

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Uniform Cover and Calendar Sheet**

<b>1. REPORT DATE:</b> September 29, 1997	<b>2. BUREAU AGENDA NO.</b> OCT-97-LAW-97*
<b>3. BUREAU:</b> <p align="center">Law</p>	<p align="right">KJR</p>
<b>4. SECTION(S):</b>	<b>5. PUBLIC MEETING DATE:</b> October 2, 1997
<b>6. APPROVED BY:</b>  Director: Povilaitis, 7-5000 Supervisor:	
<b>7. PERSONS IN CHARGE:</b> <p align="center">Burket 7-3464 <i>PB</i></p>	
<b>8. DOCKET NO.:</b> R-00973953	<p align="center"><b>DOCKETED</b>  OCT 28 1997.</p>

9. (a) **CAPTION** (abbreviate if more than 4 lines)  
(b) Short summary of history & facts, documents & briefs  
(c) Recommendation

(a) Petition of the Joint Signatories To Suspend Consideration of Certain Issues Pending a Commission Determination of the Proper Forum

(b) On August 25, 1997 certain parties in PECO Energy Company's restructuring proceedings filed a Joint Petition for Partial Settlement. These parties included Senator Vincent J. Fumo, CEPA, et al., Lance S. Haver, the Office of Consumer Advocate, the Office of Trial Staff, the Office of Small Business Advocate, the Philadelphia Area Industrial Users Group, the American Association of Retired Persons, the Department of the Navy and PECO.

On September 10, 1997, the majority of the parties to the Partial Settlement filed the above-captioned petition. The petition requested that the Commission approve a procedure for evaluating issues in the restructuring proceeding that were not addressed in the Partial Settlement.

(c) That the Petition be granted consistent with the order.

10. **MOTION BY:** Commissioner Chm. Quain      Commissioner Hanger - Yes  
Commissioner Rolka - Yes  
**SECONDED:** Commissioner Bloom      Commissioner Brownell - Yes

**CONTENT OF MOTION:** Staff recommendation adopted.

**DOCUMENT  
FOLDER**



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

IN REPLY PLEASE  
REFER TO OUR FILE

October 2, 1997

R-00973953

KARYN G GORDON ESQUIRE  
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**DOCKETED**  
OCT 8 1997

KJR

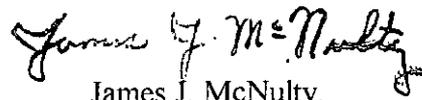
Petition of the Joint Signatories To Suspend Consideration of Certain Issues  
Pending a Commission Determination of the Proper Forum

To Whom It May Concern:

This is to advise you that an Tentative Order has been adopted by the Commission in Public Meeting on October 2, 1997 in the above entitled proceeding.

An Tentative Order has been enclosed for your records.

Very truly yours,

  
James J. McNulty,  
Acting Secretary

**DOCUMENT  
FOLDER**

law  
encls  
cert. mail

See attached list  
for additional  
parties of record.

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Public Meeting held: October 2, 1997

Commissioners Present:

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

**DOCKETED**  
OCT 8 1997

Petition of the Joint Signatories To :  
Suspend Consideration of Certain Issues :  
Pending a Commission Determination of : Docket No. R-00973953  
the Proper Forum :

**TENTATIVE ORDER**

**DOCUMENT  
FOLDER**

By the Commission:

On August 25, 1997 certain parties in PECO Energy Company's restructuring proceedings filed a Joint Petition for Partial Settlement (Partial Settlement). These parties included Senator Vincent J. Fumo, CEPA, et al., Lance S. Haver, the Office of Consumer Advocate (OCA), the Office of Trial Staff, the Office of Small Business Advocate, the Philadelphia Area Industrial Users Group, the American Association of Retired Persons, the Department of the Navy and PECO Energy Company (PECO).

On September 10, 1997, the majority of the parties to the Partial Settlement (the Joint Signatories) filed the above-captioned petition<sup>1</sup>. In the Petition, the Joint Signatories requested that the Commission approve a procedure for evaluating issues in the restructuring proceeding that were not addressed in the Partial Settlement (Petition).<sup>2</sup> These issues include:

<sup>1</sup> Although OCA signed the Partial Settlement, OCA did not sign the petition.

<sup>2</sup> According to the Joint Signatories, those issues which were addressed in the Partial Settlement include: stranded investment recovery and securitization; CTC/ITC recovery method/recovery

1. Competitive Metering and Billing;
2. Standards and Code of Conduct ;
3. FERC Jurisdictional Issues and Their Impact on PUC Jurisdictional Matters;
4. Generation and Transmission and Distribution Reliability;
5. Environmental Issues; and
6. Compliance with Bill Formats, Customer Service and Interaction with Supplier Issues.

The Joint Signatories state that all of the above-referenced issues, although not addressed in the Partial Settlement, are being addressed in at least one forum at the Commission. These other fora include: (a) litigation in other utilities' restructuring dockets; (b) Commission-sponsored working groups and rulemakings and proposed rulemakings. The Joint Signatories also state that these issues are generic and are of statewide significance. As examples they cite whether billing and metering will be unbundled as separate competitive services, and what rules will govern alternative supplier compliance with bill formats, what Code of Conduct will apply to local distribution utilities and customer service, as well as other issues related to interactions with suppliers.

