

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

PECO ENERGY APPLICATION FOR
APPROVAL OF ITS RESTRUCTURING
PLAN AND JOINT PETITION FOR
PARTIAL SETTLEMENT

PUBLIC MEETING-
OCTOBER 9, 1997
OCT-97-C-13
DOCKET NO. R-00973953

PETITION OF ENRON FOR APPROVAL
OF AN ELECTRIC COMPETITION AND
CUSTOMER CHOICE PLAN AND FOR
AUTHORITY PURSUANT TO SECTION
2807(e) (3) TO SERVE AS PROVIDER
OF LAST RESORT

DOCKET NO. P-00971265

ENRON MOTION TO CONSOLIDATE

ENRON MOTION FOR EXPEDITED
ESTABLISHMENT OF A PROCEDURAL
SCHEDULE

STATEMENT OF CHAIRMAN JOHN M. QUAIN

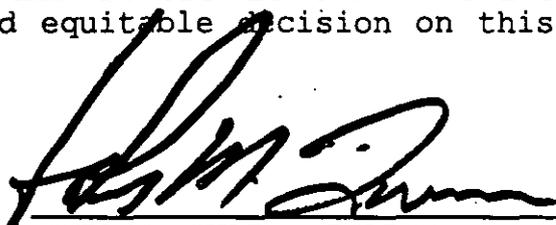
The Motion before us for consideration is designed to extend the procedural schedule in the above-captioned matter. The extension of time is necessary to accommodate a Petition filed by Enron Energy Services Power, Inc. (Enron) on October 7, 1997. In effect, Enron proposes an alternative to a Joint Settlement Petition currently filed at this docket.

Initially, the Commission indicated its intent to grant interlocutory review to consider the Joint Settlement Petition. However, given the filing of the instant pleading by Enron, we must alter our approach. Thus, I support the proposed extension of time to consider Enron's alternative proposal and any other relevant evidence which the parties wish to submit in this docket. We will then be in a position to review the entire record, including the Joint Settlement Petition, in the context of a fully litigated proceeding.

In this manner, we can ensure that due process is provided to all parties and the Commission has before it all relevant evidence in order to make a fair and equitable decision on this very important case.

10-9-97

DATE


JOHN M. QUAIN, CHAIRMAN

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania

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SCHEDULE**

STATEMENT OF COMMISSIONER NORA MEAD BROWNELL

In the Motion before us, the Commission is requested to consolidate the Petition of Enron Energy Services Power, Inc. (Enron) for Approval of an Electric Customer Competition and Choice Plan and for Authority to Serve as Provider of Last Resort. A very preliminary review of that Petition indicates that it is a response to the Joint Settlement Petition filed by several parties in PECO's restructuring plan. Certainly, the matters addressed in Enron's Petition present the same legal and policy issues which the Joint Settlement Petition presents.

The Motion also provides for a very ambitious time frame within which the parties, and this Commission, are to act to conclude consideration of all matters which are raised in PECO's restructuring proceeding. Although the time frame is ambitious, it does provide for meaningful opportunities for the parties to prepare and present their positions on all facets of the restructuring plan. That aspect of the Motion is critical, as well as its direction that this proceeding move to completion with a full consideration of the entire restructuring plan.

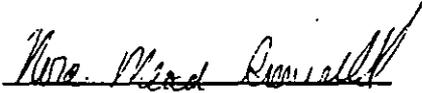
I am supporting consolidation of these matters. The relief requested in the Enron Petition is inextricably linked to the Joint Settlement Proposal. I am doubtful that this Commission could act on one without consideration of the other. In addition, it appears unlikely that meaningful consideration of either matter could occur outside of the context of PECO's restructuring plan. Accordingly, consolidation must occur. As I stated above, the time frame will afford a full and fair opportunity for all parties to develop and present their positions on this matter. This includes the entire restructuring proceeding.

Today, I am voting to consolidate these matters and establish a time frame within which to bring PECO's restructuring case to a close. My vote here is not intended to express any position on PECO's restructuring plan filed April 1, 1997, on the Joint Settlement Proposal or on Enron's Petition. My decision on the merits of this proceeding will be made only after a full and deliberate consideration of the record and the briefs.

However, as I review this matter, I will make every effort to ensure that the benefits which are the goal of electric competition will be realized. Accordingly, any savings must be real, not illusory. Projected savings must continue for the long run. They cannot be short term gains which will be evaporated over the longer term. And, perhaps most importantly, any proposed plan must be designed to ensure that true competition will result. I will not be satisfied with cosmetic overlays that substitute for competitive opportunities.

