

VINCENT J. FUMO
CHAIRMAN



ORIGINAL

PAUL S. DLUGOLECKI
EXECUTIVE DIRECTOR

DEMOCRATIC COMMITTEE ON APPROPRIATIONS
SENATE OF PENNSYLVANIA
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

May 21, 1997

James McNulty, Acting Prothonotary
Pennsylvania Public Utility Commission
206 North Office Building
Harrisburg, Pennsylvania 17105-3265

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MAY 21 1997

KJR

PA PUBLIC UTILITY COMMISSION
PROTHONOTARY'S OFFICE

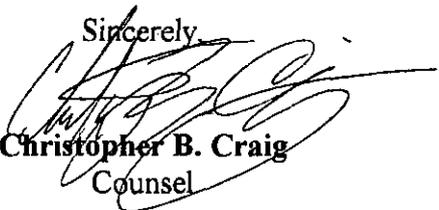
Re: In re the Matter of the Application of PECO Energy Company for Approval of Its Restructuring Plan Under Section 2806 of the Pennsylvania Public Utility Code — Docket No. R-00973953.

Dear Mr. McNulty:

Attached for filing in the above captioned matter is an original and two copies of the Prehearing Memorandum of Senator Vincent J. Fumo.

A copy of the forgoing has been served to all parties of record. If you have any questions please do not hesitate to contact me at 717 787-5662

Sincerely,


Christopher B. Craig
Counsel

DOCUMENT
FOLDER

cc: All counsels of record.

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MAY 21 1997
PA PUBLIC UTILITY COMMISSION
PROTHONOTARY'S OFFICE

**In re the Application of PECO Energy
Company for Approval of its Restructuring
Plan Under Section 2806 of the Pennsylvania
Public Utility Code**

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Docket No. R-00973953

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**PREHEARING MEMORANDUM OF
SENATOR VINCENT J. FUMO**

Pursuant to section 333(c) of the Pennsylvania Public Utility Code and paragraph (19) of the April 25, 1997, Prehearing Order of Administrative Law Judges Chestnut and Rainey, Senator Vincent J. Fumo hereby submits this Prehearing Memorandum identifying witnesses retained to present testimony in opposition of the Application of PECO Energy Company as well as the legal issues that may be raised.

**DOCUMENT
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I. Witness Identification.

The following witnesses have been retained by Senator Vincent J. Fumo to provide expert testimony in the above captioned matter:

Peter Bradford, Esquire
Post Office Box 497
Peru, Vermont 05152
(802) 824-4296

Richard Silkman, Ph.D.
163 Main Street
Yarmouth, Maine 04096
(207) 846-0539

Said testimony will be presented jointly on behalf of Senator Fumo, CEPA, TAG, Action

Alliance for Senior Citizens and John W. Long, Jr. In addition, it is reasonably anticipated that an additional witness, not yet identified, may be retained to appear on behalf of Senator Fumo, CEPA, *et al.*, to provide additional supplementary expert testimony. At such time the witness is identified, Senator Fumo will inform the Commission and all parties.

II. Legal Issue Identification.

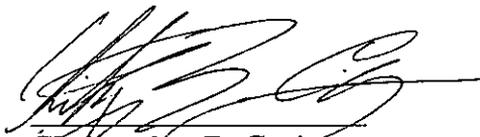
The legal issues that Senator Fumo may specifically address may include, but not necessarily be limited to:

- a) the important public policy objectives the Pennsylvania General Assembly sought to achieve by enacting the Electricity Generation Customer Choice and Competition Act, including the economic benefits sought to be provided to residential consumers;
- b) whether or not the stranded and transition costs that the Company seeks to securitize are justly and reasonably recoverable from ratepayers pursuant to Section 2812 of the Utility Code;
- c) whether or not the stranded and transition costs that the Company seeks to recover or securitize may hinder or otherwise prevent the development of a regional competitive market for the generation of electricity in violation of Section 2811 of the Utility Code;
- d) a determination of the accuracy of the applicant's costs classified as stranded;
- e) a determination of the accuracy of the applicant's disclosure of future state tax liabilities;
- f) the degree to which the applicant understood the economic risks associated with the construction, maintenance and operation of the assets classified as stranded;
- g) the degree to which shareholders of the utility applicant understood the risk associated with the construction, maintenance and operation of the assets classified as stranded;

