



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

IN REPLY PLEASE
REFER TO OUR FILE

November 6, 1997

R-00973953
P-00971265

All Parties

PENNSYLVANIA PUBLIC UTILITY COMMISSION
V
PECO ENERGY COMPANY

PECO Application for approval of its restructuring plan and joint petition for partial settlement

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

To Whom It May Concern:

This is to advise you that an Opinion and Order has been adopted in public meeting held on November 6, 1997 on the above entitled proceeding.

A copy of enclosed for your records.

Very truly yours,

James J. McNulty, Acting Secretary

DOCKETED

NOV 24 1997

EMD

DOCUMENT
FOLDER

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

101

1. REPORT DATE: November 3, 1997	2. BUREAU AGENDA NO.: NOV-97-OSA-367*
3. BUREAU: Office of Special Assistants	
4. SECTION(S):	5. PUBLIC MEETING DATE: November 6, 1997 KJR
6. APPROVED BY: Director: C.W. Davis 7-1827 Supervisor: R.H. Albert 7-8108 <i>[Signature]</i>	
7. PERSONS IN CHARGE: L. F. Smith 7-8866	DOCKETED NOV 17 1997
8. DOCKET NO.: R-00973953 XXXXXXXXXX	

9. (a) CAPTION: PECO Energy Co. Application for Approval of its Restructuring Plan and Joint Petition for Partial Settlement
 Petition of Enron Energy Services Power, Inc., For Approval of its Electric Competition and Customer Choice Plan and for Authority to Serve as the Provider of Last Resort in PECO's Service Territory

(b) Short summary: PECO Energy Company (PECO) filed an Application For Approval of Its Restructuring Plan. The parties agreed that a decision in PECO's Restructuring case may be adopted prior to January 8, 1998. On August 27, 1997, several, but not all, parties submitted a Joint Petition for Partial Settlement of the restructuring case (Joint Partial Settlement Petition). The Joint Partial Settlement Petition assumes (but does not require) that PECO be the provider of last resort (PLR) in its service territory. On October 7, 1997, Enron filed its Petition for approval of a Customer Choice Plan and for authority to serve as the PLR in PECO's service territory. On October 9, 1997, the Commission entered an Order consolidating the proceedings and offering PECO the option of delaying Commission action on the Restructuring Plan and Joint Partial Settlement Petition until January 30, 1998. On October 21, PECO filed a Petition for Reconsideration of the October 9 Order. Also on October 21, several signatories to the Joint Partial Settlement Petition filed a Petition for Reconsideration of the October 9, 1997 Order.

(c) Recommendation: The Office of Special Assistants recommends that the Commission adopt the proposed draft Opinion and Order which grants the Petitions for Clarification, consistent with the Opinion and Order.

10. MOTION BY:	Commissioner Hanger	Commissioner Chm. Quain - No
		Commissioner Bloom - No
SECONDED:	Commissioner Rolka	Commissioner Brownell - Yes

CONTENT OF MOTION: 1) The Proposed Opinion and Order shall be adopted as modified by the body of this Motion; 2) the Office of Special Assistants shall prepare an appropriate Order consistent with this Motion.
 Statement of Chairman John M. Quain attached.

**DOCUMENT
FOLDER**

PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PA 17105-3265

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

PUBLIC MEETING-
NOVEMBER 6, 1997
NOV-97-OSA-367*
R-00973953

v.

PECO ENERGY COMPANY

NOV-97-L-105*

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

AND

PETITION OF THE JOINT
SIGNATORIES TO SUSPEND
CONSIDERATION OF CERTAIN
ISSUES PENDING A COMMISSION
DETERMINATION OF THE PROPER
FORUM

PETITION OF ENRON ENERGY
SERVICES POWER, INC., FOR
APPROVAL OF AN ELECTRIC
COMPETITION 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

STATEMENT OF CHAIRMAN JOHN M. QUAIN

PECO Energy Company (PECO), and a number of parties to the above-captioned matters have asked this Commission to clarify and/or reconsider our Order of October 9, 1997. I would reject the OSA proposed resolution of these matters. Directly affected by our resolution of those Petitions is the Petition of the Joint Signatories to Suspend Certain Issues Pending a Commission

Determination of the Proper Forum filed September 10, 1997, and first addressed in our Tentative Order of October 2, 1997.