Finally, I would encourage the parties to continue to consider full settlement of this matter. It is the public that we all serve who is to benefit from this process. I ask that we not lose sight of that as we conclude this matter.

10/09/97
DATE: October 9, 1997


Nora Mead Brownell
Commissioner



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

October 9, 1997

IN REPLY PLEASE
REFER TO OUR FILE

R-00973953

TO ALL PARTIES

Pa. P.U.C.
v.
PECO Energy Company

To Whom It May Concern:

This is to advise you that an Opinion and Order has been adopted by the Commission in Public Meeting on October 9, 1997 in the above entitled proceeding.

An Opinion and Order has been enclosed for your records.

Very truly yours,

James J. McNulty
Acting Secretary

Enclosure
Certified Mail
JEP

SOCKETE
OCT 21 1997

DOCUMENT
FOLDER

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

PECO ENERGY APPLICATION FOR
APPROVAL OF ITS RESTRUCTURING
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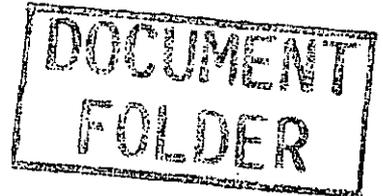
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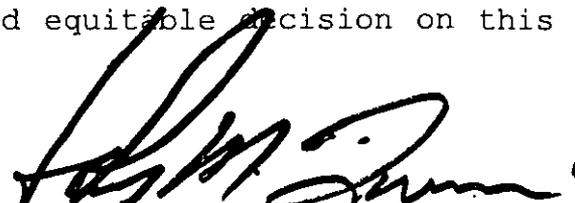
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Initially, the Commission indicated its intent to grant interlocutory review to consider the Joint Settlement Petition. However, given the filing of the instant pleading by Enron, we must alter our approach. Thus, I support the proposed extension of time to consider Enron's alternative proposal and any other relevant evidence which the parties wish to submit in this docket. We will then be in a position to review the entire record, including the Joint Settlement Petition, in the context of a fully litigated proceeding.

In this manner, we can ensure that due process is provided to all parties and the Commission has before it all relevant evidence in order to make a fair and equitable decision on this very important case.

10-9-97
DATE


JOHN M. QUAIN, CHAIRMAN

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held October 9, 1997

Commissioners Present:

John M. Quain, Chairman, Statement attached
Robert K. Bloom, Vice Chairman
John Hanger
David W. Rolka
Nora Mead Brownell, Statement attached

PECO Application for Approval of its Restructuring Plan and
Joint Petition for Partial Settlement

R-00973953

Petition of Enron Energy Services Power, Inc., for Approval of
an Electric Competition and Choice Plan and for Authority
Pursuant to Section 2807(e)(c) of the Public Utility Code to
Serve as the Provider of Last Resort in the Service Territory of
PECO Energy Company

P-00971265

OPINION AND ORDER

DOCKETED
OCT 21 1997

DOCUMENT
FOLDER

BY THE COMMISSION:

Before us for review is a Motion to Consolidate and a Motion for Expedited Establishment of a Procedural Schedule (Schedule Motion), filed by Enron Energy Services Power, Inc., (Enron), on October 7, 1997, and October 8, 1997, respectively, relative to the above-captioned proceedings.

History of the Proceedings

The Electric Competition and Customer Choice Act, 66 Pa. C.S. §§2801, *et seq.*, (Act) requires all electric utilities in Pennsylvania to file Restructuring Plans for review and approval by the Commission. PECO Energy Company (PECO) filed its

Application For Approval of Its Restructuring Plan on April 1, 1997, at Docket No. R-00973953. The parties agreed that a decision in PECO's Restructuring case may be adopted prior to January 8, 1998. Hearings on the PECO Restructuring case were postponed at the request of several parties who were discussing possible settlement of the case. On August 27, 1997, several, but not all, parties to the PECO restructuring case submitted a Joint Petition for Partial Settlement of the restructuring case (Joint Partial Settlement Petition). The terms of the Joint Partial Settlement Petition are the subject of Public Input Hearings scheduled for the week of October 6, 1997. Technical hearings are to be conducted the week of October 13, 1997. The Joint Partial Settlement Petition assumes (but does not require) that PECO be the provider of last resort in its service territory.