The Joint Signatories express the belief that the multi-forum approach is not the best use of the resources of either the parties, or the Commission. The Joint Signatories state that some of them will face the possibility of litigating generic issues such as billing and metering in up to eight different utility restructuring proceedings while at the same time dealing with the issues in several working groups and rulemakings. The Joint Signatories also state that Commission resources would be similarly diffused.

Moreover, the Joint Signatories believe that addressing these generic issues in numerous cases will result "in a patchwork of outcomes that would cause confusion and delay the implementation of competition in the Commonwealth." The Joint Signatories also believe that the Commission should identify these generic state wide issues and address them in the most effective forum.

The Joint Signatories claim that its proposal will not prejudice any party as they are submitting a proposed schedule to the Administrative Judges that will allow the consideration of the settlement to progress over the next weeks, pending

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from self-generators and reconciliation; rate unbundling, cost of service and treatment of special contracts; universal service, cost recovery for universal service, and supplier of last resort obligation; impact on community and economic development; and consumer education.

Commission resolution of this Petition. The Joint Signatories volunteer that if the Commission then grants this petition, evaluation of the Joint Petition for Partial Settlement will have progressed during the interim and the stakeholders and the Commission can then deal with the generic issues in the manner and the forum prescribed by the Commission. If, however, the Commission denies this petition and ultimately determines that the issues should be litigated in PECO Energy's restructuring docket, there will still be an opportunity to litigate those issues through the remainder of 1997 and early 1998.

The Commission agrees with the Joint Signatories that the majority of the issues identified in the Petition are generic in nature, may be best resolved in actual and anticipated Commission rulemaking dockets, and need not necessarily be resolved in the PECO restructuring proceeding. However, the Commission cannot agree that resolution of all of the issues identified can be deferred.

Section 2806 (e) of the Public Utility Code, 66 Pa. C.S. § 2806(e), establishes the required content of restructuring filings. Under this statutory provision , the restructuring plan

*must include, consistent with the determinations of the commission, unbundled prices or rates for generation, jurisdictional transmission, distribution and other services; a proposed competitive cost charge, a proposed universal service charge and energy conservation cost-recovery mechanism; procedures for ensuring direct access to all licensed electric generation suppliers; a discussion of the impacts of the proposed plan on the utility's employees; and revised tariffs and rate schedules implementing the above.*

66 Pa C.S. § 2806(e).

As a restructuring plan must address unbundled rates for Commission jurisdictional transmission and distribution service, the issue of FERC jurisdiction clearly cannot be deferred. The Commission must understand which ancillary services in support of transmission have been designated as being under Commission jurisdiction so that a determination can be made as to whether the unbundling of rates and establishment of the CTC have been correctly accomplished by the Partial Settlement. Accordingly, parties are directed to brief this issue for the Commission's consideration. To the extent that the parties' positions on this issue need to be

supported by record evidence the Commission will also direct the parties to introduce such evidence into the record during the hearings on the Partial Settlement.

Moreover, the Commission notes that the Petition does not indicate that the Partial Settlement is dispositive of all matters that must be addressed in PECO's restructuring plan, e.g. "procedures for ensuring direct access to all licensed electric generation suppliers", or "the impacts of the proposed plan on the utility's employees". 66 Pa. C.S. § 2806(e). Therefore, the Commission requests that parties brief all issues statutorily required to be considered by the Commission in approving such plans.

As to other issues identified in the Petition as being generic in nature, the Commission agrees that they are best addressed in statewide proceedings to eliminate the possibility of inconsistent results in different restructuring proceedings. The Commission therefore directs that these issues be considered in the various Commission rulemakings that have already been initiated and rulemakings that are anticipated to be initiated as a result of the Commission work groups.

In the Petition, the Joint Signatories recognize that other stakeholders may hold different views as to whether the issues identified should be dealt with in generic statewide proceedings, and that they should have an opportunity to express those views before the Commission takes any action to address these issues generically. The Joint Signatories, however, suggest that the Commission open a new docket or designate one of the existing dockets to take comments from all interested parties on whether the issues identified should be addressed in generic proceedings. The Commission does not believe that this is necessary.

The Commission will issue the instant order as a tentative order and will establish a comment period ending Monday, October 6, 1997 to receive comments. To ensure that all interested parties will have an opportunity to be heard on this procedural issue, the Commission will direct that a copy of this tentative order be served on all parties to the PECO restructuring docket and on the Electric Stakeholders' Group. *If no comments are filed to this tentative order, it will become final without any further Commission action; therefore,*

IT IS ORDERED:

1. That the Petition of the Joint Signatories To Suspend Consideration of Certain Issues Pending a Commission Determination of the Proper Forum is granted consistent with the discussion in this tentative order.

2. That a comment period ending October 6, 1997 is established to receive comments to this tentative order. An original and 10 copies of the comments should be filed in hand with the Commission's Secretary by October 6, 1997. Comments should also be provided in electronic form in either Word or ASCII format on a diskette. If no comments are filed in hand with the Commission by October 6, 1997, the tentative order will become final without further Commission action.
  
3. That a copy of this order be served on all parties to the PECO restructuring proceeding, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office Of Trial Staff, and the Electric Competition Stakeholders Group.

By the Commission,

  
James J. McNulty  
Acting Secretary

(SEAL)

ORDER ADOPTED: October 2, 1997

ORDER ENTERED: OCT 02 1997

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