The core issue before us on reconsideration is the scope of the hearings to be conducted and the briefs to be filed prior to our interlocutory vote in this matter scheduled for December 11, 1997. On that date, we will consider both the proposed Joint Petition for Partial Settlement and the Enron alternative. In the event that neither proposal is adopted, without modification, a subsequent timetable for the litigation of this proceeding should also be established.

In its Petition for Reconsideration, PECO points out that the Settlement is not offered for modification. It is offered as a whole document. PECO has asked that we limit the issue on brief (prior to our December 11, 1997, Public Meeting) as to whether the Proposed Joint Petition for Partial Settlement is in the public interest; or, alternatively, that this matter be remanded to the presiding Administrative Law Judges so the parties may present their full litigation positions. The same rationale arguably applies to the Enron Petition. Several other parties join in PECO's request.

I am persuaded by the arguments raised on reconsideration. I therefore conclude there is no need for this matter to be remanded at this time to the presiding Administrative Law Judges for full litigation.

I note in support of my position that the status and record of this matter has changed since October 9, 1997. We now have the benefit of additional pleadings by the parties relative to that October 9, 1997, Order, and I have considered those pleadings. The Petitioners make a number of compelling arguments. I am persuaded by the fact that concluding full litigation prior to the certification of the record on December 2, 1997, may not allow for sufficient opportunity to conduct evidentiary hearings on the PECO Restructuring Plan. Moreover, to date, public input hearings have been limited to the Proposed Joint Settlement only.

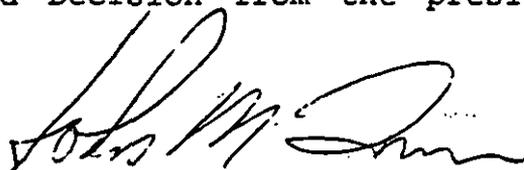
As a result, I would modify our October 9, 1997, Order. The scope of the proceeding now due to be certified to us on December 2, 1997, should be limited to whether the PECO Partial Settlement or the Enron Provider of Last Resort Petition are in the public interest.

If, on December 11, 1997, neither the PECO Partial Settlement nor the Enron Provider of Last Resort Plan is found to be in the public interest, then these matters should be remanded to the presiding Administrative Law Judges to provide all parties with the opportunity to present their full litigation positions, including cross-examination, and the submission of briefs.

In our October 9, 1997, Order, PECO was offered the option of an extension of time until January 30, 1998, for resolution of PECO's application case and Enron's Petition. PECO has declined to accept that date but requests March 12, 1998, as a date for final Commission action. If it is necessary to remand this matter on December 11, 1997, then I would also recommend that we accept PECO's offer to extend these proceedings until March 12, 1998. This extension of time would not only permit the parties to present their litigation positions, but it will also provide sufficient time for a Recommended Decision from the presiding Judges.

11-6-97

DATE



JOHN M. QUAIN, CHAIRMAN

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

Public Meeting held November 6, 1997

Commissioners Present:

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

Pennsylvania Public Utility Commission

R-00973953

v.

PECO Energy Company

DOCKETED

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

NOV 24 1997

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

BY THE COMMISSION:

**DOCUMENT
FOLDER**

Before us for consideration are the Petition for Clarification or
Reconsideration (PECO's Reconsideration Petition) filed by PECO Energy Co. (PECO) on
October 21, 1997, and the Joint Petition for Clarification or Reconsideration (Joint Petition
for Reconsideration) filed by the Philadelphia Area Industrial Energy Users Group
(PAIEUG), the Hon. Vincent J. Fumo, Lance Haver, the American Association of Retired

Persons (AARP), Consumer Education and Protective Assn.(CEPA),¹ the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), and this Commission's Office of Trial Staff (OTS), (collectively, Joint Petitioners), on October 21, 1997, relative to the above-captioned proceedings.