On October 7, 1997, Enron, a licensed electric supplier, filed its Petition for Approval of an Electric Competition and Customer Choice Plan and for Authority Pursuant to Section 2807(e)(c) of the Public Utility Code to Serve as the Provider of Last Resort in PECO's Service Territory (PLR Petition) at Docket No. P-00971265. The PLR Petition includes a proposal (Enron's Customer Choice Plan) for resolution of the same issues in PECO's Restructuring case which are presented in the Joint Partial Settlement Petition. Enron simultaneously filed the instant Motion to Consolidate its PLR Petition and the Joint Partial Settlement Petition. On October 8, 1997, Enron filed the Schedule Motion concerning the October 7 filings.

On October 9, 1997, the Honorable Vincent J. Fumo, Senator, filed notice that he did not oppose Enron's Motion to Consolidate to the extent that consolidation does not further delay the Commission's scheduled consideration of the Joint Partial Settlement Petition. Also on October 9, 1997, PECO filed notice that PECO opposes Enron's PLR Petition, Enron's Motion to Consolidate, and Enron's Schedule Motion. Additionally, on October 9, 1997, the Philadelphia Area Industrial Energy Users Group (PAIEUG) filed notice that PAIEUG opposes Enron's PLR Petition, Enron's Motion to Consolidate, and Enron's Schedule Motion.

Discussion

Section 5.81 of our Regulations, 52 Pa. Code §5.81, relating to consolidation of proceedings, provides that this Commission (or a presiding officer) may order proceedings involving a common question of law or fact to be consolidated. Further, this Commission (or the presiding officer) may make such further orders concerning the conduct of the consolidated proceedings as may avoid unnecessary costs or delay.

In its Motion to Consolidate, Enron alleges that its PLR Petition and PECO's Restructuring case share many legal and factual issues and are both integrally related to PECO's restructuring. Enron continues that consolidation will avoid unnecessary costs, delays, and additional expenditure of administrative resources and will provide for a consistent and coordinated resolution of the common issues of law and fact. Enron asserts that consolidation will not prejudice any party because PECO and the other litigants will have an equal opportunity to participate and be heard in a consolidated proceeding. (Mot. Con., p.1; & ¶¶6, 8, 11-13.)

In support of its Motion to Consolidate, Enron asserts that approving the Joint Partial Settlement Petition will: (a) cause PECO customers to incur unwarranted costs, and (b) have a chilling effect upon electric generation competition. (Mot. Con., ¶3.) Enron asserts that its Customer Choice Plan offers an alternative to the Joint Partial Settlement Petition designed to avoid the alleged unwarranted costs and to promote competition. (Mot. Con., ¶¶4-5.)

Enron asserts that many of the terms and conditions of Enron's Choice Plan are supported by evidence of record which has been submitted and will be introduced in PECO's Restructuring case. Additionally, Enron asserts that its request for relief is contingent upon resolution of the issues pending in PECO's Restructuring case consistent with Enron's Customer Choice Plan, as proposed (Mot. Con., ¶9).

Our preliminary review of the PLR Petition, including Enron's Customer Choice Plan, as well as our review of the Joint Partial Settlement Petition, indicates that the factual, legal, and policy considerations presented by the Joint Partial Settlement Petition are also raised in the PLR Petition. Additionally, each of these proposals is intertwined with PECO's Restructuring case. Under such circumstances, it would be extraordinarily difficult for this Commission to make an informed decision concerning one petition without contemporaneous consideration of the other or without reference to the overall restructuring proceeding.

The decision in the PECO Restructuring case involves billions of dollars over the next ten years and will define the development of the competitive market for years to come. It is essential that this Commission have available a full record upon which to determine a result which furthers the public interest, as the Act requires. That public interest not only includes providing an effective competitive market, but it also requires that benefits to consumers be real and not illusory or short-lived. Significant legal, policy, and practical reasons, therefore, exist for this Commission to consider both the Joint Partial Settlement Petition and Enron's PLR Petition in the context of PECO's Restructuring case. In our opinion, Enron has clearly alleged common questions of law and fact, which merit consolidation of the proceedings pursuant to Section 5.81 of our Regulations, *supra*. Accordingly, we shall consolidate the proceedings at Docket Nos. R-00973953 and P-00971265 .

Consolidation of the PLR Petition and PECO's Restructuring case mandates that necessary hearings be provided to permit the parties to address both Enron's PLR Petition and, to the extent necessary, the balance of PECO's Restructuring case. As noted above, hearings are now in process on the Joint Partial Settlement Petition.

