

PETITIONS FOR RECONSIDERATION
OR CLARIFICATION OF ORDER
APPROVING MODIFIED RESTRUCTURING
PLAN FOR PECO ENERGY COMPANY

PUBLIC MEETING
JANUARY 15, 1998
JAN-98-C-1
DOCKET NO. R-00973953
P-00971265

MOTION BY: Commissioner Hanger
SECONDED: Commissioner Rolka

Commissioner Chm. Quain -
Concurring & Dissenting
Commissioner Bloom -
Concurring & Dissenting
Commissioner Brownell - Yes

CONTENT OF MOTION:

1. The Petition for Reconsideration of PECO Energy Company is granted in part and denied in part, consistent with this Motion;
2. The Petitions for Reconsideration of OCA, CEPA, and PAIEUG are granted solely to the extent consistent with this Motion, and otherwise denied;
3. The Petitions for Reconsideration of Enron and NEV are denied; and
4. OSA shall prepare an appropriate Order consistent with this Motion.

Concurring and Dissenting Joint Statement of Chairman John M. Quain and Vice Chairman Robert K. Bloom attached.

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98-1

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

v.

PUBLIC MEETING-
JANUARY 15, 1998
JAN-98-C-1
R-00973953

PECO ENERGY COMPANY

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

and

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-00981265

Petitions for Reconsideration or
Clarification of Order Approving
Modified Restructuring Plan
for PECO Energy Company

CONCURRING AND DISSENTING JOINT STATEMENT OF CHAIRMAN JOHN M. QUAIN AND VICE CHAIRMAN ROBERT K. BLOOM

This matter comes before us on several Petitions for Reconsideration of the Commission's Order entered December 23, 1997. Today, the Commission has ruled on those Petitions, correcting, clarifying, and modifying its order in some respects. Our dissent from the December 23, 1997, Order is a matter of record. We find that we must respectfully concur and dissent with respect to the resolution of the Petitions for Reconsideration as embodied in the Motion of Commissioner Hanger offered today.

We concur with those parts of the Motion that correct certain findings contained in the December 23, 1997, Order. We believe, however, that the Motion is deficient in a number of respects, and therefore we must also dissent.

First, in the proposed treatment of SFAS 106 expenses, the denial of the claimed portion of \$67 million of early retirement expenses is inconsistent with the recognition of the action as a mitigation effort. That denial is also inconsistent with the reduced ongoing allowance for the expense as part of the market valuation for generation property.

Further, the use of earnings on the SFAS 106 trust as an offset for non-SFAS 106 related expenses appears improper from both an accounting and a policy standpoint. Finally, the treatment of SFAS 106 expenses represents a mismatch of present value calculations rather than a matter of overfunding.

We must also disagree with the majority regarding the timing of open enrollment for PECO customers. While the motion grants a delay until April 27, 1998, for enrollment to begin, we believe that this early enrollment period will not afford customers the benefits of Commission-led education programs. We note, however, that these same customers will be funding those programs through their CTC charges. Our preferred position would be to have the initial enrollment period coincide with the expected enrollment periods for the other electric distribution companies in the region. Hence, we prefer a July 1, 1998, open enrollment date.

Finally, the majority does not provide PECO with an adequate time frame for compliance, nor the parties with an adequate period for response to the compliance filing. We would allow a ten day time period from the entry date of the final order on reconsideration for PECO to make its compliance filing. Moreover, we would provide the parties with two weeks thereafter to review the submission and to file comments. The early enrollment date supported by the majority is evidently driving the entire time frame for review, yet this is a review which must be made very carefully. The rates and charges which need to be considered will be in effect for a number of years, and continuing revision of the numbers which may result from unnecessary haste at this point could hinder the ability of other market participants to develop their services and products.

For the foregoing reasons, we concur and dissent on this Motion.

1-15-98

DATE

1-15-98

DATE

John M. Quain

JOHN M. QUAIN
CHAIRMAN

Robert K. Bloom

ROBERT K. BLOOM
VICE CHAIRMAN



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

f.d.
IN REPLY PLEASE
REFER TO OUR FILE

January 16, 1998

R-00973953
P-00971265

MARY MCFALL HOPPER ESQUIRE
NOEL H TRASK ESQUIRE
PECO ENERGY COMPANY
2301 MARKET STREET
P O BOX 8699
PHILADELPHIA PA 19101-8699

Application of PECO Energy Company for Approval of its
Restructuring Plan Under Section 2806 of the Public Utility
Code and Joint Petition for Partial Settlement

Petition of Enron Energy Services Power, Inc., for Approval
of an Electric Competition and Choice Plan 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
by the Commission in Public Meeting on January 15, 1998 in the above
entitled proceeding.

An Opinion and Order has been enclosed for your records.

Very truly yours,

DOCKETED
JAN 27 1998

James J. McNulty,
Secretary

encls
cert. mail
law

See attached list
for additional
parties of record.

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

Public Meeting held January 15, 1998

Commissioners Present:

John M. Quain, Chairman ; Joint Concurring & Dissenting Statement attached
Robert K. Bloom, Vice Chairman, Joint Concurring & Dissenting Statement attached
John Hanger attached
David W. Rolka
Nora Mead Brownell

Application of PECO Energy Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code and Joint Petition for Partial Settlement R-00973953

Petition of Enron Energy Services Power, Inc., for Approval of an Electric Competition and Choice Plan and for Authority Pursuant to Section 2807(e)(c) of the Public Utility Code to Serve as the Provider of Last Resort in the Service Territory of PECO Energy Company P-00971265

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**OPINION AND ORDER
(Restructuring Reconsideration Order)**

BY THE COMMISSION:

By Motion adopted on December 11, 1997, and by Opinion and Order entered on December 23, 1997, this Commission approved a Restructuring Plan for PECO Energy Company (PECO) based upon modifications to PECO's original Application in this proceeding. Presently before this Commission for review are six (6) Petitions for Reconsideration, Clarification, and/or Amendment of the December 23, 1997 Order individually filed on January 7, 1998, by: (1) PECO, (2) Enron Energy Services Power, Inc., and Enron Power Marketing, Inc., (individually: EESPI and EPMI, or collectively: Enron) (Enron Petition), (3) the Office of Consumer Advocate (OCA), (4) the Consumer Education and Protective Association (CEPA), the Tenant Action

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Group (TAG), the Association of Community Organizations for Reform Now (ACORN), and John W. Long, (collectively: CEPA) (CEPA Petition), (5) the Philadelphia Area Industrial Energy Users Group (PAIEUG), and (6) New Energy Ventures (NEV).