- h) the extent to which it is in the public interest for the Public Utility Commission to ensure compensation to utility investors for values undermined by competition;
- i) a determination of the degree to which shareholders and the applicant should justly and reasonably assume the economic risks inherently associated with business ventures, including the construction, maintenance and operation of the assets classified as stranded;
- j) a determination as to whether or not the assets now classified as stranded were prudently assumed by the applicant;
- k) an assessment of the economic benefits or compensation afforded to the applicant utility's ratepayers, as compared to the benefits afforded to the applicant utility's shareholders, pursuant to the securitization proposal or settlement;
- l) the extent and statutory duty to which the applicant has properly employed the proceeds from the assignment and sale of intangible transition bonds to mitigate the stranded asset costs pursuant to section 2812(b)(1)(i) of the Act;
- m) the extent and statutory duty to which the applicant has properly employed costs savings measures or mitigation initiatives prior to the proposed sale of intangible transition bonds;
- n) an assessment of the state and local tax benefits that the applicant can reasonably expect to receive pursuant to full or partial securitization of stranded assets;
- o) an assessment of the accuracy of the applicant's filing, including a determination as to whether or not the applicant has complied with applicable state law, Public Utility Commission regulations and judicial orders;
- p) a determination of the scope and meaning of the phrases "just and reasonable" and "in the public interest" pursuant to section 2812 of the Act; and
- q) the extent to which the stranded and transition costs that the applicant seeks to securitize are justly and reasonably recoverable from ratepayers.

Senator Fumo reserves the right to amend this list as the discovery process continues and expert testimony is developed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chris B. Craig", written over a horizontal line.

Christopher B. Craig
Counsel, Senate Democratic Appropriations Committee
Room 545, Main Capitol Building
Harrisburg, Pennsylvania 17102
(717) 787-5662

Dated: April 21, 1997

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**In re the Application of PECO Energy
Company for Approval of its Restructuring
Plan Under Section 2806 of the Pennsylvania
Public Utility Code**

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Docket No. R-00973953

CERTIFICATION OF SERVICE

I, Christopher B. Craig, attorney for Senator Vincent J. Fumo, hereby certify that a copy of the foregoing document has been served in person or by first class mail at the addresses indicated below. I further certify that the manner of service satisfies the requirements of 52 Pa. Code §§ 5.75 and 1.54.

The Honorable Charles E. Rainey, Jr.
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Pennsylvania Public Utility Commission
1302 Philadelphia State Office Building
Philadelphia, Pennsylvania 19130
(215) 560-2105

The Honorable Marlane R. Chestnut
Administrative Law Judge
Pennsylvania Public Utility Commission
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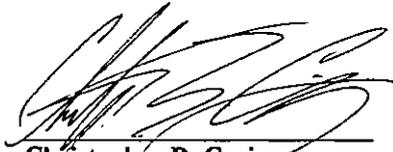
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Michael L. Kessler, Esquire
Vice President, General Counsel
American Energy Solutions, Inc.
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Alexandria, Virginia 22314
(703) 684-1006

Sam DeFrawi, Esquire
United States Navy Rate Intervention
Washington Navy Yard, Building 212, Code 00RI
901 M Street, South East
Washington, D.C. 20374-5018
(202)



Christopher B. Craig
Counsel, Senate Democratic Appropriations Committee
Room 545, Main Capitol Building
Harrisburg, Pennsylvania 17120
(717) 787-5662
Counsel for Senator Vincent J. Fumo

Dated: May 21, 1997

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DILWORTH, PAXSON, KALISH & KAUFFMAN LLP

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Linda C. Smith

May 21, 1997

DOCUMENT
FOLDER

KJR

James J. McNulty
Acting Prothonotary
Pennsylvania Public Utility Commission
North Office Building
P.O. Box 3265
Harrisburg, PA 17105

Re: **Application of PECO Energy Company For Approval of its
Restructuring Plan Under Section 2806 of the Public
Utility Code, Docket No. R-00973953**

Dear Mr. McNulty:

Enclosed for filing in the above-captioned proceeding are an original and three copies of the Prehearing Memorandum of American Association for Retired Persons.