With the foregoing in mind, we shall direct the Office of Administrative Law Judge (OALJ), the presiding Administrative Law Judges (ALJs), and the parties to these proceedings to devise a schedule which will permit all parties a full opportunity to present

their cases on the Joint Partial Settlement Petition and Enron's PLR Petition within the context of PECO's overall Restructuring case. We caution that the schedule also must provide for this Commission to issue a decision by December 11, 1997. Alternatively, the schedule can be extended, as detailed below, if PECO agrees that a Commission decision in its Restructuring case may be delayed and adopted by January 30, 1998. PECO should advise the Commission's Prothonotary, and all parties of record, of its scheduling preference by October 14, 1997.

In order to maintain an ambitious timeframe for this proceeding, the parties shall have the opportunity to file their Answers to Enron's PLR Petition by October 20, 1997. Reply Answers, if any, shall be due by October 27, 1997. The previously scheduled technical and Public Input Hearings on the Joint Partial Settlement Petition shall proceed without change. Hearings will also be provided for Enron's PLR Petition. Additional hearings must, however, be conducted with regard to those issues in PECO's Restructuring case that have not yet been addressed in the record so as to provide an adequate record for adjudication of PECO's Restructuring plan if the Joint Partial Settlement Petition or another settlement is reached.

In view of the foregoing, it is incumbent upon the OALJ and the parties to develop a schedule which will provide for the filing of testimony and hearings consistent with the discussion herein. The schedule must be conducted so as to present a certified record, together with Briefs which shall contain proposed findings of fact and conclusions of law, to this Commission on or before December 2, 1997. At this time, this Commission anticipates rendering an Opinion and Order at a special Public Meeting on December 11, 1997.

We hasten to add that whether or not a settlement is proffered in these consolidated proceedings, it is anticipated that the parties herein will present and address all issues arising out of these proceedings. We do encourage the parties to settle this very complex and extremely important matter which has far reaching implications and benefits

for industrial and commercial business, as well as the residents of the Commonwealth. We believe that it is reasonable, appropriate, and in the public interest that we be afforded a full and complete record upon which we can make an informed decision in PECO's Restructuring case premised upon the totality of the evidentiary record.

In the event that the schedule is changed to establish a Commission deadline of January 30, 1998, the certified record with Briefs containing proposed findings of fact and conclusions of law, as well as Reply Briefs, shall be presented to the Commission not later than January 5, 1998. A Commission final order would be anticipated at a Public Meeting to be tentatively scheduled for January 22, 1998.

Conclusion

To the extent that dates provided herein are inconsistent with prior deadlines or scheduling directed in PECO's Restructuring case, the dates herein shall control. Additionally, Section 1.56 of our Regulations, 52 Pa. Code §1.56(b), relating to the mail box rule, **cannot** be used to extend the prescribed period for filing documents in these consolidated proceedings; **THEREFORE,**

IT IS ORDERED:

1. That the Motion to Consolidate filed on October 7, 1997, by Enron Energy Services Power, Inc., requesting consolidation of Enron's Petition for Approval of an Electric Competition and Choice Plan and for Authority Pursuant to Section 2807(e)(c) of the Public Utility Code to Serve as the Provider of Last Resort in the Service Territory of PECO Energy Company, Docket No. P-00971265, with PECO Energy Company's Restructuring case, Docket No. R-00973953, is granted.

2. That the Motion for Expedited Establishment of a Procedural Schedule filed on October 8, 1997, by Enron Energy Services Power, Inc., is granted, in part, and denied, in part, consistent with the Opinion and Order.

3. That the Office of Administrative Law Judge shall promptly proceed with the scheduling of the necessary hearings, timelines, and such other alternative dispute resolution as contemplated by this Opinion and Order, culminating in the certification of the record to this Commission.

4. That the parties to these consolidated proceedings shall have until October 20, 1997, within which to file Answers to Enron's Petition for Approval of an Electric Competition and Choice Plan and for Authority to Operate as the Provider of Last Resort in PECO Energy Company's Service Territory. Reply Answers, if any, shall be due on or before October 27, 1997. 52 Pa. Code §1.56(b), cannot be used to extend the prescribed period for filing.

5. That the PECO Energy Company shall inform the Commission's Prothonotary by October 14, 1997, with copies of the notices to all parties of record, whether it agrees that the Commission may render a Final Opinion and Order in PECO's Restructuring case not later than January 30, 1998.