History of the Proceedings

The Electricity Generation Customer Choice and Competition 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 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 Petition For Partial Settlement). The Joint Petition For Partial Settlement assumes (but does not require) that PECO be the provider of last resort in its service territory. Public Input Hearings on the Joint Petition For Partial Settlement were held the week of October 6, 1997. Technical hearings were held the week of October 13, 1997.

On October 7, 1997, Enron Energy Services Power, Inc., (Enron),² 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

¹ CEPA signed on behalf of itself, the Tenant Action Group (TAG), the Assn. of Community Organizations for Reform Now (ACORN), and John W. Long, Jr.

² On October 7, 1997, Enron filed an application at Docket No. A-110059 for authority to provide service as a licensed electric supplier.

PLR Petition includes a proposal (Enron's Customer Choice Plan) for resolution of the same issues addressed in PECO's Restructuring case which are presented in the Joint Petition For Partial Settlement. Also on October 7, 1997, Enron filed a Motion to Consolidate its PLR Petition with this Commission's consideration of the Joint Petition For Partial Settlement. On October 8, 1997, Enron filed a Motion for Expedited Establishment of a Procedural Schedule (Schedule Motion), relative to Enron's October 7 filings.

On October 9, 1997, Sen. Fumo 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 Petition For Partial Settlement. 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 PAIEUG filed notice that PAIEUG opposes Enron's PLR Petition, Enron's Motion to Consolidate, and Enron's Schedule Motion.

On October 9, 1997, this Commission entered an Opinion and Order (October 9 Order), granting Enron's Motion to Consolidate. Additionally, the Schedule Motion was granted in part, and the parties were given until October 20 and October 27, 1997, respectively, to file Answers and Reply Answers to Enron's PLR Petition. Further, PECO was offered the option of delaying final Commission action until not later than January 30, 1998, to facilitate full consideration of PECO's Application and Enron's PLR Petition. On October 14, 1997, PECO notified this Commission that it would not extend the time for Commission action until January 30, 1998. PECO offered instead to defer the matter to full hearings with Commission action slated for not later than May 12, 1998, or, alternatively, March 12, 1997, depending upon circumstances.

PECO, Sen. Fumo, the OSBA, and PAIEUG filed Answers in opposition to Enron's PLR Petition. Mid-Atlantic Power Supply Assn. (MAPSA) filed an Answer in support of Enron's PLR Petition. NorAm Energy Management, Inc. (NorAm), in conjunction with Duke Energy Trading and Marketing, LLC (Duke), the OCA, and CNG

Energy Services Corp., CEPA, and the Electric Clearinghouse Inc. (ECI), filed Answers, suggesting, generally, that they did not have enough information upon which to formulate definitive positions.

On October 21, 1997, the instant PECO Petition for Reconsideration and the instant Joint Petition for Reconsideration were filed. PECO offered, *inter alia*, to extend the date for Commission action on its Application until March 12, 1998, in order to develop a complete record on the parties' settlement proposal.

Discussion

At this stage in the proceedings, PECO and the Joint Petitioners have requested that we reconsider our October 9 Order. Consistent with Section 703(g) of the Code, 66 Pa. C.S. §703(g), relating to reconsideration, rescission, and amendment of an order, Section 5.572 of our Regulations, 52 Pa. Code §5.572, relating to relief following a final decision, and judicial and administrative precedent, the standards for review of a petition for relief following a final decision were set forth in *Duick v. PG&W*, 56 Pa. P.U.C. 553 (1982) (*Duick*).

Duick held that a petition for relief under Section 703(g) of the Public Utility Code, *supra*, may properly raise any matter designed to convince this Commission that we should exercise our discretion to reconsider, rescind, or amend a prior Order, in whole or in part. Such petitions, however, are likely to succeed only when they raise "new and novel arguments" not previously heard or considerations which appear to have been overlooked or not addressed by us. (*Duick*, p. 559.) The Commonwealth Court case, *AT&T v. Pa. PUC*, 568 A.2d 1362 (Pa. Cmwlth. 1990), further elucidated these standards.