Very truly yours,
Linda C. Smith
Linda C. Smith

LCS:sdc

Enlosures

cc: Attached Service List

DOCKETED

ORIGINAL

MAY 23 1997

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

APPLICATION OF PECO ENERGY :
 COMPANY FOR APPROVAL OF ITS :
 RESTRUCTURING PLAN UNDER : DOCKET NO.
 SECTION 2806 OF THE PUBLIC : R-00973953
 UTILITY CODE :

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PREHEARING MEMORANDUM
 OF
 AMERICAN ASSOCIATION OF RETIRED PERSONS

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Pursuant of Section 333 of the Public Utility Code, 66 Pa.C.S. § 333, and in response to the Presiding Judges' Prehearing Order dated April 25, 1997 in the above-captioned matter, American Association of Retired Persons respectfully submits this Prehearing Memorandum.

I. BACKGROUND

Governor Tom Ridge signed into law the Electricity Generation Customer Choice and Competition Act ("Competition Act") on December 3, 1996. The Competition Act restructures the electric utility industry in Pennsylvania to provide customers with choice of their electricity generator.

On April 1, 1997, PECO Energy Company ("PECO") filed an application for approval of its Restructuring Plan, pursuant to the Commission's Order Re: Restructuring Filings and Docket No. M-00960890F0003, which sets forth requirements and procedures for filing restructuring plans pursuant to the Competition Act at Section 2806(D) of the Public Utility Code. PECO's Restructuring Plan addresses the calculation and recovery of utility stranded costs, unbundling of utility rates, design of Competitive Transition Charge ("CTC"), terms and conditions for retail

competition in PECO's service area, PECO's obligation to serve as a supplier of last resort, and the education of consumers about retail competition.

II. ISSUES TO BE EXAMINED

Based upon a preliminary analysis of PECO's filing, American Association of Retired Persons intends to investigate or take a position on a number of issues raised in PECO's Restructuring Plan. The issues identified will be addressed by AARP in hearing or in briefs. Testimony may be limited to certain issues while other issues will be discussed in brief only. AARP reserves the right to add additional issues or to eliminate an issue as necessary based on the development in the case

Stranded Costs: American Association of Retired Persons may examine the technical information regarding the level of prudent and absorbed stranded costs and how they are measured.

Cost of capital, taxes, and other financial issues: American Association of Retired Persons may examine the cost of capital, taxes, and other financial issues.

Implementation of restructuring: American Association of Retired Persons may examine the implementation of restructuring for the residential class. This includes examination of the requirement for customers to pay for their meters. It also includes exploration of how residential will phase in, participation of the residential class will occur if only 1/3 of residential customers will be asked to participate in the first phase rather than selected.

Economic Impact of Residence: American Association of Retired Persons may examine the overall economic impact of the restructuring on the residential class. The availability of alternative suppliers, the impact of combined payments to suppliers and PECO, and the input of meter payments on relocation of residential customers, are some issues that may be examined.

American Association of Retired Persons reserves the right to raise additional issues and to respond to the issues raised by other parties in this proceeding.

Universal Service Programs: American Association of Retired Persons may call a witness to testify regarding the two CAP programs and other government energy programs.

Customer Education: American Association of Retired Persons may call a witness to testify regarding the means by which PECO intends to communicate with its customers regarding the availability of competitive supply. Also, the American Association of Retired Persons may call a witness to testify whether the language choices are adequate and whether distribution of materials is adequate.

III. WITNESSES:

Based upon a preliminary analysis of PECO's filing, American Association of Retired Persons intends to call the following witness:

Dr. Mark N. Cooper
President, Citizens Research
504 Highgate Terrace
Silver Spring, MD 20904
Phone - 301-384-2204
Fax - 301-236-0519

American Association of Retired Persons at this time has not identified all of its witnesses that will be used in this proceeding. American Association of Retired Persons will inform the Presiding Judges and all parties when such a determination is made.

Respectfully Submitted,

By: *Linda C. Smith*
Linda C. Smith, Esquire
Dilworth, Paxson, Kalish & Kauffman
305 N. Front St., Suite 403
Harrisburg, PA 17109
(717) 236-4812

Dated: May 21, 1997

CERTIFICATE OF SERVICE

I, Linda C. Smith, hereby certify that I have this day caused a true copy of the foregoing to be served upon the parties of record in Docket No. R-00973953 in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the parties listed below.

