

VINCENT J. FUMO
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PAUL S. DLUGOLECKI
EXECUTIVE DIRECTOR

DJH

DEMOCRATIC COMMITTEE ON APPROPRIATIONS
SENATE OF PENNSYLVANIA
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

97 SEP 12 AM 11:09

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FOLDER

September 11, 1997

R- 973953

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

Re: In re the Matter or the Application of PECO Energy Company for Approval of its Restructuring Plan Under Section 2806 of the Pennsylvania Public Utility Code.

Dear Mr. McNulty:

Enclosed for filing is an original and three (3) copies of the Statement of Senator Vincent J. Fumo in Support of the Joint Petition for Partial Settlement of PECO Energy Company's Proposed Restructuring Plan and Application for a Qualified Rate Order in the above captioned matter.

Copies of the forgoing are being served on all parties of record.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher B. Craig".

Christopher B. Craig
Counsel

cc: All counsel of record.

ORIGINAL

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

007780

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**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**

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RECEIVED
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Docket No. R-00973953

**DOCUMENT
FOLDER**

**STATEMENT OF SENATOR VINCENT J. FUMO
IN SUPPORT OF THE JOINT PETITION FOR PARTIAL
SETTLEMENT OF PECO ENERGY COMPANY'S
PROPOSED RESTRUCTURING PLAN AND APPLICATION
FOR A QUALIFIED RATE ORDER**

DOCKETED
SEP 15 1997

Senator Vincent J. Fumo, through his undersigned counsel, hereby submits this statement in support of the Joint Petition for Partial Settlement of PECO Energy Company's Proposed Restructuring Plan and Application for a Qualified Rate Order and respectfully requests the expedited approval of the settlement as being both just and reasonable and in the public interest. In support thereof, Senator Fumo avers the following:

1. On August 27, 1997, a Joint Petition for Partial Settlement of PECO Energy Company's Proposed Restructuring Plan and Application for a Qualified Rate Order (hereinafter "the Joint Petition") was filed with this Commission and submitted to Presiding Administrative Law Judges Chestnut and Rainey.

2. Said Joint Petition represents a mutually agreeable resolution of several important and controversial issues between PECO Energy Company and Senator Fumo, Lance Haver, the Consumers Education and Protective Association (CEPA), the Tenant Action Group (TAG), ACORN, the Pennsylvania Office of Consumer Advocate (OCA), the Pennsylvania Office of Small Business Advocate (OSBA), the Public Utility Commission - Office of Trial Staff (OTS), the Philadelphia Area Industrial Energy Users Group (PIEUG), the American Association of

Retired Persons (AARP), and, Department of the United States Navy, (hereinafter “the joint petitioners”).

3. The Joint Petition represents the collective and exhaustive efforts of the joint petitioners to obtain a reasonable and negotiated compromise on the above captioned matter. The Joint Petition was pursued in a manner that was consistent with this Commission’s procedural rules intended to encourage settlement of litigation. *See, e.g.*, 52 Pa. Code §§ 5.231, 69.391, 69.401.

4. The Joint Petition contains interdependent benefits and obligations that are imposed and effect all of the joint petitioners. It is this carefully crafted balance of benefits and obligations within the Joint Petition that has made its presentment to this Commission possible. As such, the joint petitioners have mutually agreed that **no portion of this agreement is severable**, and may not be modified or altered without voiding the legal obligations contained in said Joint Petition. *See*, Joint Petition, page 30, ¶ 43.

5. Commission approval of the Joint Petition will impose an obligation on Senator Fumo, and other similarly situated joint petitioners, to withdraw the Petition for Review filed in Commonwealth Court challenging the constitutionality of the Electricity Generation Customer Choice and Competition Act, *Fumo, et al. v. Pennsylvania Public Utility Commission, et al.*, 269 M.D. 1997 (Commonwealth Court), and the appeal of the Commission’s decision to approve PECO Energy Company’s stranded costs recovery request, *Fumo v. Pennsylvania Public Utility Commission*, 1613 C.D. 1997 (Commonwealth Court). If the constitutional challenge to the Electricity Generation Customer Choice and Competition Act were fully pursued it would be likely that the Act would be overturned as unconstitutional.

6. Commission approval of the Joint Petition would amicably resolve the aforementioned litigation, as well as relieve this Commission and the Commonwealth of the administrative and appellate cost and burden to litigate the various contentious issues raised in PECO Energy Company's restructuring case. Furthermore, in addition to serving judicial and administrative economy, the Joint Petition would enhance the ability of parties to this litigation to explore additional areas of potential compromise, such as the Code of Conduct, billing and metering concerns. *See*, Joint Petition, page 27, ¶ 37.

7. Commission approval of this Joint Petition will enable all customers within PECO Energy Company's service territory to receive immediate, substantial and guaranteed rate reductions calculated from the 1996 bundled bills. Specifically, two years prior to the statutory start of full retail competition in the Commonwealth, all PECO customers will receive a minimal guaranteed rate reduction of 10% through, and including, the year 2000. Said rate reductions may exceed 10% if the average price of energy generation is less than 2.8¢/KWh. Beyond the year 2000, the guaranteed minimal rate reductions will be 5% in the year 2001, and 2% in the year 2002. Said reductions may exceed 5% and 2% if the average price of energy generation is less than 3.2¢/KWh. Furthermore, in the years 2003, 2004 and 2005, customers will be guaranteed that, at a minimal, their monthly energy bill will not exceed the amount they are paying today. In fact, pursuant to the terms of the Joint Petition, customers may reasonably expect additional savings if the average price of energy generation is less than: 3.70¢/KWh in the year 2003; 3.97¢/KWh in the year 2004; and, 4.07¢/KWh in the year 2005. Additional significant rate relief to customers is likely in the years 2006, 2007 and 2008 if the average price of energy is less than 4.77¢/KWh, 5.37¢/KWh, and 5.57 ¢/KWh, respectively. *See*, Joint Petition, page 8, table A. These savings would apply to all customer classes, regardless of who they select as their energy provider.