Specifically, PECO suggests that we should first review the Joint Petition For Partial Settlement and make a determination on its merits. PECO further suggests that we should only direct that additional hearings be held on the settled issues in the event that the

Joint Petition For Partial Settlement is rejected. (PECO Recon. Pet., pp. 3-5.) PECO further asserts that requiring the parties to support their litigation positions prior to a ruling on the Joint Petition For Partial Settlement would be detrimental to the settlement process and untenable. (PECO Recon. Pet., pp. 5-7.) PECO requests that the October 9 Order be clarified to provide (1) that the only issue to be briefed at this time is whether the Joint Petition For Partial Settlement should be approved and (2) that, if the Joint Petition For Partial Settlement is not approved in its totality, the proceedings be remanded to the Office of Administrative Law Judge (OALJ) to provide the parties with the opportunity to present their full litigation positions, with full rights of cross-examination and briefing.

The Joint Petition for Reconsideration requests that the October 9 Order be clarified to provide that the parties have the opportunity to resume litigation of PECO's Restructuring Plan if the Joint Petition For Partial Settlement is rejected.

These issues and others were some of the considerations which were factored into our October 9 Order, wherein we directed the consolidation of the Enron Petition and the Restructuring proceeding and further directed the parties to ensure the development of an evidentiary record sufficient to enable a full adjudication on the merits in the event that the Joint Partial Settlement is not adopted. To clarify, the intent was that this Commission must have a full record upon which to determine all issues raised in the Restructuring proceeding, including those addressed by the Joint Petition for Partial Settlement and the Enron PLR Petition, as well as the issues which are not addressed in those proposals. We reaffirm this determination.

We conclude, from PECO's prior offer to extend these proceedings until May 12, 1998, and from PECO's present offer to extend these proceedings until March 12, 1997, that PECO believes that additional time is required to resolve the issues involved. We are not prepared, however, to go as far as granting all of the specific relief which PECO requests.

With due deference to the January 1, 1998 date by which Commission action was originally required, PECO initially waived Commission action until January 8, 1998. PECO has now offered March 12, 1998, as the date for Commission action. It is clear from the record in these proceedings that all parties are diligently working to resolution of the issues. We note that the Commonwealth Court has recognized, under myriad circumstances, "that a party may waive the time limits . . . expressly by words, or impliedly by conduct." (citations omitted; *Middle Paxton Twp. v. DER*, 699 A.2d 418, 422 (Pa. Cmwlth. Ct. 1995), addressing waiver of time limits under the Pennsylvania Sewage Facilities Act, 35 P.S. §§750.1-750.20a). Thus, we shall address the procedural resolution of PECO's Petition for Reconsideration, as well as the Joint Petition for Reconsideration, within the context that Commission action by January 8, 1998, may be waived by PECO.

PECO requests that we amend our October 9 Order to provide (1) that the only issue to be briefed at this time is whether the Joint Petition For Partial Settlement should be approved and (2) that, if the Joint Petition For Partial Settlement is not approved in its totality, the proceedings be remanded to the OALJ to provide the parties with the opportunity to present their full litigation positions, with full rights of cross-examination and briefing.

The decision in the PECO Restructuring case 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.

Our determination that Enron's PLR Petition and the Joint Petition For Partial Settlement presented common factual, legal, and policy considerations resulted in the consolidation of these proceedings. Additionally, both Enron's PLR Petition and Joint Petition For Partial Settlement are intertwined with PECO's Restructuring case. 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.

With the foregoing in mind, in our October 9 Order, we directed the 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 Petition For Partial Settlement and Enron's PLR Petition within the context of PECO's overall Restructuring case. We cautioned that the schedule also must provide for this Commission to issue a decision by December 11, 1997. We suggested alternatively that the schedule could be extended if PECO agreed that a Commission decision in its Restructuring case may be delayed and adopted by January 30, 1998.

PECO by its October 14, 1997, letter rejected our January 30, 1998 option and offered instead the alternatives of March 12, 1998, and May 12, 1998, as dates for final Commission action, dependent upon circumstances. PECO subsequently filed the instant Petition for Reconsideration. Additionally, PECO and a number of parties filed Answers and Reply Answers relative to Enron's PLR Petition.