Brief History of the Proceedings¹

Effective January 1, 1997, the Electricity Generation Customer Choice and Competition Act (Act), 66 Pa. C.S. §§2801, et seq., amended the Public Utility Code (Code), 66 Pa. C.S. §§101, et seq., by adding Chapter 28. Chapter 28 restructured the provision of retail electric service within the Commonwealth. Section 2806 of the Act requires all jurisdictional electric utilities (EDCs) to file restructuring plans for review and approval by the Commission. The Act established a nine-month review process for an EDC's restructuring plan. On January 24, 1997, at Docket No. M-00960890, F0005, this Commission established a schedule for filing restructuring plans. On February 13, 1997, the Commission directed that all restructuring plan filings be accompanied by specific data. (Retail Access Pilot Program - Guidelines, Docket No. M-00960890, F0003).

On April 1, 1997, PECO filed the subject Application for Approval of its Restructuring Plan. PECO's Restructuring Plan requested that this Commission approve its proposed unbundling of rates, competitive transition charges (CTCs), and specific tariff provisions to ensure customers have direct access to all licensed electric generation suppliers. Further, PECO requested recovery of \$6.8 billion of transition and stranded costs. Finally, PECO asked for approval of a plan to meet its universal service obligations, of a mechanism to recover the costs of its universal service obligations, and of a proposed consumer education program.

¹ This section is adapted in large measure from this Commission's December 23, 1997 Order in these proceedings. For a detailed history of the proceedings, see that Order.

The proceeding was assigned to Administrative Law Judges (ALJs) Marlane Chestnut and Charles Rainey. Rate protests were filed by various parties. The OCA, the Office of Small Business Advocate (OSBA), and this Commission's Office of Trial Staff (OTS) entered appearances. Formal Complaints were filed by CEPA, TAG, the Action Alliance of Senior Citizens (AASC), Mr. Long, PAIEUG, and ACORN. The AASC subsequently withdrew its Complaint.

Intervenors included the Hon. Vincent J. Fumo, Jr., Senator, 1st State Senatorial District (Sen. Fumo), Indianapolis Power and Light Co. (IPL), the Environmentalists,² Delmarva Power and Light Co., t/d/b/a Conectiv Energy (Conectiv), Enron Corp. (an affiliate of EESPI and EPMI), DuPont Power Marketing (DuPont), the Mid-Atlantic Power Supply Association (MAPSA), the Delaware Valley Schools Energy/Utility Consortium (DVSEUC), Allegheny Power Company (APC), American Energy Solutions (AES), the Department of the Navy (Navy), the American Association of Retired Persons (AARP), Lance Haver, CNG Energy Services (CNG), the Municipal Intervenors Group (MIG), NEV, the Pennsylvania Petroleum Association (PPA), Ethan Giddings, the Center for Energy and Economic Development (CEED), Duke Energy Trading Market, LLC, (Duke), the Pennsylvania Retailers' Association (PRA), NorAm Energy Management, Inc. (NorAm), Vastar Power Marketing, Inc. (Vastar), Electric Clearinghouse, Inc. (ECI), ERI Services, Inc. (ERI), the Pennsylvania Association of Plumbing, Heating and Cooling Contractors (PAPHCC), Albert M. Benincasa, QST Energy, Inc. (QST), and Southeastern Pennsylvania Transportation Authority (SEPTA). CNG ultimately withdrew as an individual participant but continued to participate through MAPSA. Comments were filed by the Hon. Stewart Greenleaf, Senator, 12th District, Rufus L. Miley, and Nicholas J. DiMarino.

² The Environmentalists consist of the Delaware Valley Citizens' Clean Air Council (Clear Air Council), the Sierra Club, Citizens Action, Pennsylvania Public Interest Research Group (PennPIRG), Grass Roots Alliance for a Solar Pennsylvania (GRASP), Nonprofit Energy Savings Investment Program (NESIP), and the Philadelphia Solar Energy Association (PSEA).

PECO and Sen. Fumo, CEPA (on behalf of itself, TAG, ACORN, and Mr. Long), Mr. Haver, the OTS, the OCA, the OSBA, PAIEUG, AARP, and the Navy (Joint Signatories) signed a Partial Settlement. On August 27, 1997, the Joint Signatories filed a Joint Petition for Partial Settlement of PECO's Proposed Restructuring Plan and Application for a Qualified Rate Order (Settlement Petition) in support of the Partial Settlement.

On October 7, 1997, EESPI³ filed its Petition for Approval of an Electric Competition and Customer Choice Plan and for Authority Pursuant to Section 2807(e)(3) of the Public Utility Code to Serve as the Provider of Last Resort (PLR) in PECO's Service Territory at Docket No. P-00971265. By Order entered on October 9, 1997, EESPI's PLR Petition was consolidated with PECO's restructuring proceeding as captioned above.

On October 14, 1997, the Presiding Officers covered extensively this Commission's instructions relative to the establishment of a complete record, noting in particular that there would be one decision addressing the proposed Partial Settlement, the EESPI PLR Petition, and all unresolved issues.

On October 21, 1997, PECO, PAIEUG, Sen. Fumo, Mr. Haver, AARP, CEPA, TAG, ACORN, Mr. Long, the OCA, the OSBA, and the OTS filed Petitions for Reconsideration of the October 9 Order. On November 6, 1997, this Commission entered an Opinion and Order denying the relief requested in the October 21 Petitions for Reconsideration and offering, instead, an option to extend the date for Commission action until January 30, 1998. The November 6 Opinion and Order reiterated and clarified that the scope of the issues to be addressed included the Restructuring Plan, the proposed Partial Settlement, the EESPI PLR Petition, and all unresolved issues. The schedule was

³ On October 7, 1997, EESPI filed an application at Docket No. A-110059 for authority to provide service as a licensed electric supplier.

not extended, however, due to the filing of timely objections by Conectiv, NEV, and MAPSA.

The record in this proceeding contains a transcript of 2280 pages, as well as the statements and exhibits admitted into the record and the briefs of the parties. By Order entered on December 23, 1997, this Commission denied both the Partial Settlement and the EESPI PLR Petition. In so doing, the Commission rejected EESPI's contingency plan as well as the Partial Settlement. PECO was directed to make a compliance filing within twenty (20) days of the date of entry of the December 23, 1997 Order.

The instant six Petitions for Reconsideration were filed on January 7, 1998. PECO raises concerns regarding the stranded cost calculation, consumer education, and customer choice enrollment. The OCA raises concerns on the issues of stranded costs, customer rates, universal service, customer education, and consumer protections. PAIEUG asserts that the December 23, 1997 Order creates great uncertainty with respect to PECO's restructuring and requests reconsideration of the Order in view of the customer benefits that were contained in the Partial Settlement. EESPI addresses cost and stranded cost allocations, PECO's mitigation efforts, and unbundling. CEPA, *et al.*, seek reconsideration or clarification regarding the generation rate for residential customers who do not chose an alternative generation supplier, consumer protection, and funding for universal service and customer education. NEV expresses concern on the issue of the appropriate discount rate.