8. Significantly, if this Commission were to approve this Joint Petition, customers would receive the protection of an energy generation and capacity cap for a period of ten (10) years, at a rate lower and for a period longer than provided under the Electricity Generation Customer Choice and Competition Act. The effect of this protection would be to shield customers from dramatic or sudden increases in the market price of energy, absent Commission approval. *Id.*

9. If the Commission were to approve the Joint Petition, PECO Energy Company would be precluded from seeking any increase in Transmission and Distribution rates until 2004, a period three (3) years longer than permitted under the Act, thereby providing customers greater assurance of the value of guaranteed and projected rate reductions. *See, Joint Petition, page 14, ¶ 14.*

10. If the Commission were to approve the Joint Petition, PECO Energy Company would be precluded from seeking any recovery from Nuclear Decommissioning Costs until 2004, a period of three (3) years longer than permitted under the Act, thereby providing customers greater assurance of the value of guaranteed and projected rate reductions. *See, Joint Petition, page 17-18, ¶ 20.*

11. If the Commission were to approve the Joint Petition, PECO Energy Company would permit full access to retail energy generation competition to all customers by 2000, one (1) year earlier than mandated by the Act. *See, Joint Petition, page 14, ¶ 15.*

12. Expedited approval of the Joint Petition would enable a significant increase in the ability of eligible low income and payment troubled customers to participate in the Customer Assistance Rate Program. Specifically, the present size of the program includes approximately 40,000 participants; under the terms of the Joint Petition, this program would increase to 100,000 participants who would receive discounts of 25% to 50% off their monthly bills. This significant benefit would be provided immediately upon Commission approval of this Joint Settlement, and is

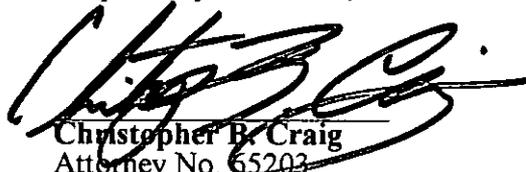
especially important prior to the winter heating months of December and January. *See*, Joint Petition, page 20-24, ¶¶ 22-28.

13. If the Commission were to approve the Joint Petition, PECO Energy Company would be required to transfer all of its generation functions from its regulated transmission and distribution functions by establishing a separate corporate entity. Furthermore, the company would be precluded from recovering at least \$2.0 billion of its total stranded assets and costs. *See*, Joint Petition, page 17-18, ¶¶ 16-17.

14. If the Commission were to approve the Joint Petition, PECO Energy Company would benefit along with consumers. Inherent in any settlement is the fact that all parties must receive some benefit from the agreement — otherwise it would not exist. In particular, the company would be permitted to recover approximately \$5.5 billion of stranded assets and costs through a CTC or ITC. In addition, the company would be relieved of substantial business litigation and uncertainty concerning the emergence of a competitive marketplace. The ability of Senator Fumo and other similarly positioned parties to place these two important benefits into doubt became the catalyst for a settlement agreement that provides substantial benefits to consumers.

WHEREFORE, for the reasons as set forth above, Senator Vincent J. Fumo respectfully requests the expedited and favorable approval, without modification or alteration, of the Joint Petition.

Respectfully Submitted,



Christopher B. Craig
Attorney No. 65203
Counsel, Senate Democratic Appropriations Committee
Room 545, Main Capitol Building
Harrisburg, Pennsylvania 17120
(717) 787-5662
Counsel for Senator Fumo

September 10, 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.

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717-541-1967 v.
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September 11, 1997

007453

KJR

James McNulty, Acting Prothonotary
PA Public Utility Commission
P.O. Box 3265
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RE: Pennsylvania Public Utility Commission v. PECO Energy Company
Docket No. R-00973953
Prehearing Memorandum

RECEIVED
PROTHONOTARY'S OFFICE
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Dear Mr. McNulty:

Enclosed please find our Certificate of Service which indicates our mailing of the Environmentalists' Prehearing Memorandum in the above-docketed proceeding upon the parties of record.

Also enclosed is an 'office copy' which we would appreciate having time-stamped and returned to us in the envelope provided.

Very truly yours,



Mary Lou Morin
Secretary to
Alan J. Barak and Roger E. Clark
Attorneys for the Environmentalists

DOCUMENT
FOLDER

enclosure

cc: Service List

RE: Pennsylvania Public Utility Commission

007654

PECO Energy Company
Docket No. R-00973953

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PROTHONOTARY'S OFFICE

CERTIFICATE OF SERVICE

I hereby certify that I have, on the 11th day of September 1997, served the foregoing document, Prehearing Memorandum of The Environmentalists, upon the following persons and in the manner outlined below:

Service by U. S. Postal Service, First Class Mail

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SEP 16 1997

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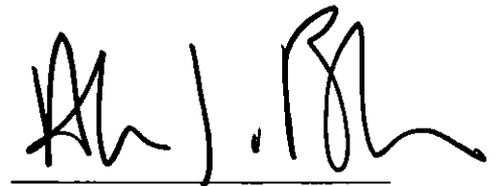
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v. 717-540-5106
f. 717-541-1970

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

IN REPLY PLEASE
REFER TO OUR FILE

September 11, 1997

In Re: R-00973953,
R-00973953C0001-C0007

(See letter dated 08/28/97)

DOCUMENT
FOLDER

PECO ENERGY COMPANY

Application for approval of a Restructuring Plan and Consumer Education Program.

NOTICE

This is to inform you that **hearings** on the above-captioned case will be held as follows:

Type: **Initial and Further**

Date: **Tuesday, October 14, 1997 - Initial Hearing
Wednesday, October 15, 1997 - Further Hearing
Thursday, October 16, 1997 - Further Hearing
Friday, October 17, 1997 - Further Hearing
Wednesday, November 12, 1997 - Further Hearing
Thursday, November 13, 1997 - Further Hearing
Friday, November 14, 1997 - Further Hearing**

Time: **10:00 a.m.**

Location: **In an available hearing room
Philadelphia State Office Building
Broad and Spring Garden Streets
Philadelphia, Pennsylvania**

Presiding Officer: **Administrative Law Judge Marlane R. Chestnut
Administrative Law Judge Charles E. Rainey, Jr.
1302 Philadelphia State Office Building
Broad and Spring Garden Streets
Philadelphia, Pennsylvania 19130
Telephone: (215) 560-2105**

KJR

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SEP 19 1997

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PAPUC
PROTHONOTARY'S OFFICE

Please mark your records accordingly.

If you are a person with a disability, and you wish to attend the hearing we may be able to make arrangements for your special needs. Please call Norma Lewis at the Public Utility Commission:

- Scheduling Office: 717-787-1399
- AT&T Relay Service number for persons who are deaf or hearing impaired: 1-800-654-5988.

pc: Judge Chestnut
Judge Rainey
Rosemary Chiavetta - BPL 111
John Frazier - BPL 101
Office of Trial Staff (2)
Consumer Advocate
Small Business Advocate
Bill Barrett - FUS
Norma Lewis
Steve L. Springer, Scheduling Officer
Beth Plantz
Docket Section
Calendar File

DJH

COMMONWEALTH OF PENNSYLVANIA

DATE: September 12, 1997

SUBJECT: R-00973953

TO: Law Bureau

FROM: *WJV* James J. McNulty, Acting Secretary

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

Attached is copy of Peco Energy Company's (1) PETITION OF THE JOINT SIGNATORIES TO SUSPEND CONSIDERATION OF CERTAIN ISSUES PENDING A COMMISSION DETERMINATION OF PROPER FORUM; and (2) PETITION OF THE JOINT SIGNATORIES TO FOREGO THE USE OF A RECOMMENDED DECISION IN EVALUATING THE JOINT PETITION FOR PARTIAL SETTLEMENT RECENTLY FILED IN THIS DOCKET filed in connection with the above docketed proceeding.