BY THE COMMISSION,



James J. McNulty
Acting Secretary

(SEAL)

ORDER ADOPTED: October 9, 1997

ORDER ENTERED: OCT 9 1997

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

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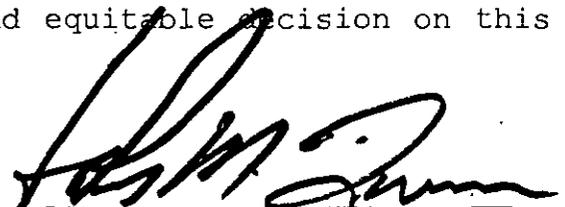
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Harrisburg, Pennsylvania

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Today, I am voting to consolidate these matters and establish a time frame within which to bring PECO's restructuring case to a close. My vote here is not intended to express any position on PECO's restructuring plan filed April 1, 1997, on the Joint Settlement Proposal or on Enron's Petition. My decision on the merits of this proceeding will be made only after a full and deliberate consideration of the record and the briefs.

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10/09/97
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Nora Mead Brownell
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Commissioner

0001

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0002

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KJR

IN REPLY PLEASE
REFER TO OUR FILE

October 10, 1997

R-00973953
P-00971265

TO ALL PARTIES

Pennsylvania Public Utility Commission
v.
PECO Energy Company

To Whom It May Concern:

Enclosed herewith is copy of corrected Page 5 to the Commission's order issued on October 9, 1997.

We hope we have not caused you any inconvenience in this matter.

Very truly yours,

James J. McNulty
Acting Secretary

Enclosure
JEP

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7 their cases on the Joint Partial Settlement Petition and Enron's PLR Petition within the context of PECO's overall Restructuring case. We caution that the schedule also must provide for this Commission to issue a decision by December 11, 1997. Alternatively, the schedule can be extended, as detailed below, if PECO agrees that a Commission decision in its Restructuring case may be delayed and adopted by January 30, 1998. PECO should advise the Commission's Prothonotary, and all parties of record, of its scheduling preference by October 14, 1997.

In order to maintain an ambitious timeframe for this proceeding, the parties shall have the opportunity to file their Answers to Enron's PLR Petition by October 20, 1997. Reply Answers, if any, shall be due by October 27, 1997. The previously scheduled technical and Public Input Hearings on the Joint Partial Settlement Petition shall proceed without change. Hearings will also be provided for Enron's PLR Petition. Additional hearings must, however, be conducted with regard to those issues in PECO's Restructuring case that have not yet been addressed in the record so as to provide an adequate record for adjudication of PECO's Restructuring plan if neither the Joint Partial Settlement Petition or another settlement is approved.

In view of the foregoing, it is incumbent upon the OALJ and the parties to develop a schedule which will provide for the filing of testimony and hearings consistent with the discussion herein. The schedule must be conducted so as to present a certified record, together with Briefs which shall contain proposed findings of fact and conclusions of law, to this Commission on or before December 2, 1997. At this time, this Commission anticipates rendering an Opinion and Order at a special Public Meeting on December 11, 1997.

We hasten to add that whether or not a settlement is proffered in these consolidated proceedings, it is anticipated that the parties herein will present and address all issues arising out of these proceedings. We do encourage the parties to settle this very complex and extremely important matter which has far reaching implications and benefits

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ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

KJF

AND NOW, to wit, this 10th day of October, 1997,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of OCTOBER 9, 1997 at Docket No. R-973953 on behalf of:

KENNETH L MICKENS ESQUIRE

CHARLES DANIEL SHIELDS ESQUIRE

OTS

DOCUMENT
FOLDER

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Mario Rudy
Signature

Kindly sign and date this acceptance of service and acknowledgement of receipt, and, return the same for filing to:

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ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

KJK

AND NOW, to wit, this _____ day of _____, 19__ ,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of OCTOBER 9, 1997 at Docket No. R-973953 on behalf of:

KAREN OILL MOURY ESQUIRE

OSEA

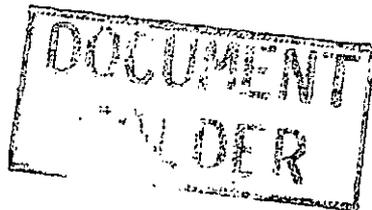
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C Updegraff
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ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 14th day of October, 1997,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of OCTOBER 9, 1997 at Docket No. R-973953 on behalf of:

HONORABLE CONNIE WILLIAMS

HOUSE OF REPRESENTATIVES

Connie Foreman
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ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE OCT 15 1997

Harrisburg

AND NOW, to wit, this 20th day of October, 1997, KJR

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HONORABLE STEWART J GREENLEAF

SENATE OF PENNSYLVANIA

*Eugene S. Bussey, for
Senator Stewart J. Greenleaf*
Signature

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