Answers to the Petitions were individually filed by PECO, EESPI and EPMI, the OCA, MAPSA, PAIEUG, NEV, Conectiv, DVSEUC, and SEPTA.

Discussion

At this stage in the proceeding, the six January 1998 Petitions for Reconsideration are seeking relief following our December 23, 1997 Order. The Code

establishes a party's right to seek relief following the entry of final decisions pursuant to Section 703 of the Code, 66 Pa. C.S. §703, relating to rehearings and rescission and amendment of orders. Subsection 703(g) provides that:

(g) Rescission and amendment of orders.--The commission may, at any time, after notice and after opportunity to be heard as provided in this chapter, rescind or amend any order made by it. Any order rescinding or amending a prior order shall, when served upon the person, corporation, or municipal corporation affected, and after notice thereof is given to the other parties to the proceedings, have the same effect as is herein provided for original orders.

Further, such requests for relief must be consistent with Sections 5.572 of our Regulations, 52 Pa. Code §5.572, relating to petitions for relief following a final decision.

Additionally, consistent with Subsection 703(g) of the Code, *supra*, Section 5.572 of our Regulations, *supra*, and judicial and administrative precedent, the standards for a petition for relief following a final decision were set forth in *Duick v. PG&W*, 56 Pa. P.U.C. 553 (December 17, 1982) (*Duick*). *Duick* held that a petition for reconsideration under Subsection 703(g) may properly raise any matter designed to convince us that we should exercise our discretion to amend or rescind a prior Order, in whole or in part. Furthermore, such petitions 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. Ct. 1990), further elucidated the standards for rehearing, reconsideration, revision, or rescission.

In our opinion, the six Petitions for Reconsideration raise generally narrow issues that do not challenge the balance or direction of our December 23, 1997 Order. We believe that they properly raise matters designed to convince us that we should exercise our discretion to consider clarification or amendment, in part, of our

December 23, 1997 Order. Accordingly, we shall consider the instant Petitions on their merits.

A. Issues Related To Stranded Costs

1. Net Plant.

a. Reallocation of \$98.9 million from transmission and distribution to generation. At page 80 of the December 23, 1997 Order, we generally adopted PECO's quantification of net generating plant in service. PECO is correct that the December 23, 1997 Order mistakenly neglected to include PECO's reallocation of \$98.9 million of common and general plant from the transmission and distribution functions to the generation function during the rebuttal round of the proceeding. PECO made this correction to Exhibit ABC-1, Revised, in response to the recommendations of several other parties. We agree with PECO and the other parties that the subject \$98.9 million is generation-related plant and should not be recoverable through transmission and distribution rates. This correction increases PECO's stranded costs by \$98.9 million.

b. Plant No Longer Used and Useful. At page 81 of the December 23, 1997 Order, we adopted the recommendation of OCA witness La Capra to reduce net plant by \$35.4 million to reflect plant no longer used and useful that should be retired and not carried on the company's books. The conclusion that plant no longer used and useful cannot be considered for recovery as a stranded cost is correct. PECO, however, properly points out that the adjustment to reduce net plant by \$35.4 million requires an offsetting adjustment to reduce an equivalent value of accrued depreciation. These two adjustments balance each other out, so no adjustment to net plant is necessary. This correction increases PECO's stranded costs by \$35.4 million.

These two net plant adjustments result in a total increase of \$134.3 million in the book value of PECO's stranded assets and an equal increase in PECO's recoverable stranded costs.

2. Deferred Fuel Expense.

a. Fuel Expense Through Energy Cost Adjustment (ECA) Roll-In on December 31, 1996. At page 71 of the December 23, 1997 Order, we granted recovery of a regulatory asset for deferred fuel expenses and nuclear performance incentives actually recognized on PECO's books as of December 31, 1996, the date at which the ECA was rolled into base rates. The May 22, 1997 Qualified Rate Order (QRO) granted recovery of this expense. Since the QRO is irrevocable, the same recovery was authorized in the December 23, 1997 Order. The December 23, 1997 Order characterized this item as recovery of \$96.162 million for the underlying expense and interest to the net present value date of December 31, 1998.

PECO properly points out that the QRO, in fact, categorized the total recoverable amount as \$96.162 based on a quantification of interest only through June 30, 1997, not the relevant net present value date in this proceeding of December 31, 1998. PECO is correct that the recoverable amount would be \$109.33 million if interest were calculated to the net present value date of December 31, 1998, and that OCA witness La Capra accepted this quantification. We shall accept this correction which increases PECO's stranded costs by \$13.2 million.

b. Fuel Expense Post December 31, 1996. In the December 23, 1997 Order, we denied PECO's recovery of unrecovered fuel expense beyond December 31, 1996, based on the recommendations of OCA witness La Capra and PAIEUG witness Kollen. Those witnesses argued, and we agreed, that the reconciliation provisions of an ECA permit recovery only based on actual experience and documentation of the costs. Future energy costs are inherently not "known and measurable" at this point in time, could

not now be granted pursuant to an ECA, and, therefore, cannot qualify as recoverable stranded costs under the Act. The December 23, 1997 Order denied PECO's request for stranded cost recovery of \$22 million for each of 1997 and 1998 and for \$22.7 million for each year through the conclusion of the proposed transition period, December 31, 2005.

In its Petition for Reconsideration, PECO revises its prior claim instead to request recovery of \$29.4 million for unrecovered fuel expense through November 30, 1997, and to allow recovery for additional fuel expense through December 31, 1998, as part of the CTC reconciliation proceedings. PECO has not asked for reconsideration of the denial of recovery for fuel costs beyond December 31, 1998.

At the outset, as several parties pointed out in their Answers to PECO's Petition, a petition for reconsideration of a final order is not an appropriate vehicle for presenting a new proposal or new evidence not in the record of the proceeding.⁴ The decision in this case, whether within the December 23, 1997 Order or upon this reconsideration, can be based solely on the proposals and the record of this proceeding. For this reason, PECO's request for \$29.4 million for unrecovered fuel expense through November 30, 1997, and its proposal to include additional fuel expense through December 30, 1998, in the CTC reconciliation must be denied. In addition, PECO's presentation of additional "evidence" concerning partial-year 1997 fuel costs through the Affidavit of Alan Cohn is a post-record submittal and cannot be considered in this proceeding.