This matter is assigned to your Bureau for appropriate action.

Attachment
cc: BFUS
OSA

DOCUMENT
FOLDER/DOCKETED
SEP 12 1997

wjz

Penn. Energy Project

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717-541-1967 v.
717-541-1970 f.

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September 12, 1997

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RE: Pennsylvania Public Utility Commission v. PECO Energy Company
Docket No. R-00973953
Prehearing Memorandum

97 SEP 15 AM 10:13
RECEIVED
PROTHONOTARY'S OFFICE

Dear Mr. McNulty:

Enclosed please find our Certificate of Service which indicates our mailing of the Environmentalists' Set #3 of Data Requests in the above-docketed proceedings upon the parties of record and in the manner stated.

Also enclosed is an 'office copy' which we would appreciate having time-stamped and returned to us in the envelope provided.

Very truly yours,

Mary Lou Morin
Secretary to
Alan J. Barak and Kathleen O'Reilly
Attorneys for the Environmentalists

DOCKETED
SEP 17 1997

enclosure
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ORIGINAL

DJH

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SEP 12 1997

September 12, 1997 PA PUBLIC UTILITY COMMISSION
PROTHONOTARY'S OFFICE

VIA HAND DELIVERY

James J. McNulty, Acting Secretary
Pennsylvania Public Utility Commission
Room B-20, North Office Building
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v. PECO Energy Company - Application of PECO Energy Company for Approval of its Restructuring Plan under Section 2806 of the Public Utility Code; Docket No. R-00973953

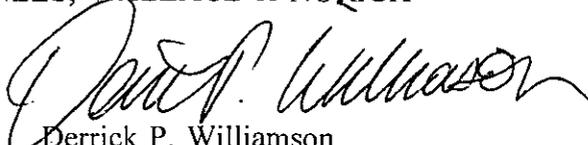
Dear Mr. McNulty:

Enclosed for filing with the Commission are the original and three (3) copies of the Philadelphia Area Industrial Energy Users Group's Statement in Support of Joint Petition for Partial Settlement in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all known parties to this proceeding have been duly served. Please date stamp the extra copy of this transmittal letter and kindly return for our filing purposes.

Very truly yours,

McNEES, WALLACE & NURICK

By 
Derrick P. Williamson

DPW/aeH
Enclosures

c: Certificate of Service
Honorable Charles E. Rainey, Jr. (via Federal Express)
Honorable Marlane R. Chestnut (via Federal Express)

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SEP 12 1997
PA PUBLIC UTILITY COMMISSION
PROTHONOTARY'S OFFICE

Pennsylvania Public Utility Commission

v.

Docket No. R-00973953

PECO Energy Company

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

DOCKETED
SEP 15 1997

**DOCUMENT
FOLDER**

**PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP'S
STATEMENT IN SUPPORT OF JOINT PETITION
FOR PARTIAL SETTLEMENT**

TO THE HONORABLE MARLANE R. CHESTNUT AND CHARLES E. RAINEY, JR.:

The Philadelphia Area Industrial Energy Users Group ("PAIEUG") submits that the terms of the above-referenced Joint Petition for Partial Settlement, which was filed with the Commission on August 27, 1997, is in the public interest and equitably balances the interests of PECO Energy Company ("PECO" or "the Company"), its customers, and other affected parties. Therefore, PAIEUG respectfully requests that the presiding Administrative Law Judges ("ALJs") and the Pennsylvania Public Utility Commission ("Commission") formally approve the Partial Settlement as it is in the public interest.

In support of the Joint Petition for Partial Settlement, PAIEUG avers as follows:

1. On December 3, 1996, Governor Ridge signed into law the Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. §§ 2801 et seq. ("the Act" or "Chapter 28"). The Act requires the phase-in of customer choice for electric generation supplies beginning January 1, 1999. Further, the Act requires that jurisdictional electric utilities file restructuring plans for Commission approval. By Order entered January 24, 1997, the Commission directed PECO to file its Restructuring Plan on April 1, 1997.

2. Consistent with the Commission's January 24, 1997, Order, PECO submitted its Restructuring Plan to the Commission on April 1, 1997.

3. On April 21, 1997, PAIEUG filed a Complaint against PECO's filing. PAIEUG's Complaint raised numerous issues and concerns regarding PECO's Restructuring Plan, to include issues regarding: PECO's claim for and proposal to recover stranded costs through a Competitive Transition Charge ("CTC"); PECO's proposal to unbundle rates; PECO's attempt to ensure no inter-class or intra-class cost shifting would occur as a function of implementing its plan; and PECO's proposal to phase-in direct access.

4. Extensive and exhaustive discussions among parties to this proceeding culminated in the filing of the Joint Petition for Partial Settlement. The Partial Settlement is not only fully consistent with the public interest and the Act, but it in large measure exceeds the universe of public benefit that could have been achieved in litigating the case and through adherence to the requirements of the Act. In fact, the Partial Settlement provides, inter alia:

(1) virtually immediate rate relief for customers; (2) acceleration of customer choice and the opening of retail competition; (3) maintenance and expansion of customer assistance programs; (4) a reduction in the stranded costs sought by PECO for recovery from ratepayers; (5) extension of rate caps on unbundled transmission, distribution and generation charges; and (6) numerous other benefits to include benefits associated with economic development and avoidance of substantial litigation costs. In short, the Partial Settlement represents a reasonable compromise of competing litigation positions that actually exceeds the scope of potential benefit that could have been achieved in litigation or pursuant to the strict requirements of the Act.

5. **Acceleration of Customer Choice:** The Act provides that full retail access must be phased-in by January 2001. The Partial Settlement, however, accelerates this transition by ensuring that all customers will have direct access to alternative generation suppliers by January 2000, thereby substantially exceeding the requirements of the Act. This acceleration of customer choice benefits not only customers, but other market participants that are eager to begin providing their alternative generation services.

6. **Guaranteed Rate Cap Reductions:** The Partial Settlement provides for a guaranteed 10% rate reduction for all customers effective September 1, 1998, with continuing total rate reductions to apply through December 31, 2003. The Act simply does not provide for guaranteed rate reductions during the pendency of the transition to retail

competition. Clearly, this aspect of the Partial Settlement represents a tremendous benefit to consumers and the public interest, in general.