Dated at Harrisburg, Pennsylvania, May 21, 1997.

VIA HAND DELIVERY AND FIRST CLASS MAIL

Paul R. Bonney, Esquire
Noel H. Trask, Esquire
PECO Energy Company
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P.O. Box 8699
Philadelphia, PA 19101-8699

Mr. Sam DeFrawi, Director
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Linda C. Smith

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THE LAW FIRM OF
MALATESTA HAWKE & McKEON LLP

MAILING ADDRESS:
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HARRISBURG, PA 17105

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LILLIAN SMITH HARRIS
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May 21, 1997

James J. McNulty, Prothonotary
Pennsylvania Public Utility Commission
Room B-18, North Office Building
PO Box 3265
Harrisburg, PA 17105-3265

KJR

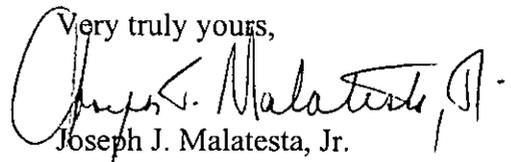
RE: R-00973953 -- Pennsylvania Public Utility Commission v. PECO Energy Company (Restructuring Proceeding)

Dear Mr. McNulty:

Enclosed, for filing with the Commission, are the original and three (3) copies of the Prehearing Memorandum of the Municipal Intervenors Group.

As noted below, and on the Certificate of Service that is attached to its Prehearing Memorandum, the Municipal Group has served a copy of its Memorandum upon the presiding Administrative Law Judges, the Honorable Marlane R. Chestnut and Charles E. Rainey, Jr., and on all active parties of record to this proceeding.

Thank you for your attention to this matter.

Very truly yours,

Joseph J. Malatesta, Jr.

JJM:lju
Enclosures

cc: Honorable Marlane R. Chestnut (hand-delivery)
Honorable Charles E. Rainey, Jr. (hand-delivery)
All persons named on Certificate of Service
Stephen B. Harris, Esquire

DOCUMENT
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ADMINISTRATIVE LAW JUDGES
MARLANE R. CHESTNUT
AND
CHARLES E. RAINEY, JR.

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

v.

PECO ENERGY COMPANY

:
:
:
: Docket No. R-00973953
:
:

**PREHEARING MEMORANDUM OF
MUNICIPAL INTERVENORS GROUP**

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PROTHONOTARY'S OFFICE

INTRODUCTION

The Municipal Intervenors Group ("Municipal Group") is an *ad hoc* association that has been formed for purposes of this proceeding and for any discussions or negotiations with PECO Energy Company ("PECO") that arise as a result of or incident to this proceeding. On May 16, 1997, the Municipal Group filed a Petition to Intervene in this proceeding. Based on ¶12 of Prehearing Order #1 that was issued by Administrative Law Judge Chestnut on April 25, 1997, it appears that the Municipal Group's Petition to Intervene will be granted unless opposed within 10 days, or on or

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around May 27, 1997. Nevertheless, while the Municipal Group's status in this proceeding likely will not be resolved by May 21, 1997, the Municipal Group intends to appear at the second Prehearing Conference scheduled for that date.

The Municipal Group currently consists of 22 members, each of whom is a municipality located within PECO's authorized service territory and each of whom purchases electricity for street lighting service from PECO under PECO's Rate SL-E. The Municipal Group's membership may increase as this proceeding progresses. The Municipal Group will provide timely written notice to all parties of any additions to its membership.

ISSUES

PECO's existing Rate SL-E is a three-part rate design that consists of a monthly location charge, a capacity charge, and an energy charge. Under that design, the members of the Municipal Group pay a significant portion of their annual bills for street lighting service through the fixed monthly location charge. In fact, during 1996, the members of the Group together paid PECO well over \$2,000,000 in location charges.

As part of this proceeding, PECO has proposed to unbundle Rate SL-E to separate charges for generation from charges for transmission and distribution. Even so, in its direct testimony, PECO has attempted to characterize Rate SL-E, as it currently exists, as a "partially unbundled" rate design. PECO Statement No. 13 at p. 9. In one sense, PECO's characterization is correct. That is, because customers under Rate SL-E actually own and maintain their own street lighting equipment, costs associated with that ownership and maintenance have been "unbundled" from PECO's otherwise applicable

Rate SL-S, the rate schedule designed for street lighting customers who do not own and maintain the street lighting equipment. In another sense, however, PECO's characterization is misleading, in that it suggests that, even before Chapter 28 was added to the Public Utility Code, PECO had taken steps in anticipation of a competitive marketplace for generation.