By way of further clarification, we also will address the underlying issue. PECO requested, and we approved, the elimination of PECO's ECA pursuant to an Order adopted on May 22, 1997 at Docket Nos. P-00961126 and R-00963838 (the Roll-in Order). In the Roll-in Order, we explicitly defined calendar year 1996 fuel costs not fully

⁴ We note that PECO's proposal is not new and novel under the *Duick* standard, *supra*, in that PECO could have made this proposal on the record in this proceeding.

recovered due to the elimination of the ECA as a regulatory asset typically recoverable under current regulatory practice and, therefore, recoverable as stranded costs in this proceeding. In this proceeding, we have determined the recoverable amount to be \$109.33 million, as discussed in this Opinion and Order, *supra*.

In contrast, we explicitly declined to identify post-1996 fuel expenses as recoverable stranded regulatory assets. Instead, we granted PECO the right “to defer and to seek to recover” such costs in this proceeding. In the Roll-in Order, we granted PAIEUG’s request for an amendment of this Commission’s Tentative Order, issued on December 19, 1996, to clarify that “the actual figure (for recovery of post-1996 fuel expenses), if it is to be allowed at all, will be set in PECO’s restructuring proceeding.” The Roll-in Order specified that, consistent with our long-standing practice, granting PECO the right to defer the expense for accounting purposes has no direct ratemaking implication. PECO’s characterization in its Petition that the Roll-in Order “confirmed” the recoverability of 1997 and 1998 fuel costs is insupportable. Upon approval of the elimination of the ECA and the roll-in of variable energy costs into base rates as of December 30, 1996, PECO relinquished the right to have its fuel costs reconciled automatically because the annual fuel cost expense was subsumed into rates.

The Roll-in Order explicitly found that the rolled-in rates would be considered the rates subject to the rate cap that went into effect on January 1, 1997. PECO’s rates were capped at January 1, 1997 levels for 54 months from January 1, 1997, but for exception(s) to the rate cap under the Act. Section 2804(4)(III)(D) of the Act provides that a significant increase in unit fuel cost such that the utility would not be able to earn a fair rate of return could be an exception to the rate cap.

PECO does not assert that its fuel expenses constitute a valid exception to the rate cap, however. In its Answer to PECO’s Petition, the OCA recalled OCA witness Catlin’s testimony that recovery of 1997 and 1998 fuel costs would be inappropriate while

PECO remained under traditional regulation without a demonstration that its existing rates are inadequate. (OCA Stmt. No. 3 at 17.) PECO merely asserts that it is entitled to recover an alleged underrecovery of its fuel costs despite the fact that PECO eliminated its fuel cost adjustment clause in 1996. PECO cannot, by definition, both subsume its fuel expense into base rates and request an annual reconciliation of fuel costs. Granting stranded cost recovery for fuel costs after the December 30, 1996 effective date of the roll-in and the rate cap would circumvent the rate cap and render the end of the reconciliation provisions meaningless. For these reasons, the relief sought through PECO's request for reconsideration of this issue is denied.

3. Deferred Limerick Common Plant.

On page 76 of the December 23, 1997 Order, we authorized recovery of the same \$175.8 million for deferred Limerick Common Plant expense as was authorized pursuant to the May 22, 1997 QRO. PECO correctly identifies a Commission error in identifying this amount as \$158.3 million in the stranded cost recovery tabulation total on page 101 of the Order. Correction of this error increases stranded costs by \$17.5 million.

4. SFAS 106 Deferred Costs.

PECO claimed recovery of \$32.615 million for the unamortized balance of 1993 and 1994 deferrals that had previously been included in rates pursuant to a 1994 settlement agreement. We granted full recovery of this amount on a net present value basis of \$20.394 million as of December 31, 1998. No party seeks reconsideration of this issue.

We denied PECO's additional claim for \$67.965 million for stranded costs related to its 1994 early retirement programs (VSIP/VRIP expenses). PAIEUG witness Kollen testified these expenses would not have been recoverable under traditional ratemaking. We adopted generally the analysis of witness Kollen that stranded cost

recovery, at this time, of the one-time, non-recurring 1994 expenses would constitute inappropriate, single-item, retroactive ratemaking.

In its Petition, PECO asks us to reconsider our conclusion that the VSIP/VRIP expenses were never previously included in rates. PECO asserts that the VSIP/VRIP expenses were, in fact, included in rates pursuant to a 1994 settlement at Docket No. R-00922479. In direct testimony, PECO stated that "the [1994] settlement provided that PECO would be permitted to increase its electric base rates by \$25 million to fully fund its SFAS 106 obligation." (PECO Stmt. No. 3 at 32-34.) Additionally, PECO indicated that the settlement provided that the SFAS 106 costs deferred by PECO for the years 1993 and 1994 pursuant to the Commission Order approving the 1994 settlement would be amortized over an 18-year transition period and that such amortization "will be subsumed in the rates prescribed" by the settlement. PECO explicitly indicated that "a revenue stream to fund [the transition] expense has been provided as part of the \$25 million base rate increase implemented pursuant to the settlement. . . ." (PECO Stmt. No. 3, p 33.)

We again have reviewed the record in this proceeding, the 1994 settlement, and related Commission Orders, and we conclude that the December 23, 1997 Order permits PECO full recovery of all appropriate SFAS 106 costs. PECO has provided no support in the record of this proceeding that the VSIP/VRIP expenses require any additional recovery. We reaffirm our conclusion that the VSIP/VRIP expenses reflect one-time transition costs during 1994 for which present recovery would constitute inappropriate single-issue and retroactive ratemaking. In any event, the settlement fully incorporated all 1993 and 1994 transition costs, and no additional recovery is appropriate.

For the foregoing reasons, PECO's request for relief on this issue is denied.

5. SFAS 106 Trust Fund Earnings.

In its Petition for Reconsideration, PECO claims that it is entitled to retain all trust fund earnings as part of the basic actuarial funding stream for the trust fund expenses.

In the December 23, 1997 Order, we adopted PAIEUG witness Kollen's recommendation to recognize a regulatory liability of \$151 million for SFAS-106 trust fund earnings. We reaffirm our conclusion that PAIEUG witness Kollen's testimony fully supports this adjustment. (PAIEUG Stmts. Nos. 3, p. 33, and 3S, p. 18.)