7. **Recovery of Stranded Costs:** PECO sought to recover from ratepayers alleged stranded costs approaching nearly \$7.5 billion. Conversely, PAIEUG, among other intervening parties and complainants, prepared direct testimony challenging and proposing substantial reductions in PECO's stranded cost claim. The Partial Settlement provides that PECO may recover no more than \$5.461 billion in stranded costs, which facilitates a significant \$2.0 billion write-off by PECO. The compromise embodied in the Partial Settlement ensures the identification and quantification of a level of stranded costs that is just and reasonable to recover from ratepayers, in contemplation of the Partial Settlement as a whole. Clearly, in strictly defining and limiting PECO's ability to recover its stranded costs, the public interest is served.

8. **Extension of Transmission and Distribution Rate Caps:** The Act provides only that unbundled transmission and distribution charges will be capped for a period not to exceed 54 months from the effective date of Chapter 28 (or through June 30, 2001). Conversely, the Partial Settlement exceeds the requirements of the Act by ensuring that PECO's transmission and distribution charges will be capped until January 1, 2004.

9. **Extension of Generation Rate Cap:** The Act provides that generation rates may be capped through no later than December 31, 2005. Conversely, the Partial Settlement

ensures that an adjusted generation rate cap will continue through December 31, 2008.

Clearly, this additional consumer protection is in the public interest.

10. **Maintenance and Expansion of Universal Service:** The Act requires only that protections policies and services assisting customers who are low-income are to be "continued." Conversely, the Partial Settlement ensures that these services not only will be continued, but they will be substantially expanded. Again, this provision of the Partial Settlement exceeds the requirements of the Act and is clearly in the public interest.

11. **Unbundling and Customer Protection:** The Act requires that the unbundling of transmission, distribution and generation services be conducted fairly and in a manner that ensures that no intra- or inter-class cost shifts are effected. The Partial Settlement and the unbundled rates embodied therein properly reflect an unbundling consistent with approved cost-of-service principles, which ensure that no customer or class of customers is disadvantaged as a result of inter- or intra-class cost shifts. That is, guaranteed rate reductions are fairly apportioned among the classes, and CTC responsibility is properly fixed, based upon PECO's last-approved cost-of-service study, whether or not the customer continues to purchase its supply from PECO Energy. This is consistent with the Act and reflects fundamental fairness, which is obviously in the public interest.

12. To this end, the Partial Settlement fairly disposes of the complicated unbundling of PECO's Large Interruptible Load Rider ("LILR") and Rate HT customers, as well as customers with contracts under PECO's Economic Efficiency Rider and Rule 4.6.

This is accomplished by ensuring (1) that no costs are shifted either on an intra- or inter-class basis; (2) that contract sanctity is maintained; and (3) that such customers continue to be protected by the customer rate cap protections in the Act.

13. Furthermore, the Partial Settlement provides that customers may resolve any CTC/ITC responsibility through a lump-sum payment, which is consistent with the Act. 66 Pa.C.S. § 2808(b).

14. Finally, the Partial Settlement resolves issues relating to existing and contemplated self- or on-site generation and CTC/ITC obligations; again, this is accomplished in a manner that ensures that no other customer or class of customers is prejudiced by this resolution. In turn, the business and economic development needs of industrial and commercial customers are fairly preserved.

15. The Partial Settlement amicably resolves key issues in this proceeding. The Partial Settlement does not, however, resolve all issues. In fact, the Partial Settlement defers certain issues, like the recovery and allocation of universal service costs in excess of \$50 million, to future proceedings. Other unresolved issues (identified in Appendix H to the Partial Settlement) may properly be addressed by the Commission either in generic proceedings or on a separate track in this proceeding.

16. In sum, the Partial Settlement constitutes an amicable resolution of issues and compromise regarding contentious litigation positions. It largely enables the parties and the Commission to avoid the prospect of costly and time-consuming litigation, and it addresses

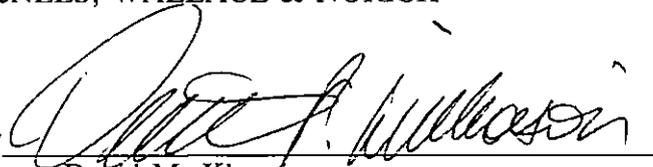
the concerns of customers, PECO Energy Company, and marketers, without harming or imposing any unnecessary costs upon any class of customer or any market participants. For all these reasons, PAIEUG supports the Partial Settlement as being in the public interest and requests that it be approved as filed without modification.

WHEREFORE, the Philadelphia Area Industrial Energy Users Group respectfully requests that Administrative Law Judge Marlane R. Chestnut and Administrative Law Judge Charles E. Rainey, Jr., and the Pennsylvania Public Utility Commission approve this Partial Settlement as being in the public interest.

Respectfully submitted,

McNEES, WALLACE & NURICK

By



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(717) 237-5214

Counsel to the Philadelphia Area Industrial
Energy Users Group

Dated: September 12, 1997

K:\146\08115\STATEMEN.SUP

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1-54 (relating to service by a participant).

RECEIVED

SEP 12 1997

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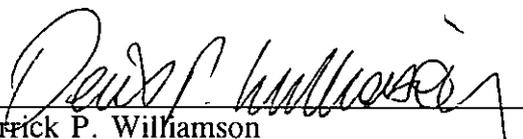
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Ward L. Smith, Esq.
PECO Energy Company
2301 Market Street
Philadelphia, PA 19103


Derrick P. Williamson

Dated this 12th day of September, 1997, in Harrisburg, Pennsylvania.



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

IN REPLY PLEASE
REFER TO OUR FILE

September 12, 1997

KJR

The Honorable Connie Williams
House of Representatives
House Post Office - Main Capitol
Harrisburg, PA

R- 973953

Dear Representative Williams:

Thank you for your recent letter to Chairman John M. Quain and Commissioner Nora Mead Brownell of the Pennsylvania Public Utility Commission expressing your support for the PECO settlement. Since the PECO settlement is currently pending before the Commission, both Chairman Quain and Commissioner Brownell have referred your letter to me for a response.

We appreciate having the benefit of your views on this issue, and please know that I have taken the liberty of sending your letter to the Acting Secretary of the Commission so that it can become a part of the official file in this proceeding.

Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

2/3

cc: Chairman Quain
Commissioner Brownell
Acting Secretary McNulty ✓

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OCT 07 1997

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CONSTANCE H. WILLIAMS, MEMBER

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PHONE: (717) 787-7529
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CWILLIAM@PALEGIS.CMICH.STATE.PA.US



House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

EDUCATION
AGING AND YOUTH
INTERGOVERNMENTAL AFFAIRS

FIREFIGHTERS AND
EMERGENCY SERVICES
LEGISLATIVE CAUCUS

August 29, 1997

Honorable Nora Mead Brownell
Commissioner
Public Utility Commission
107 North Office Building
Harrisburg, PA 17120

Rosemary.
Could you draft
a response for my
signature?

R. 973953

Dear Commissioner Brownell:

Yesterday's announcement of the agreement reached by PECO, Senator Fumo, and consumer advocates appears to be an extremely intelligent solution and impressive compromise for all the parties involved. I urge you to approve it.

Sincerely,

Connie Williams

Connie Williams
State Representative
149th Legislative District

CW/akf

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CWILLIAM@PALEGIS.CMIG.STATE.PA.US



House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

EDUCATION
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INTERGOVERNMENTAL AFFAIRS

FIREFIGHTERS AND
EMERGENCY SERVICES
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August 29, 1997

Honorable John M. Quain, Chairman
Public Utility Commission
104 North Office Building
Harrisburg, PA 17120

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CHAIRMAN QUAIN'S OFFICE

R-973953

Dear Commissioner Quain:

Yesterday's announcement of the agreement reached by PECO, Senator Fumo, and consumer advocates appears to be an extremely intelligent solution and impressive compromise for all the parties involved. I urge you to approve it.

Sincerely,

Connie Williams

Connie Williams
State Representative
149th Legislative District

CW/akf

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

IN REPLY PLEASE
REFER TO OUR FILE

September 12, 1997

Mr. Robert Freeman
President
Building Owners' and Managers'
Association of Philadelphia
Two Penn Center Plaza
Suite 310
Philadelphia, PA 19102

R- 973953

KJR

Dear Mr. Freeman:

Thank you for your recent letter to Governor Tom Ridge applauding the Governor's efforts in fostering deregulation of electricity, and your objections to the proposed PECO settlement.

The PECO settlement is currently being considered by the Pennsylvania Public Utility Commission, and please know that I have taken the liberty of sending a copy of your letter to Governor Ridge to the Acting Secretary of the Commission so it can become a part of the official file in this proceeding.

Thank you again for taking the time to express your views on this important issue.

Sincerely,

Rosemary Chiavetta
Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: The Hon. Tom Ridge
The Hon. Clarence Bell
Chairman John Quain
Commissioner John Hanger
Acting Secretary James McNulty

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BUILDING OWNERS' AND MANAGERS' ASSOCIATION OF PHILADELPHIA

Two Penn Center Plaza • Suite 310 • Philadelphia, PA 19102 • (215) 567-1775 • FAX: (215) 567-2154

August 29, 1997

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President
ROBERT I. FREEMAN, RPA
West World Management, Inc.

Vice President
MARY N. QUAIN, CPM®, RPA
Leggat McCall Properties Mgmt., L.P.

Secretary
GRACE C. STILL, RPA
Reading Terminal Market Corp.

Treasurer
ROBERT G. MARTIN, RPA
Atlantic American Properties

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J. MICHAEL COLEMAN
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The Kevin F. Donohoe Co., Inc.

TARA PINHEIRO, RPA
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THOMAS C. RYAN, RPA
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DUDLEY R. SYKES, RPA
The Rubin Organization

LOUIS VELEZ, RPA
Rohm & Haas Company

PATRICK J. WALSH
PA Convention Center

LAWRENCE R. ZIFF
Jackson Cross Company

President Ex-Officio
J. WAYNE LEE, RPA, CPM
Jackson Cross Company

Executive Director
KATHLEEN E. GAHRES

The Honorable Tom Ridge
Governor, Commonwealth of Pennsylvania
225 Main Capitol Building
Harrisburg, PA 17120

Dear Governor Ridge:

The Building Owners' and Managers' Association (BOMA) of Philadelphia represents over 90 million square feet of commercial real estate in over 200 buildings within the Metropolitan Philadelphia region. Our membership comprises 90 percent of all urban and suburban office space. The membership is comprised of building owners, managers, developers, leasing professionals, facility managers, asset managers, and the providers of goods and services -- collectively representing all facets of the commercial real estate industry

We are writing to call your attention to the proposed settlement of the PECO Energy Company's restructuring case. We applaud your efforts in fostering deregulation of electricity. But in our opinion, the proposed settlement does not fulfill the objective of bringing competitive retail electric to Pennsylvania. We feel that without fair competition the goal of further development and jobs for Pennsylvania would suffer the consequences.

The proposed settlement will establish PECO Energy as an unregulated monopoly. It will continue to burden the commercial customer with disproportionately high rates and block our access to competitive retail electricity.

We respectfully request that you encourage the Public Utility Commission to examine the proposed settlement in light of its original objective. This is extremely important to our membership. It relates directly to our ability to compete in the regional real estate market and to attract new tenants to our buildings.

Your consideration is appreciated.

Very truly yours,
Robert I. Freeman
Robert I. Freeman, RPA
President

cc John M. Quain
John Hanger
Clarence D. Bell

R-973953

CHAIRMAN QUAIN'S OFFICE

51 SEP -2 AM 9:18

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NUMBER KJR

Paul E. Nordstrom
(202) 371-6096

September 15, 1997

VIA FEDERAL EXPRESS

James J. McNulty
Acting Prothonotary
Pennsylvania Public Utility Commission
North Office Building
North Street and Commonwealth Avenue
Harrisburg, PA 17105-3265

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SEP 15 1997

PA PUBLIC UTILITY COMMISSION
PROTHONOTARY'S OFFICE

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 please find the original and three copies of the "Comments of Allegheny Power to Partial Settlement" for filing in the captioned proceeding. Also enclosed are two additional copies, which we ask that you stamp and return in the enclosed self-addressed stamped envelope.

Copies of this filing are being served on all parties in the captioned proceeding.

Thank you for your cooperation.