We affirm and clarify that additional hearings, including any further public input hearings, shall be conducted as necessary to permit all parties a full opportunity to present their cases concerning all issues raised in the Restructuring proceeding, including those addressed by the Joint Petition for Partial Settlement or the Enron PLR Petition. This Commission must have an adequate record for adjudication of PECO's Restructuring Plan in the event that neither the Joint Petition for Partial Settlement, the Enron PLR Petition, nor any other proposed 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.

It is appropriate under the circumstances to restate and summarize our October 9 Order. A certification of the record to this Commission must occur by

December 2, 1997, and this Commission will render a decision at a special Public Meeting on December 11, 1997. As of this time, since the statutory deadline has not yet been clearly waived to January 30, 1998, the certified record and the Commission decision will include all matters required for a Commission decision in the Restructuring case, including the Joint Petition for Partial Settlement, the Enron PLR Petition, and all issues raised in PECO's Restructuring filing.

Alternatively, we reaffirm the intent of the October 9 Order to provide an opportunity to extend a final determination of all issues in the Restructuring case no later than January 30, 1998. A Commission final Order would be anticipated at a Public Meeting tentatively scheduled for January 22, 1998. In the event that PECO indicates that it accepts the January 30 deadline for a decision, and no parties have objected by 5:00 P.M. on November 10, 1997, the Commission still would issue a decision on December 11, 1997, accepting or rejecting the Joint Petition For Partial Settlement and the Enron PLR Petition. Consequently, in that event, the presiding ALJs must certify a record that allows the Commission to decide on December 11, 1997, the Joint Petition for Partial Settlement and the Enron PLR Petition. In the event that the Commission does not adopt either proposal on December 11, 1997, the parties would then resume litigation covering all issues required for decision in the Restructuring case. The presiding ALJs would certify the record to the Commission, together with Briefs that shall contain proposed findings of fact and conclusions of law, as well as Reply Briefs, on or before January 5, 1998. This Commission then would issue a final decision on all issues required for decision in the Restructuring case on or before January 30, 1998.

To the extent the 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. All pleadings are to be filed by hard copy and electronically in Microsoft Word 6.0 or less.

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, except those expressly deferred to other 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.

Conclusion

Accordingly, we shall grant PECO's Petition for Reconsideration and the Joint Petition for Reconsideration, but the relief requested is denied, in part, consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:

1. That the Petition for Clarification or Reconsideration, filed by PECO Energy Co. on October 21, 1997, relative to the above-captioned proceedings is granted but the relief requested is denied, in part, consistent with this Opinion and Order.

2. That the Joint Petition for Clarification or Reconsideration (Joint Petition for Reconsideration) filed by the Philadelphia Area Industrial Energy Users Group, the Hon. Vincent J. Fumo, Lance Haver, the American Association of Retired Persons, Consumer Education and Protective Assn., the Tenant Action Group, the Assn. of Community Organizations for Reform Now, John W. Long, Jr., the Office of Consumer

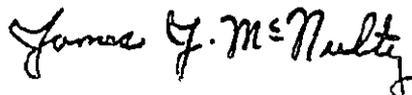
Advocate, the Office of Small Business Advocate, and this Commission's Office of Trial Staff, on October 21, 1997, relative to the above-captioned proceedings is granted but the relief requested is denied, in part, consistent with this Opinion and Order.

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 52 Pa. Code §1.56(b), **cannot** be used to extend the prescribed period for any filings hereunder. Pleadings are to be filed with the Commission's Prothonotary by hard copy and electronically on 3.5 inch disk in Microsoft Word 6.0 or less.

5. That the PECO Energy Company shall inform the Commission's Prothonotary by November 10, 1997, with copies of such notice to all parties of record, whether it accepts the alternative schedule and agrees that the Commission may render a Final Opinion and Order in PECO's Restructuring case not later than January 30, 1998. Unless PECO so indicates and no party has objected by 5:00 P.M., November 10, 1997, the presiding Administrative Law Judges shall certify the record to the Commission by December 2, 1997.