The December 23, 1997 Order should, however, be clarified on this issue. The December 23, 1997 Order does not eliminate trust fund earnings in support of the underlying expense, as PECO asserts. Rather, the December 23, 1997 Order establishing a regulatory liability for trust fund earnings recognizes the importance of those earnings. PECO's argument does not appear to accept two basic requirements for a determination of recoverable net stranded costs in this proceeding, however. First, this proceeding establishes a demarcation date of December 31, 1998, after which only PECO will be responsible for generation-related expenses. Second, the determination of recoverable stranded costs must reflect the net present value of those costs as of December 31, 1998. Our finding that PECO has a regulatory liability related to trust fund earnings properly incorporates these requirements of the Act. Consumers should receive credit for the present value of that portion of trust fund earnings associated with consumer funding responsibility through December 31, 1998. PECO's argument that it should be permitted to retain trust fund earnings in order to account for future inflation and cost escalation is inconsistent with a determination of the net present value of its stranded costs and the fact that it is responsible for the share of funding after January 1, 1999. The only evidence of record relative to the amount of this adjustment is PAIEUG's figure of \$151 million. PECO argued against any adjustment and suggested no alternative calculation for the adjustment.

Thus, the regulatory liability of \$151 million is affirmed and should be considered as an offset to recoverable regulatory assets.

6. Pension Fund Overcollection.

The December 23, 1997 Order adopted the recommendations of PAIEUG witness Kollen and Navy witness Smith to establish a regulatory liability to reflect \$217.347 million of overfunded pension plans. PECO does not dispute that the overfunding exists but argues that the overfunding can quickly dissipate based on reduced performance of the stock market. Additionally, PECO argues that it has no ability to withdraw the overfunded sums to compensate for the regulatory liability adopted by us.

In its Petition, PECO indicates that it has included only \$200,000 of annual pension expense as an operating expense in its market valuation instead of \$13.4 million that would be required as annual pension contributions in the absence of the current overfunding. PECO argues that this reduced future expense is "credited" to consumers as decreased future operating expenses, increasing the value of its generation assets and limiting the amount of stranded costs.

While we continue to agree that overfunding of pension expense can be credited to consumers as a regulatory liability, we are persuaded to reconsider our decision. PECO's approach is reasonable under the circumstances because PECO has provided an alternative methodology to credit consumers with the economic benefit of the overfunding through the increased valuation of its stranded assets. We decline to retain the regulatory liability and adopt a new adjustment to increase the pension funding expense to \$13.4 million, thereby requiring a recalculation of the market value of PECO's generating assets at this stage of the proceedings.

Thus, we shall grant PECO's request for relief on this issue, resulting in an increase in stranded costs of \$217.347 million.

7. SFAS 109 Deferred Taxes.

In the December 23, 1997 Order, we granted PECO's claim for \$1.687 billion as a recoverable regulatory asset for deferred taxes. PECO calculated the amount as a nominal value but did not request any return on the recoverable amount. PECO did not present all of its stranded cost claims on a net present value basis in its Restructuring Plan but argues in its Petition that it reached a comparable result by not requesting a return on certain claims.

In their Petitions, PECO, the OCA, and PAIEUG point out that we concluded that the Act requires all stranded cost claims to be stated on a net present value basis and adopted an approach that grants the same return for all recoverable stranded assets. PECO, the OCA, and PAIEUG properly conclude that the December 23, 1997 Order, therefore, overstates PECO's stranded cost by awarding the nominal value of the claim as well as a return on it. We note that the specific analytic framework suggested by the OCA for properly quantifying the SFAS 109 claim comports with PECO's presentation of the issue. In its Answer to the Petitions, PAIEUG indicates its support of PECO's and the OCA's request and agrees with PECO that the adjustment should be \$471 million.

We shall grant relief on this issue and adopt this adjustment.

8. Reallocation of Administrative and General Costs to Generation.

The OCA, Enron, and NEV request reconsideration of the December 23, 1997 Order concerning the impact on stranded costs of reallocations from the transmission and distribution function to the generation function. On page 62 of the December 23, 1997 Order, we concluded, subject to the accepted compliance filing, that the reallocation would result in an increase in PECO's stranded costs of approximately \$460,691,000, although the precise number would be established upon acceptance of PECO's compliance filing.

If administration and general (A&G) expenses are reallocated to generation, they must be considered in the same way that any operating expenses are considered to assess the market value of the generating asset. Increased operating expenses reduce market value and, therefore, increase stranded costs. The requested modification on this issue is, therefore, denied.

B. Issues Other Than Stranded Costs.

1. Universal Service Cost Recovery.

The OCA and CEPA seek reconsideration of the decision retaining universal service cost responsibility as it is in existing rates. We agree with PAIEUG in its Answer that the Petitions raise no new arguments not already fully raised and duly considered on this issue and that relief requested is, therefore, inappropriate.

2. Market Power Investigation.

CEPA argues that we have not conducted a market power analysis pursuant to Section 2811(a) and (b) of the Act to consider whether the market will, in fact, be competitive. This request misunderstands Section 2811 and is, therefore, denied. Section 2811 establishes no preconditions to approval of a restructuring plan. Any party or the Commission may initiate a market power investigation pursuant to Section 2811 if there is good cause to believe that a market power problem exists. Moreover, we agree with PECO's Answer that CEPA should have presented evidence on this issue during the proceeding if CEPA was concerned about PECO's market power inhibiting the development of a competitive market. We reaffirm our conclusion that the Restructuring Plan adopted by the Commission will create a vibrant, competitive market.

3. Termination Upon Nonpayment of Supplier Bill.

The OCA and CEPA request clarification that PECO may not disconnect a customer from the grid for failure to pay a supplier bill. We do not believe that any clarification is necessary on this issue because PECO has acknowledged in its Answer that the Commission has clearly adopted the rule in other proceedings that a customer can only be disconnected from the grid for nonpayment of an EDC charge or provider of last resort charge for generation services.

4. Switching Fees.

The OCA is correct that the December 23, 1997 Order mistakenly omitted specific discussion of switching fees. Reconsideration is granted of this omitted issue. We shall adopt the recommendation of OCA witness Alexander that a switching fee is inappropriate during the early stages of customer choice and direct PECO to consider the guidelines proposed in OCA Statement. No. 5S at 10-11 in proposing any switching fee in the future.

5. Consumer Education.

PECO seeks reconsideration and clarification regarding its consumer education proposal. Specifically, PECO urges reconsideration of the December 23, 1997 Order to the extent that we discussed its budget as a three (3) year budget of \$24 million. PECO also urges reconsideration or clarification relating to our discussion and direction that 65% of its proposed budget be allocated to a statewide consumer education program.

In its Petition, PECO argues that its proposal contained a four (4) year budget which provided for \$24 million. That proposal included \$5.6 million allocated for consumer education activities for 1997. According to PECO's Petition, PECO has

devoted approximately \$1 million of its 1997 budget to statewide programs. Accordingly, \$18.6 million of its proposed budget remains for the years 1998-2000.