Sincerely,


Paul E. Nordstrom

Enclosure

cc: Attached Service List

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SEP 15 1997

Application Of PECO Energy Company)
For Approval Of Its Restructuring)
Plan Under Section 2806 Of The)
Public Utility Code)

PA PUBLIC UTILITY COMMISSION
PROTHONOTARY'S OFFICE

Docket No. R-00973953

DOCUMENT
FOLDER

COMMENTS OF ALLEGHENY POWER
TO PARTIAL SETTLEMENT

DOCKETED

To: The Honorable Marlane R. Chestnut and Charles E. Rainey, Jr. SEP 17 1997
Presiding Administrative Law Judges

Pursuant to 52 Pa. Code Sec. 5.61, Allegheny Power hereby submits its
comments to the Partial Settlement of August 27, 1997, filed by PECO Energy
Company ("PECO") on behalf of itself and other signatories to the Partial Settlement.
Allegheny Power states as follows:

DISCUSSION

Overview of Position

The filing of the Partial Settlement presents the Commission with its first
opportunity to rule upon the transition plan of a Pennsylvania utility filed under the
Electricity Generation Customer Choice and Competition Act ("Competition Act"). It
thus represents a critical milestone in the transition of Pennsylvania's electricity industry
to one that will feature the deregulation of generation at the retail level and customer
choice of generation suppliers.

The Commission should carefully consider the direct impact that the Partial
Settlement may have on the electricity market in and around PECO's service territory,

as well as the possible precedent-setting effect its approval of the Partial Settlement may have on the transition plans of the other Pennsylvania utilities. Allegheny Power's position with respect to the Partial Settlement arises from both of these concerns.

First, Allegheny Power believes that the award to PECO of \$5.5 billion of stranded cost recovery, coupled with the right to securitize \$4.0 billion of its stranded costs, will confer on PECO significant competitive advantages vis a vis Allegheny Power's West Penn Power Co. ("West Penn") and other Pennsylvania utilities. As a means of moderating these advantages, Allegheny Power proposes that the Commission restrict PECO's use of securitization proceeds in the same manner as set forth in the Settlement Agreement between PECO and Allegheny Power (see Attachment A hereto), which the Commission approved in PECO's securitization proceeding.^{1/} Allegheny Power also urges the Commission to keep in mind the advantages conferred to PECO when it rules upon West Penn's transition plan and the transition plans of the other utilities, so as to maintain an equitable competitive balance among the state's utilities.

Second, Allegheny Power believes that there will be considerable pressure for the Commission to apply the individual terms of the Partial Settlement to the transition plans of the other Pennsylvania utilities. For the reasons discussed below, application of those terms to the other utilities may not be appropriate. Allegheny Power requests that the Commission make clear that its approval of the Partial Settlement will have no precedential impact on the other utilities' transition plans.

^{1/} Application of PECO Energy Company for Issuance of a Qualified Rate Order Under Sections 2808 and 2812 of the Public Utility Code, Opinion and Qualified Rate Order, Docket No. R-00973877, p. 5 (May 22, 1997).

PECO Competitive Advantage

Allegheny Power welcomes the advent of customer choice in Pennsylvania. Consistent with its traditional obligation to serve and in anticipation of customer choice, Allegheny Power has conducted its operations in an efficient and low cost manner. Indeed, West Penn has been and continues to be the lowest cost utility supplier in Pennsylvania. Given these circumstances, Allegheny Power should be well positioned to compete in the new competitive Pennsylvania electric markets if competition is allowed to proceed in a fair and equitable manner.

The Partial Settlement, however, raises serious concerns as to whether the ground rules for competition will be fair and equitable. The Partial Settlement confers significant competitive advantages on PECO vis a vis West Penn and the other Pennsylvania utilities. Under the Partial Settlement, PECO would recover \$5.5 billion of stranded costs. PECO would be permitted to securitize \$4.0 billion of this amount. PECO also would be permitted to recover its stranded costs in a competitive transition charge ("CTC") that will be in effect through the end of the year 2008.

The competitive, or anticompetitive, implications of the Partial Settlement include the following:

- Securitization. The Partial Settlement provides that PECO may securitize \$4.0 billion of its stranded costs. Thus, upon completion of the sale of its transition property, PECO would receive a staggering amount of cash as proceeds of the sale, thereby guaranteeing PECO recovery of a huge portion of its fixed costs and providing PECO with substantial flexibility to compete in deregulated electricity markets. Absent the restrictions on the proceeds requested below,

PECO could employ this cash to expand into the markets of West Penn and the other Pennsylvania utilities. West Penn and the other utilities, which have not sought approval to securitize stranded costs of this magnitude, will have less ability to expand into PECO's market or to protect their own markets.

- CTC/Generation Charge Relationship. The Partial Settlement would permit PECO to charge customers its full CTC regardless of the level of actual market prices. Under the settlement, PECO's CTC is fixed; thus, PECO's generation charge (i.e., the customer's avoided cost) is determined as the residual between its generation rate cap and the fixed CTC. Whenever the difference between PECO's generation rate cap and its CTC is less than the market price, PECO would continue to charge its full CTC, but would charge *below market generation rates* in order to avoid exceeding the cap. Based on the testimony of PECO's witnesses, such a situation may occur frequently through the year 2005. The following table highlights (in bold type) the projected annual market prices provided by PECO's witnesses which exceed the residual "energy and capacity cap" of the Partial Settlement:

PECO Generation Market Price

\$/MWh					
	Projections of PECO Witnesses ^{1/}			Average Projection	Settlement Energy & Capacity Cap ^{2/}
	EDS	PHB	ICF		
1999	28.4	24.5	28.1	27.0	28.0
2000	31.5	27.8	31.3	30.2	28.0
2001	36.6	32.2	35.0	34.6	32.0
2002	38.2	33.9	36.4	36.2	35.0
2003	39.9	35.7	37.5	37.7	37.0
2004	41.7	37.6	38.9	39.4	39.7
2005	43.4	39.3	41.4	41.4	40.7
2006	44.8	41.1	43.3	43.2	47.7
2007	46.6	43.0	45.0	44.9	53.7
2008	48.2	44.9	47.0	46.7	55.7

^{1/} Source: Exhibit JFB-1 (Bustard).

^{2/} Source: Partial Settlement, p. 8, Col. 4.

In contrast, in its transition filing West Penn has proposed that its CTC be adjusted annually as the residual between its generation rate cap and the actually-determined market price. In addition, other Pennsylvania utilities have indicated that when market prices rise above projections, they will continue to charge market generation rates, but will reduce their CTC charges in order to stay within their caps. The competitive advantage that PECO uniquely would enjoy as a result of its fixed CTC is obvious: alternative suppliers would be forced to compete with PECO's below market generation rates for sales to PECO's customers -- rates which PECO is able to charge because they are subsidized by PECO's huge CTC.

- CTC Extension. The Partial Settlement permits PECO to extend the period of CTC collection through the end of 2008. Extension would increase the likelihood of PECO recovering the full amount of stranded costs permitted by the Partial Settlement and guarantee recovery of some level of profit through 2008.