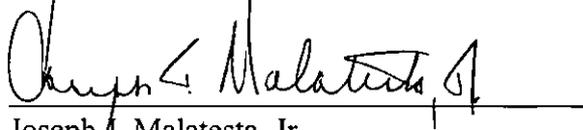
In light of the above, the issues that the Municipal Group will raise and address in this proceeding are the following:

1. Whether PECO's proposal to unbundle Rate SL-E will provide Rate SL-E customers, including members of the Municipal Group, with a meaningful opportunity to participate in and benefit from the competitive marketplace for electricity generation?
2. Whether the fixed monthly location charge that currently exists under Rate SL-E and that PECO has proposed to continue even after PECO's rates are restructured is, in and of itself, an unjust and unreasonable deterrent to meaningful participation by Rate SL-E customers, including members of the Municipal Group, in the competitive marketplace for electricity generation?

WITNESS

The Municipal Group intends to retain the services of an expert witness to prepare and present testimony in this proceeding. The Group has not yet had the opportunity to identify that witness. As described in ¶6 of its Petition to Intervene, however, the Group will take the Commission's procedural schedule and the current progress of this proceeding as it finds them. Accordingly, the Group will serve the direct testimony of its witness on the presiding Administrative Law Judges and the other parties on or before June 20, 1997.

Respectfully submitted,



Joseph J. Malatesta, Jr.

Lillian Smith Harris

Malatesta Hawke & McKeon LLP

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(717) 236-1300

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1760 Bristol Road

Box 160

Warrington, PA 18976

COUNSEL FOR THE MUNICIPAL
INTERVENORS GROUP

DATED: May 21, 1997

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon the persons named and in the manner indicated below.

Hand-delivery:

Paul R. Bonney, Esquire
PECO Energy Company
2301 Market Street
Philadelphia, PA 19103

Kenneth L. Mickens, Esquire
Charles D. Shields, Esquire
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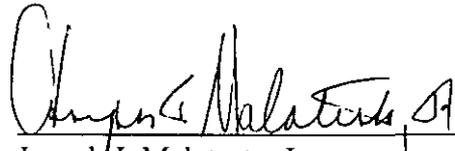
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Joseph J. Malatesta, Jr.

DATED: May 21, 1997

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ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of PECO Energy Company
for Approval of its Restructuring Plan
under §2806 of the Public Utility Code

Docket No. R-00973953

KJR

PREHEARING MEMORANDUM
OF THE
ENVIRONMENTALISTS

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The Environmentalists, by their attorney Alan Barak, present this prehearing memorandum.

Active Party Status

The Environmentalists were designated an active party in Prehearing Order #1 issued on April 25, 1997. We wish for this designation to continue throughout this proceeding.

Service List

As noted in Prehearing Order #1 issued on April 25, 1997, each party would have a single entry on the official service list. The Prehearing Order correctly identifies that entry for the Environmentalists as:

Roger Clark, Esq.
Attorney for the Environmentalists
905 Denston Drive
Ambler, PA 19002-3901.

The Environmentalists respectfully request that other parties include the following individuals on their mailing lists:

Alan Barak, Esq.
1417 Blue Mountain Parkway
Harrisburg, PA 17112

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Jerry Mendl
MSB Energy Associates
7507 Hubbard Avenue, Suite 200
Middleton, WI 53562

Bruce Biewald
Synapse Energy Economics, Inc.
101 Chilton Street
Cambridge, MA 02138

Roger Colton (Universal Service and Education issues only)
Fisher Sheehan & Colton
34 Warwick Road
Belmont, MA 02178

Proceeding Schedule

The Environmentalists concur with the Office of Consumer Advocate's proposed extension of the litigation schedule to January 8, 1998.