Based on the foregoing, PECO seeks approval of its proposed consumer education program on the basis of a four-year, \$24 million dollar budget or, in the alternative, a budget of \$18.6 for the period of 1998-2000. PECO also seeks clarification that the precise allocation of its budget to the statewide program be reserved to a separate proceeding establishing a statewide consumer education program.⁵

The OCA seeks reconsideration of our discussion of PECO's consumer education proposal to the extent that the OCA requests the inclusion of consumer representatives from regions in addition to PECO's service territory. CEPA seeks reconsideration of our discussion of PECO's consumer education proposal and states a concern that PECO's ratepayers may be called upon to fund consumer education costs for customers outside of PECO's service territory. CEPA agrees that PECO customers may be required to pay their proportional share for a statewide program but that a determination of the scope of the statewide program is outside of the scope of this proceeding.

We will grant, subject to review of PECO's compliance filing, PECO's request for relief relating to the budget for its consumer education program. As PECO has stated, its proposed budget of \$24 million was stated on a four-year basis. We note, however, that PECO's Petition for Reconsideration states that \$5.6 million had been allocated for consumer education in 1997 without indicating the amount actually spent. It, therefore, is not clear whether its remaining budget is actually \$18.6 million for the period 1998-2000, or some greater figure. In addition, the amount spent must have been expended on consumer education as contrasted with marketing or public relations

⁵ *Creation and Implementation of a Statewide Consumer Education Program for Electric Restructuring in the Commonwealth of Pennsylvania, Docket No. M-00981036, adopted on January 15, 1998 (Consumer Education).*

activities related to this proceeding. Accordingly, PECO must provide an accounting of its 1997 consumer education expense in the compliance filing sufficient to enable us to determine its consumer education funding for the period 1998-2000.

In addition to recognizing our misstatement of the budget time frame, we recognize that both PECO and CEPA have raised a legitimate question relating to setting the allocation between the statewide effort and local efforts in this proceeding. Although we believe that a 65%-35% allocation of funds to statewide effort and local effort, respectively, is an appropriate and justified ratio, we agree that the precise allocation can and will be addressed in our statewide proceeding.

Finally, we note that in our discussion of the committee to oversee the content of the statewide consumer education program, we provided for representation on that committee for the Executive Director of the Energy Coordinating Agency of Philadelphia. The OCA has suggested that there should be direct representation of consumers from areas in addition to Philadelphia. As discussed in *Consumer Education, supra*, the list of representatives for the committee was not intended to be exclusive. We will entertain comments in that proceeding addressing appropriate members to serve on the committee. We will also retain authority to expand committee membership as circumstances warrant.

6. March 1, 1998 Open Enrollment Date.

On page 47 of the December 23, 1997 Order, we directed PECO to initiate an open enrollment period beginning March 1, 1998 for the 66% of PECO consumer load eligible to shop on January 2, 1999. In its Petition, PECO requests that the March 1, 1998 start date be reconsidered and extended for several months. PECO asserts that beginning enrollment on March 1, 1998, would deny PECO customers the benefit of an orderly and coordinated education outreach program and precede final resolution of generic issues and rulemaking proceedings affecting the procedures and regulations that will be in effect.

We shall reconsider the March 1, 1998 enrollment commencement date and direct that PECO commence enrollment on April 27, 1998. All parties should note the "enrollment" is only the act of volunteering by informing PECO, directly or through a supplier, that the consumer wishes to participate in the phase-in. Customers need not select a supplier in order to obtain a slot in the program.

We shall grant this extension at PECO's request in order to give PECO more time to prepare for enrollment although we do not agree that an extension is necessary for effective consumer education or to permit all generic proceedings to be completed. The April 27 commencement date will provide sufficient advance opportunity for effective preparation and consumer education as well as sufficient time for consumers to shop for a supplier.

As discussed above, relative to *Consumer Education, supra*, a quality consumer education program will be conducted in PECO's service territory. Quality consumer education must occur over an extended, not limited, period of time and will be more effective if conducted while consumers may act on what they have learned.

The conclusion of all generic proceedings is not a pre-condition to the commencement of enrollment. The generic proceedings will not all be concluded by July 1, 1998, in any event. Specific protocols and regulations will continue to be adopted from time to time.

7. Generation Charges for Customers Not Shopping.

The December 23, 1997 Order, at pages 132-134, fully details the terms of service for customers who do not have a competitive supplier.

The OCA and CEPA raise questions in their petitions concerning the rates that PECO may charge for generation services to customers who do not shop. Neither

party has raised new arguments not already considered by us, and reconsideration, therefore, is denied. Some comments are appropriate, however, in order to correct some mischaracterizations and misunderstandings.

PECO, as an EDC, remains a regulated utility and may only offer Commission-approved, tariffed rates. In this proceeding, no party provided evidence that PECO's regulated rates should be reduced under traditional ratemaking. Protected by the statutory rate caps, customers who do not shop remain regulated rate customers of PECO on the same terms and conditions of services unless changed by Commission Order. As summarized on page 46 of the December 23, 1997 Order, the "shopping credit" is not relevant to a customer who does not shop. Customers who do not shop pay the approved tariffed rate divided into unbundled generation, transmission, and distribution charges.

8. Phase-In and Enrollment Issues.

In order to ensure that no further delays are necessary, and in response to the issues raised in the Petitions indicating concern that the enrollment process requires clarification, we will take this opportunity to emphasize and detail the enrollment process that we envision. The compliance filing should reflect these directions:

PECO shall distribute a notification letter and explanatory information to all customers over a period of not more than one week ending on April 13, 1998. The materials shall specify that enrollment in the phase-in is separate from supplier selection. Enrollment forms may be distributed both by PECO and suppliers but may not include a supplier selection. A customer may enroll in the phase-in directly through PECO or through a supplier, but the customer may not select a supplier at the same time.

Customers participating in the pilot program and others representing the first 33% of non-coincidental peak load to volunteer to enroll after the April 27 commencement date may receive competitive supply in the January 1, 1999 phase-in

group. When the 33% threshold is reached for any tariff class, PECO shall send a notification letter to all such customers that they will be in the first phase-in group.

If fewer than 66% of customers in any tariff class are enrolled as of July 1, 1998, PECO shall send a notification letter to all volunteers as of that date who are not in the January 1, 1999 phase-in group that they will be in the January 2, 1999 phase-in group. Enrollment will continue until completed, with additional notification letters sent not less frequently than every two weeks. In such situations, the enrollment will be completely "first-come, first-served," and no lottery will be necessary.

If more than 66% of customers in any tariff class have volunteered as of July 1, 1998, PECO shall have an independent party conduct a lottery to determine which of the customers representing the additional load beyond the January 1, 1999 phase-in group will be included in the January 2, 1999 phase-in group. PECO shall send a letter notifying participants of selection through the lottery not later than July 15, 1998.