The Competition Act was passed to bring about competitive retail generation markets in Pennsylvania. In order for such markets to function properly and bring to Pennsylvania consumers the full benefits of competition, the rules of the market must not arbitrarily confer favor or advantage to one player over another. The Commission must be especially vigilant to avoid unfair advantage in the area of stranded cost recovery. Nothing in the Competition Act suggests that stranded cost recovery should be used by utilities or applied by the Commission so as to confer to certain utilities a competitive advantage over the others. Nor does anything in the Act suggest that the *natural and proper* advantages of utilities that have over the years invested wisely, operated efficiently and provided low cost service to consumers should be washed away by the new wave of regulation which now implements stranded cost recovery.

As a minimum safeguard to protect against some of the competitive advantages that PECO would receive upon approval of the Partial Settlement, Allegheny Power requests that the Commission impose upon PECO's use of the proceeds from the sale of securitized transition property the same restrictions as were agreed to between PECO and Allegheny Power for such funds in the PECO securitization case. See Attachment A. Specifically, PECO agreed that it would use the proceeds from the sale of transition property for the following purposes only:

(1) to pay expenses related to the issuance of the Transition Bonds and the costs associated with using the proceeds; (2) to apply to its deferred fuel accounts; (3) to retire existing debt through calls, open market purchases, tender offers and/or defeasance; (4) to retire existing preferred stock through redemption and/or tender offers; and (5) for stock buy backs or dividends related to PECO Energy's common equity.

Attachment A at 2. The same considerations that led to the Settlement Agreement and the Commission's approval of that agreement in Docket No. R-00973877 compel Commission imposition of these restrictions in the instant proceeding. Those proceeds should be used to pay down company liabilities associated with stranded costs and other transition costs; they should not be used to subsidize PECO's expansion into other utilities' regions.

Further, Allegheny Power respectfully requests that the Commission remain cognizant of the competitive advantages received by PECO when the Commission considers the merits of West Penn's restructuring application. West Penn should not be placed at a competitive disadvantage because it has fewer, rather than more, stranded costs than PECO.

Possible Precedential Impact

While typically settlements do not create binding precedent, the Commission should be mindful that in approving the Partial Settlement it will be setting in place the "rules of the road" for a portion of the Pennsylvania retail electricity market. Pressure to apply the same rules to the remaining portions of the Pennsylvania markets likely will arise as the Commission reviews the transition plans of the other Pennsylvania utilities. Indeed, one participant in the Pennsylvania electric restructuring is already proclaiming

the temporary 10 percent PECO rate reduction in the Partial Settlement to be a benchmark for consumer support of the other utilities' restructuring proposals. See "PECO, Opponents Find Common Ground, Announce Settlement," Energy Daily, August 28, 1997, pp. 1-2 (quoted remarks of Sen. Vincent Fumo (D-Philadelphia)).

The Commission should be careful to ensure that its ruling with respect to the PECO settlement is limited to the PECO service territory and will not be binding on the other Pennsylvania utilities and the transactions that will occur within their territories. A "one size fits all" approach was not contemplated by the Legislature when it required the filing of individual implementation plans. And clearly, given the varying circumstances facing the respective Pennsylvania utilities -- including great differences in success in controlling costs, varying customer demographics, and even location in separate and distinct electricity markets -- the rules of the road will have to be tailored for each utility and its territory. The Commission's ruling on the Partial Settlement should ensure such flexibility.

A prime example of the need to tailor the specific elements of restructuring to each utility's circumstances is raised by the suggestion, cited above, that a temporary 10 percent rate reduction become a benchmark. The strikingly different circumstances by which West Penn and PECO enter the transition to competition refute this suggestion. West Penn, through years of prudent and efficient management, provides residential service at rates 47 percent below PECO's. If PECO's rate levels are to be considered a benchmark for West Penn, logic would dictate that West Penn's rates should be significantly increased, not decreased. Other considerations also bode against imposing a decrease in West Penn's rates. PECO currently is earning more

than its authorized rate of return and, thus, has a substantial "cushion" with which it may offer such a rate concession. West Penn is earning less than its authorized rate of return,^{2/} and simply has no comparable cushion with which to offer such a concession. Imposition of such a concession could have a devastating impact on West Penn's financial condition. The Commission should resist attempts to selectively and arbitrarily apply certain aspects of the Partial Settlement, which were negotiated in light of the many circumstances surrounding PECO, to the transition plans of the other Pennsylvania utilities.

CONCLUSION

For the reasons discussed above, Allegheny Power respectfully requests that the Commission:

- (1) impose restrictions on PECO's use of proceeds from the sale of transition property as described above;
- (2) craft its order with respect to the Partial Settlement so as not to be binding on West Penn's transition filing; and

^{2/} See Direct Testimony of Michael P. Morrell, West Penn Power Company, Application for Approval of Restructuring Plan Under Section 2806 of the Public Utility Code, Docket No. R-00973981, p. 15.

(3) grant such other relief as is necessary and appropriate.

Respectfully submitted,



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application Of PECO Energy Company)
For Approval Of Its Restructuring) **Docket No. R-00973953**
Plan Under Section 2806 Of The)
Public Utility Code)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the enclosed document upon the participants, listed below, in accordance with the requirements of § 1.54 (relating to service by a participant).

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Dated this 15th day of September, 1997.



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Attorney for Allegheny Power



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

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R-00973953

September 15, 1997
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PROTHONOTARY'S OFFICE

Mr. Edward B. Cannon
President
Building Owners and Managers Association
Suite 1560 Center City Tower
650 Smithfield Street
Pittsburgh, PA 15222

KJR

Dear Mr. Cannon:

Thank you for your recent letter of September 4, 1997, to Governor Tom Ridge concerning the PECO Energy Company's proposed settlement filed in its rate restructuring proceeding.

Please know that this is currently pending before the Commission and, therefore, I am unable to address the merits of the settlement. Please know that I have taken the liberty of forwarding your letter to the Acting Secretary of the Commission in order for the views of the Building Owners and Managers Association to be entered into the official record involving this proceeding.

Thank you again for the benefit of your thinking on this issue.

Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: The Hon. Tom Ridge
Chairman John Quain
Acting Secretary James McNulty ✓

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SEP 18 1997

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September 4, 1997

**BUILDING OWNERS
AND MANAGERS
ASSOCIATION**

Suite 1560 Center City Tower
630 Smithfield Street
Pittsburgh, PA 15222



The Honorable Tom Ridge
Governor Of Pennsylvania
225 Main Capitol Building
Harrisburg, PA 17120

Dear Governor Ridge:

When you signed into law *The Electricity Generation Customer Choice and Competition Act*, BOMA Pittsburgh joined in the optimism that electric deregulation would provide a truly competitive market in our Commonwealth. We are disappointed to learn that you are supporting the PECO-Fumo partial settlement agreement. It is also of grave concern to our membership that this settlement is reportedly being hailed as a model for the rest of the state. In our view, this settlement agreement seriously hinders the establishment of a competitive market and undermines the original intent of your legislation to provide electric utility supplier choices thereby lowering the cost of electricity and re-establishing an attractive economic development climate in Pennsylvania.