BY THE COMMISSION,



James J. McNulty
Acting Secretary

(SEAL)

ORDER ADOPTED: November 6, 1997

ORDER ENTERED: NOV - 6 1997

PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PA 17105-3265

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

PUBLIC MEETING-
NOVEMBER 6, 1997
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NOV-97-L-105*

PECO APPLICATION FOR APPROVAL
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I am persuaded by the arguments raised on reconsideration. I therefore conclude there is no need for this matter to be remanded at this time to the presiding Administrative Law Judges for full litigation.

I note in support of my position that the status and record of this matter has changed since October 9, 1997. We now have the benefit of additional pleadings by the parties relative to that October 9, 1997, Order, and I have considered those pleadings. The Petitioners make a number of compelling arguments. I am persuaded by the fact that concluding full litigation prior to the certification of the record on December 2, 1997, may not allow for sufficient opportunity to conduct evidentiary hearings on the PECO Restructuring Plan. Moreover, to date, public input hearings have been limited to the Proposed Joint Settlement only.

As a result, I would modify our October 9, 1997, Order. The scope of the proceeding now due to be certified to us on December 2, 1997, should be limited to whether the PECO Partial Settlement or the Enron Provider of Last Resort Petition are in the public interest.

If, on December 11, 1997, neither the PECO Partial Settlement nor the Enron Provider of Last Resort Plan is found to be in the public interest, then these matters should be remanded to the presiding Administrative Law Judges to provide all parties with the opportunity to present their full litigation positions, including cross-examination, and the submission of briefs.

In our October 9, 1997, Order, PECO was offered the option of an extension of time until January 30, 1998, for resolution of PECO's application case and Enron's Petition. PECO has declined to accept that date but requests March 12, 1998, as a date for final Commission action. If it is necessary to remand this matter on December 11, 1997, then I would also recommend that we accept PECO's offer to extend these proceedings until March 12, 1998. This extension of time would not only permit the parties to present their litigation positions, but it will also provide sufficient time for a Recommended Decision from the presiding Judges.

11-6-97

DATE



JOHN M. QUAIN, CHAIRMAN

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PA PUC
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HARRISBURG PA 17105-3265

JOHN GALLAGHER ESQUIRE
MICHAEL KLEIN ESQUIRE
LEBOEUF LAMB GREENE & MCRAE
200 N THIRD STREET STE 300
P O BOX 12105
HARRISBURG PA 17108-2105

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

RECEIVED

97 NOV 12 AM 10:06

PA.P.U.C.
PROTHONOTARY'S OFFICE

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

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of ORDER an official Commission document entered, issued, or otherwise promulgated under date of NOVEMBER 6, 1997 at Docket No. R-973953,P-971265 on behalf of:

KENNETH L MICKENS ESQUIRE

KJR

CHARLES DANIEL SHIELDS ESQUIRE

OTS

Paul Edwards
Signature

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

OFFICE OF PROTHONOTARY FILE ROOM
PA PUBLIC UTILITY COMMISSION
B-20, North Office Building
Harrisburg, PA 17105-3265

DOCUMENT
FOLDER

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NOV 11 AM 10:01
OFFICE OF PROTHONOTARY STAFF

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97 NOV 12 AM 10:05

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PROTHONOTARY'S OFFICE
ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 10th day of Nov., 1997,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of AN OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of November 6, 1997 at Docket No.R-00973953 on behalf of:

OFFICE OF TRIAL STAFF

KJR

DOCUMENT
FOLDER

Paula A. Edwards
Signature

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

OFFICE OF PROTHONOTARY FILE ROOM
PA PUBLIC UTILITY COMMISSION
B-20, North Office Building
Harrisburg, PA 17105-3265

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NOV 13 1997

OFFICE OF TRIAL STAFF
97 NOV - 7 AM 9:55
KJR

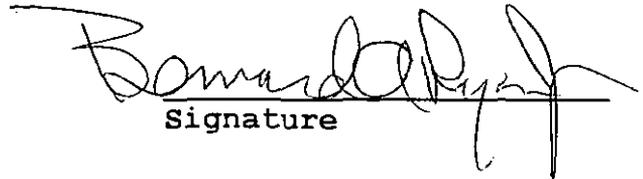
ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 6th day of November, 1997