In its Petition, PAIEUG requests that we reconsider our participant selection procedure to ensure that all volunteer industrial customers may participate in the first two phase-in groups. Instead of conducting a lottery in the event of overenrollment, PAIEUG recommended that all volunteering customers in each tariff class may participate with a pro rata partial load in order to avoid any competitive disadvantages. (PAIEUG Stmt No. 1, pp. 57-58.) We shall modify the December 23, 1997 Order to reflect PAIEUG's concern as applied to the industrial tariffs in order to avoid any competitive disadvantage.

Participants may notify PECO of a selected supplier any time after receipt of the letter from PECO informing them that they have been included in the phase-in group. The selection shall be made by written notice submitted directly to PECO or through a supplier. All customers shall receive a letter from both PECO and the supplier confirming the selection within 15 days of notice of the customer's choice. The

confirmation letter shall indicate the date that the new supplier service will become effective and when they will receive their first bill. Power will be provided by PECO until a customer selection is implemented. Any participant selecting a supplier by November 1, 1998, will receive energy through their chosen supplier in the first billing cycle following their phase-in date. Failure to choose a supplier by November 1, 1998, does not terminate participation in that phase-in group.

The compliance filing shall include proposed letters inviting enrollment and notification of acceptance in each phase-in group as well as other consumer education materials to be included in the initial mailing notifying customers of the enrollment period and procedures. The letters for residential and small commercial customers shall reflect the considerations in the December 23, 1997 Order, this Opinion and Order, and the other dockets addressing this issue. In particular, the notices shall: (1) Identify and explain the unbundled bill components, including the amount and significance of that customer's shopping credit; (2) List the name, address, phone number and e-mail address of each licensed supplier in fact serving the class of customers; (3) Provide PECO and PUC customer information telephone numbers; (4) Explain the advantage of selecting a supplier by November 1, 1998, as described above; and (5) Explain that failure to choose by November 1, 1998, does not terminate the customer's right to participate in that phase-in group, as described above.

We shall provide comments on the draft letters to PECO as soon as possible after the review of the comments from other parties which are due on or before January 27, 1998. In order to avoid delays, Commission approval will be granted informally, prior to acceptance of the compliance filing itself.

9. Compliance Filing Issues.

PECO did not submit a compliance filing as required by the December 23, 1997 Order and did not submit a request for an extension of the due date until Friday,

January 9, 1998. By Secretarial Letter dated January 13, 1998, we informed PECO and the other parties that the overdue compliance filing was then due on January 20, 1998. While we recognize that some revisions to the compliance filing are now required because of the clarifications, corrections, and relief granted in this Opinion and Order, the relatively modest revisions to the compliance filing can and must be completed by the extended deadline of January 20, 1998.

Other parties will have until January 27, 1998 to submit comments on the compliance filing. We expect to issue a compliance filing Order at Public Meeting of February 5, 1998. We remain committed to expeditious and effective implementation of the approved restructuring plan, and we expect the fullest cooperation from all parties. The compliance filing accepted by this Commission will precisely reflect the intent of the December 23, 1997 Order. Successful implementation of the approved restructuring plan requires well written tariffs and company rules and procedures.

The Petitions and Answers indicate concerns about the proper calculation of the stranded cost that result upon the reallocation of A&G expenses from transmission and distribution functions to the generation function. In the December 23, 1997 Order, we estimated the impact as \$460,691,000, subject to the compliance filing. PECO should calculate the increased stranded investment produced by the allocation of A&G expense to generation assuming that the annual \$38,701,357 A&G expense escalates at the annual gross domestic product (GDP) deflator found in PECO's Statement No. 1. (PECO Exh. TPH-5, p. 6.) PECO should use the discount rate of 7.6% adopted by us at page 89 of the December 23, 1997 Order. Lastly, PECO should exclude the tax gross up by multiplying the resulting present value by .587 to reflect PECO's tax rate of 41.3%. In addition, as noted in the December 23, 1997 Order, PECO is to remove all revenue requirements gross-ups from the A&G reallocation in its compliance filing.

The compliance filing shall calculate the CTC in the manner described in the Order and restated for clarification as follows: (1) The CTC is to be calculated recognizing the monthly receipt of revenue by PECO; (2) The CTC is to be calculated using a 7.47 percent rate of return, inclusive of all revenue requirements; (3) The CTC is to be allocated to each customer class in a manner that does not shift inter-class and intra-class costs and maintains consistency with utility production plant accepted by us in PECO's most recent base rate proceeding. In order to avoid confusion, we note that PECO has provided data suggesting that the Rate R CTC will be no more than 12.57% above the system-wide CTC for each and every year of the transition period; (4) The CTC is to be calculated using a system-wide consumption of 33,569,358 MWh for 1999; and (5) The CTC is to be trued-up annually consistent with Section 2808 (f) of the Act.

Conclusion

For the reasons discussed herein, the Petitions for Reconsideration are granted, and the relief requested is granted, in part, and denied, in part, consistent with this Opinion and Order. Any issue raised in a Petition but which is not expressly addressed or modified pursuant to this Opinion and Order has been duly considered and is hereby explicitly denied. The December 23, 1997 Order shall be modified, clarified, and corrected in accordance with this Opinion and Order. In all other respects, the December 23, 1997 Order shall be affirmed. In summary, the Table at page 101 of the December 23, 1997 Order is revised and restated in the Appendix of this Opinion and Order to reflect the adjustments made pursuant to this Opinion and Order that affect PECO's total recoverable stranded costs. To the extent that numbers have been rounded for the ease of discussion herein and in the Appendix, the compliance filing shall reflect the exact and precise calculations.

Further, PECO shall no longer be required to submit a compliance filing based solely on the December 23, 1997 Order but instead shall submit a compliance filing

based on the December 23, 1997 Order as modified by this Opinion and Order. The compliance filing shall be due on or before January 20, 1998, and shall precisely reflect the balanced considerations reflected in the December 23, 1997 Order as reconsidered, clarified, amended, and corrected by this Opinion and Order. Interested parties may file comments to the compliance filing on or before January 27, 1998.

