	Docket No. C-2010-2200827
	:	
COMMERCE ENERGY	:	
Respondent	:	

WILLIAM R. EDWARDS	:	
Complainant	:	
v.	:	Docket No. C-2010-2200634
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

**COMMERCE ENERGY'S MOTION TO CONSOLIDATE AND RESPONSE TO
PECO ENERGY COMPANY'S MOTION TO JOIN AN INDISPENSABLE
PARTY**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, Commerce Energy ("Commerce"), by and through its counsel, Bridgid M. Good, Jeffrey A. Franklin, and Ryan, Russell, Ogden & Seltzer P.C., hereby files the following Motion to Consolidate Proceedings, pursuant to this Commission's regulations at 52 Pa. Code § 5.81 and Reply to PECO Energy Company's Motion, pursuant to Section 5.61 of this Commission's regulations, 52 Pa. Code § 5.61, and in connection therewith states as follows:

INTRODUCTION

1. On or about September 24, 2010, Commerce was served with the Formal Complaint of William R. Edwards ("Complainant") at Docket Number, C-2010-2200827. PECO Energy Company ("PECO") and Commerce Energy were both listed as Respondents.

2. On or about October 18, 2010, Commerce was served with PECO Motion to Join an Indispensable Party ("Motion to Join"), i.e., Commerce.

3. Commerce requests that this Commission (i) deny PECO's Motion to Join it as an Indispensable Party and instead, (ii) grant Commerce's Motion to Consolidate the two above-referenced docket numbers into one proceeding for hearing and further disposition.

FACTUAL BACKGROUND

4. The Formal Complaint was served on Commerce on or about September 24, 2010 alleging (i) unusually high bills for the 11/2009, 12/2009 and 1/2010; (ii) Commerce and PECO improperly raised his rates and (iii) provided him with unreasonable service when questioning these bills.

5. The Complainant filed **only one** complaint listing the Utility Company, Respondent, as "PECO & Commerce Energy". Edwards Formal Complaint 1, ¶2. This *single* Complaint was served on Commerce at one docket number, Docket No. C-2010-2200827 and PECO at another docket number, Docket No. C-2010-2200634 (collectively referred to herein as "Formal Complaint").

6. On October 14, 2010, Commerce timely filed its Answer and New Matter to the Formal Complaint denying the material allegations therein.

7. On or about October 18, 2010, Commerce was served with PECO's Motion to Join. In its Motion to Join, PECO stated that it filed its Answer, New Matter and Notice to Plead simultaneously with its Motion to Join.¹ Motion to Join, ¶ 2.

8. Commerce, and its predecessor, was the Complainant's electric generation supplier from July 15, 2003 until May 12, 2010 ("Service Period").

¹ PECO did not serve Commerce with its Answer, New Matter and Notice to Plead.

9. PECO provided retail distribution and transmission electric service to the Complainant during the Service Period.

ARGUMENT

10. Commerce believes that it is appropriate for the Commission to consolidate the above-referenced proceedings for hearing and decision.

11. The regulations at 52 Pa. Code § 5.81 allows this Commission or the presiding officer to order the consolidation of proceedings "involving a common question of law or fact." Consolidation of proceedings furthers judicial economy and avoids needless duplication of litigation or contrary decisions.

12. The Complainant filed **one** complaint against both Commerce and PECO. The Commission served the same Formal Complaint on both PECO and Commerce with different docket numbers for each respondent. Thus, the factual allegations and prayers for relief are identical.

13. The Commission has significant discretion in deciding a Motion to Consolidate Proceedings. Consolidation of these proceedings will avoid the need for two separate Administrative Law Judges, separate hearings, participation of counsel in two separate proceedings, and duplication of witnesses, discovery, testimony and cross-examination. Moreover, consolidation of these proceedings will avoid potentially inconsistent decisions as a result of their separate treatment in different proceedings, which ultimately may require Commission resolution. Basic principles of judicial economy, the avoidance of needless duplication of litigation, and a desire to save resources all support consolidation of these proceedings.

14. PECO argues in its Motion to Join that Commerce is an indispensable party to the Formal Complaint because the allegations and prayer for relief involve Commerce and PECO.

15. Commerce agrees that the factual allegations and prayer for relief in the Formal Complaint involve PECO and it, but disagrees that Commerce should merely be joined to the proceeding at Docket No. C-2010-2200634. Rather, it would be more appropriate and efficient for the Commission to consolidate the two above-referenced proceedings into one proceeding for hearing and disposition. Only joining Commerce to the proceeding at Docket No. C-2010-2200634 would require Commerce to defend itself in two separate proceedings wasting time and resources.

16. All parties hereto, Commerce, PECO, and the Complainant, agree with and do not oppose this Motion to Consolidate Proceedings.

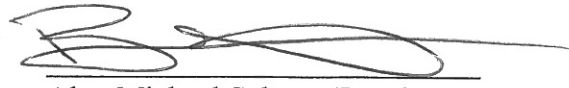
CONCLUSION

17. For the foregoing reasons, Commerce urges this Commission to (i) consolidate the above-referenced proceedings before one Administrative Law Judge for hearing and decision and (ii) deny PECO's Motion to Join Commerce as an indispensable party to only Docket No. C-2010-2200634.

WHEREFORE, Commerce Energy hereby requests that this Commission grant the foregoing Motion to Consolidate Proceedings and deny PECO Energy Company's Motion to Join an Indispensable Party.

Respectfully submitted,

Dated: November 8, 2010

A handwritten signature in black ink, appearing to read 'AS', is written over a horizontal line.

Alan Michael Seltzer, Esquire
Bridgid M. Good, Esquire
Eranda Vero, Esquire
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