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of ORDER an official Commission document entered, issued, or otherwise promulgated under date of NOVEMBER 6, 1997 at Docket No. R-973953,P-971265 on behalf of:

KAREN OILL MOURY ESQUIRE

OSBA


Signature

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

OFFICE OF PROTHONOTARY FILE ROOM
PA PUBLIC UTILITY COMMISSION
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Harrisburg, PA 17105-3265

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PROTHONOTARY'S OFFICE

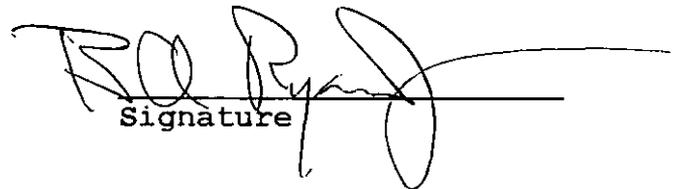
ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 6th day of Nov, 1997

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of AN OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of November 6, 1997 at Docket No.R-00973953 on behalf of:

OFFICE OF SMALL BUSINESS ADVOCATE

KJR


Signature

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

OFFICE OF PROTHONOTARY FILE ROOM
PA PUBLIC UTILITY COMMISSION
B-20, North Office Building
Harrisburg, PA 17105-3265

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97 NOV - 7 AM 9:29
PA.P.U.C.
PROTHONOTARY'S OFFICE

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

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

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of ORDER an official Commission document entered, issued, or otherwise promulgated under date of NOVEMBER 6, 1997 at Docket No. R-973953,P-971265 on behalf of:

HONORABLE CONNIE WILLIAMS

HOUSE

KJR

Connie Foreman
Signature

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

OFFICE OF PROTHONOTARY FILE ROOM
PA PUBLIC UTILITY COMMISSION
B-20, North Office Building
Harrisburg, PA 17105-3265

DOCUMENT
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97 NOV 10 PM 3:09
PA.P.U.C.
PROTHONOTARY'S OFFICE

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

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

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of AN OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of November 6, 1997 at Docket No.R-00973953 on behalf of:

HONORABLE CONNIE WILLIAMS

KJR

Connie Foreman

Signature

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

OFFICE OF PROTHONOTARY FILE ROOM
PA PUBLIC UTILITY COMMISSION
B-20, North Office Building
Harrisburg, PA 17105-2651

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NOV 10 PM 3:09
PA.P.U.C.
PROTHONOTARY'S OFFICE

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

KJR

AND NOW, to wit, this 6 day of Nov., 1997,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of ORDER an official Commission document entered, issued, or otherwise promulgated under date of NOVEMBER 6, 1997 at Docket No. R-973953,P-971265 on behalf of:

TANYA MCCLOSKEY ASST CONSUMER ADVOCATE

STEVEN K STEINMETZ ASST CONSUMER ADVOCATE

OCA



Signature

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

OFFICE OF PROTHONOTARY FILE ROOM
PA PUBLIC UTILITY COMMISSION
B-20, North Office Building
Harrisburg, PA 17105-3265

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PAPUC
PROTHONOTARY'S OFFICE

KJR

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 7th day of November, 1997,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of AN OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of November 6, 1997 at Docket No.R-00973953 on behalf of:

RONNIE SMITH, ASST DIRECTOR OF OPERATIONS

DOCUMENT
FOLDER

Veronica P. Smith / MAS
Signature

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

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Harrisburg, PA 17105-3265

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NOV 10 1997

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 6th day of November, 1997,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of ORDER an official Commission document entered, issued, or otherwise promulgated under date of NOVEMBER 6, 1997 at Docket No. R-973953,P-971265 on behalf of:

VERONICA A SMITH DEPUTY EXECUTIVE DIRECTOR

KJR

DOCKETED
NOV 7 1997

Veronica A. Smith
Signature *ms*

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

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PA PUBLIC UTILITY COMMISSION
B-20, North Office Building
Harrisburg, PA 17105-3265

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