Witnesses

The Environmentalists intend to present the following three witnesses:

David Schoengold or Jerry Mendl
MSB Energy Associates
Middleton, WI

Bruce Biewald
Synapse Energy Economics, Inc.
Cambridge, MA

Roger Colton
Fisher Sheehan & Colton
Belmont, MA

Issues

The Environmentalists will be addressing the following issues in the direct testimony of its witnesses and in other aspects of this proceeding:

1. What principles should guide the design of the restructured electric marketplace.
2. Whether PECO's restructuring plan reduces electric rates by a meaningful amount needed to deliver the economic benefits which is the underlying foundation of the Act.
3. Whether PECO's restructuring plan will create barriers to a healthy and robust electric power marketplace contrary to the public interest and the goals of the Act.
4. Whether PECO's restructuring plan contains many anti-competitive features which will limit market entry by alternative suppliers and will have extremely negative consumer and environmental impacts.
5. Whether PECO has fairly and properly unbundled its rates.
6. Whether PECO has properly computed its stranded costs.
7. Whether PECO's has properly estimated future electric prices.
8. Whether PECO has adequately mitigated its stranded costs.
9. Whether PECO has proposed a fair sharing of its stranded costs.
10. Whether PECO's proposed Competition Transition Charge is excessive and unreasonable.
11. Whether PECO's universal service plan is adequate.
12. Whether PECO's consumer information and education plan is adequate.
13. Whether PECO's restructuring plan adopts the integrated resource planning strategies of energy conservation, load management and distributed power generation to reduce or hold down the future costs of distribution system improvements.

14. Whether PECO's restructuring plan adequately addresses how PECO will work with the Commission and others to establish independent system operators ("ISOs") and to operate the transmission system and the interstate power pools in a fair and reliable manner.
15. Whether PECO has properly dealt with the costs of nuclear decommissioning and the costs of safely storing and disposing of its nuclear waste.
16. Whether PECO's restructuring plan proposes to use the stranded investment proceeds in ways which fail to reduce the stranded investments and are not in the public interests.
17. The transmission issues identified by Commissioner Hanger in his Statement accompanying the Commission's February 13, 1997 Order at Docket No. M-00960890 F003.
18. Other related issues which may arise during the course of discovery or during the testimony of the parties.

Incorporating Portions of the Record
from Docket No. R-00973877

If the Environmentalists plan to rely on any section of the record from Docket No. R-00973877 (the PECO Energy securitization case), we will identify the relevant portions in our testimony and provide copies to all parties.

Settlement

The Environmentalists have and are participating in all settlement discussions involving the education issues. The Environmentalists will participate in the proposed settlement discussions involving the universal service issues, as well as other matters which arise.

Respectfully submitted,

Alan J. Barak

Alan J. Barak, PC
Attorney for the Environmentalists
(Sup. Ct. No. 67886)

Dated: May 21, 1997

Alan J. Barak, Esq.
1417 Blue Mountain Parkway
Harrisburg, PA 17112
phone: (717) 540-5106
fax: (717) 541-1970
E-mail: barak@igc.apc.org

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A.J. Barak', written in a cursive style.

Alan J. Barak

Alan J. Barak, PC
Attorney for the Environmentalists
(Sup. Ct. No. 67886)

Dated: May 21, 1997

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ALJ APPEARANCE SHEET

ALJ Hearing Report

Docket No. R-00973953, R-00973953C0001-C0007

Case Name PECO ENERGY COMPANY

Location HARRISBURG

Date WEDNESDAY, MAY 21, 1997 -

ALJ ALJ CHESTNUT/ ALJ RAINEY

Reporting Firm Holbert Associates

CHECK THOSE BLOCKS WHICH APPLY:

Prehearing Held YES NO

Hearing Held YES NO

Testimony Taken YES NO

Transcript Due YES NO

Hearing Concluded YES NO

Further Hearing Needed YES NO

Estimated Add'l Days _____

RECORD CLOSED YES NO

Briefs to be Filed YES NO

BENCH DECISION YES NO

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REMARKS: *Evidentiary hearings were scheduled for August 4-22, 1997 in Phila. The schedule for public inputs will be established.*

Names, Addresses and Telephone Numbers of Parties or Counsel of Record
 PLEASE PRINT CLEARLY

Incomplete Information may Result in Delay of Processing

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Joseph S. Malatesta, Jr. Telephone No. 717-236-1300	100 N. 10th St. City Hbg State PA Zip 17101	Municipal Entrepreneurs Group

Check this box if additional parties or counsel of record appear on back of form.

[Signature]
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