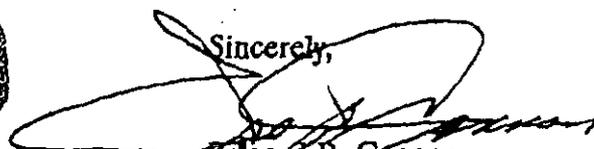
Pittsburgh, like Philadelphia, has suffered under some of the highest electric rates in the nation. Our expectations of electric deregulation are lower rates and choice in suppliers. Our reading of the proposed settlement indicates an effective elimination of true competition in part by subsidizing PECO's unverified, possibly inflated, and unjustified stranded cost claims. We firmly believe that all stranded cost claims should be independently audited as part of any determination for recovery. Leaving the stranded cost issue as a nebulous catch-all virtually strands Pennsylvanians as captive ratepayers instead of true customers.

The 10% rate reduction in exchange for the ability to collect \$5.4 billion in "stranded costs" virtually extinguishes any economic incentive for outside competition and sets an unpalatable precedent for Pennsylvania and the nation. Electric Deregulation was a hot topic at our recent BOMA International Convention. It was clear that many states are watching the manner in which deregulation is addressed in Pennsylvania.

We understand that the Governor of Pennsylvania cannot be involved in the minutia of every issue; however, we are requesting that you and your staff, the Consumer Advocate and the Small Business Advocate re-examine the details of this proposed settlement and its consequences. Electric utilities and their shareholders have enjoyed the fruits of the regulated environment. It is time for them to work with us to create an economically vibrant Pennsylvania for the future. Special treatment and special deals which drain our citizens and businesses of vital resources are not in the Commonwealth's best interest. We look to you to ensure fair and reasonable treatment for all.

SOCKETED

SEP 18 1997

Sincerely,

Edward B. Cannon
President, BOMA Pittsburgh

**DOCUMENT
FOLDER**

C: **The Honorable Bob Cranmer**
The Honorable Mike Dawida
The Honorable Lawrence Dunn
Karen Penafiel - BOMA International
Bob Martin - President, BOMA Philadelphia



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

IN REPLY PLEASE
REFER TO OUR FILE

September 15, 1997

Mr. Brian A. Rider
President
Pennsylvania Retailers' Association
224 Pine Street
Harrisburg, PA 17101-1325

DOCUMENT
FOLDER

R-973953

KJR

Dear Brian:

Thank you for your recent letter of September 8, 1997, to Governor Tom Ridge regarding the concerns of your Association over the settlement agreement reached in the PECO Energy Company's rate restructuring case.

Please know that this is currently pending before the Commission and, therefore, I am unable to address the merits of the settlement. Please know that I have taken the liberty of forwarding your letter to the Acting Secretary of the Commission in order for the views of the Pennsylvania Retailers' Association to be entered into the official record involving this proceeding.

Thank you again for the benefit of your thinking on this issue.

DOCKETED

SEP 19 1997

Sincerely,

Rosemary Chiavetta
Rosemary Chiavetta, Esq.
Director of Legislative Affairs

0083

cc: The Hon. Tom Ridge
Chairman John Quain
Acting Secretary James McNulty

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97 SEP 16 P11 1:59



Pennsylvania Retailers' Association

224 PINE STREET • HARRISBURG, PA • 17101-1325
(717) 233-7976 • 800-727-3824 • FAX (717) 236-1234

September 8, 1997

The Honorable Thomas J. Ridge
Governor
Commonwealth of Pennsylvania
225 Main Capitol
Harrisburg, PA 17120

Dear Governor Ridge:

Last week, the Pennsylvania Retailers' Association signed a settlement agreement in PECO Energy Company's rate restructuring case. Our support for the agreement was based largely on the 10 percent rate cut for PECO customers and the escalated phase-in of those reduced rates. We commend you for the role you have played in bringing electrical energy deregulation to Pennsylvania and in persuading PECO to agree to those important settlement terms.

However, Pennsylvania retailers are concerned about the level and extent of stranded costs that PECO would recover under the proposed settlement and the impact this would have on the decisions of other alternative energy companies to enter and compete in the Pennsylvania electrical energy market. Consequently, despite our support for some important features of the settlement, we are today withdrawing our consent to it out of concern that the agreement will produce temporary, short-term rate reductions rather than long-term electrical competition.

When it filed its rate restructuring plan on April 1, 1997, PECO claimed \$6.8 billion in stranded assets and costs; two months ago, it increased the number to \$7.461 billion. The settlement agreement would entitle PECO to recover \$5.461 billion. None of these numbers have been subjected to public scrutiny, but some alternative providers claim that the settlement creates a competitive advantage in PECO's favor through an overly generous recovery of stranded costs.

We do not know if the claims are valid or not. However, we believe they raise an issue too important to be ignored. At a minimum, the issue of stranded costs should be the subject of a full evidentiary proceeding at which PECO should explain and justify the stranded cost recovery it seeks.

AFFILIATED WITH THE NATIONAL RETAIL FEDERATION

Received Time

Sep. 8. 2:13PM

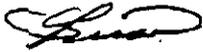
Print Time

Sep. 8. 2:15PM

The Honorable Thomas J. Ridge
September 8, 1997
Page Two

You have publicly urged the PUC to move quickly in reviewing this settlement. We share your desire to see rate reductions delivered to electricity users in Southeastern Pennsylvania as expeditiously as possible. However, we must respectfully suggest that a more deliberate approach is warranted and ask your support for a full Public Utilities Commission review of the stranded cost issue.

Sincerely,



Brian A. Rider
President

BAR/rjm



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

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Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: The Hon. Tom Ridge
Chairman John Quain
Acting Secretary James McNulty

8344

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97 SEP 16 PM 1:59

September 4, 1997

**BUILDING OWNERS
AND MANAGERS
ASSOCIATION**Suite 1560 Center City Tower
650 Smithfield Street
Pittsburgh, PA 15222The Honorable Tom Ridge
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225 Main Capitol Building
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Sincerely,

Edward B. Cannon
President, BOMA Pittsburgh

Received Time

Sep. 8. 1:20PM

Print Time

Sep. 8. 1:22PM

C: **The Honorable Bob Cranmer**
The Honorable Mike Dawida
The Honorable Lawrence Dunn
Karen Penafiel - BOMA International
Bob Martin - President, BOMA Philadelphia