With the corrections, clarifications, and modifications granted herein, this Commission, PECO, and the other parties to this proceeding, as well as the electric consumers in this Commonwealth, will be well-positioned to begin and implement successfully the difficult task of moving expeditiously and effectively to a full competitive electric generation market; **THEREFORE,**

IT IS ORDERED:

1. That the Petitions for Reconsideration, filed in this proceeding by PECO Energy Company; Enron Energy Services Power, Inc., and Enron Power Marketing, Inc.; the Office of Consumer Advocate; the Consumer Education and Protective Association, the Tenant Action Group, the Association of Community Organizations for Reform Now, and John W. Long; the Philadelphia Area Industrial Energy Users Group; and New Energy Ventures, relative to this Commission's December 23, 1997 Opinion and Order addressing PECO's proposed Restructuring Plan, are granted and the relief requested is granted, in part, and denied, in part, consistent with this Opinion and Order.
2. That this Commission's December 23, 1997 Opinion and Order addressing PECO Energy Company's proposed Restructuring Plan is modified, in part, consistent with this Opinion and Order, and affirmed in all other respects.
3. That PECO Energy Company's compliance filing, together with all necessary data and analyses, is due on or before January 20, 1998, and must actually be

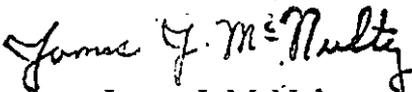
received at the Commission's Office of the Secretary by the close of business on that date.

4. That comments relative to PECO Energy Company's compliance filing are due on or before January 27, 1998, and must actually be received at the Commission's Office of the Secretary by the close of business on that date.

5. That the compliance filing and comments thereto are to be filed with the Commission's Office of the Secretary, with copies to each Commissioner's Office and to the Commission's Bureau of Fixed Utility Services and the Office of Special Assistants. Such filings are to be by hard copy with electronic versions attached consistent with prior directives relative to electronic versions.

6. That PECO Energy Company's compliance filing, together with all necessary data and analyses, shall be served on all active parties of record to this proceeding.

BY THE COMMISSION,


James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: January 15, 1998

ORDER ENTERED: January 16, 1998

Appendix

Replacing page 101 of the Restructuring Order:

| <u>Recoverable Regulatory Assets</u> | <u>\$ millions</u> Restructuring Order 12/23/97 | <u>\$ millions</u> Restructuring Reconsideration Order | <u>\$ millions</u> Net Change |
|---|--|---|----------------------------------|
| SFAS 106 | 20.394 | 20.394 | 0 |
| Deferred Fuel Expense | 96.162 | 109.3 | 13.168 |
| SFAS-109 Deferred Taxes | 1,687.1 | 1,216.3 | (470.8) |
| Compensated Absences | 16.587 | 16.587 | 0 |
| Miscellaneous Nuclear expenses | 0 | 0 | 0 |
| Limerick Early Window | 65.446 | 65.446 | 0 |
| Deferred Limerick Common Plant | 158.3 | 175.8 | 17.5 |
| Deferred Common Plant for Peach Bottom, Eddystone, & Salem | 17.4 | 17.4 | 0 |
| Unamortized Loss Reacquired Debt | <u>158.311</u> | <u>158.311</u> | <u>0</u> |
| SUBTOTAL | \$2.2197 billion | \$1.7796 billion | (\$440.132 million) |
| <u>Offsetting Regulatory Liabilities</u> | | | |
| Pension Fund Overcollection | (217.347) | 0 | 217.347 |
| SFAS 106 Trust Earnings | (150.861) | (150.861) | 0 |
| SUBTOTAL | (\$368.208 million) | (\$150.861 million) | (\$217.347 million) |
| Non-utility Generating Contracts | 0 | 0 | 0 |
| Nuclear Decommissioning Expense | 0 | 0 | 0 |
| TOTAL SECTION 2808(c)(1) and (2) STRANDED COSTS | \$1.8515 billion | \$1.6267 billion | (\$222.785 million) |
| <u>Utility Generation</u> | | | |
| | <u>\$billions</u> | <u>\$billions</u> | <u>\$billions</u> |
| Book Value | 6.639 | 6.773 | 134.3 |
| less market value | 3.96 | 3.96 | 0 |
| Total Stranded Generation Cost | 2.679 | 2.813 | 134.3 |
| Fossil Decommissioning Expense | 0 | 0 | 0 |
| Other Transition Costs | .033 | .033 | 0 |
| Reallocation of A&G Expense to Generation | .461 | .461 | 0 |
| TOTAL RECOVERABLE STRANDED ASSETS | \$5.024 billion | \$4.935 billion | (\$88.5 million) |

REVISED

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

v.

PUBLIC MEETING-
JANUARY 15, 1998
JAN-98-C-1
R-00973953

PECO ENERGY COMPANY

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

and

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-00981265

Petitions for Reconsideration or
Clarification of Order Approving
Modified Restructuring Plan
for PECO Energy Company

CONCURRING AND DISSENTING JOINT STATEMENT OF CHAIRMAN JOHN M. QUAIN AND VICE CHAIRMAN ROBERT K. BLOOM

This matter comes before us on several Petitions for Reconsideration of the Commission's Order entered December 23, 1997. Today, the Commission has ruled on those Petitions, correcting, clarifying, and modifying its order in some respects. Our dissent from the December 23, 1997, Order is a matter of record. We find that we must respectfully concur and dissent with respect to the resolution of the Petitions for Reconsideration as embodied in the Motion of Commissioner Hanger offered today.

We concur with those parts of the Motion that correct certain findings contained in the December 23, 1997, Order. We believe, however, that the Motion is deficient in a number of respects, and therefore we must also dissent.

First, in the proposed treatment of SFAS 106 expenses, the denial of the claimed portion of \$67 million of early retirement expenses is inconsistent with the recognition of the action as a mitigation effort. That denial is also inconsistent with the reduced ongoing allowance for the expense as part of the market valuation for generation property.

Further, the use of earnings on the SFAS 106 trust as an offset for non-SFAS 106 related expenses appears improper from both an accounting and a policy standpoint. Finally, the treatment of SFAS 106 expenses represents a mismatch of present value calculations rather than a matter of overfunding.

We must also disagree with the majority regarding the timing of open enrollment for PECO customers. While the motion grants a delay until April 27, 1998, for enrollment to begin, we believe that this early enrollment period will not afford customers the benefits of Commission-led education programs. We note, however, that these same customers will be funding those programs through their CTC charges. Our preferred position would be to have the initial enrollment period coincide with the expected enrollment periods for the other electric distribution companies in the region. Hence, we prefer a July 1, 1998, open enrollment date.

Finally, the majority does not provide PECO with an adequate time frame for compliance, nor the parties with an adequate period for response to the compliance filing. We would allow a ten day time period from the entry date of the final order on reconsideration for PECO to make its compliance filing. Moreover, we would provide the parties with two weeks thereafter to review the submission and to file comments. The early enrollment date supported by the majority is evidently driving the entire time frame for review, yet this is a review which must be made very carefully. The rates and charges which need to be considered will be in effect for a number of years, and continuing revision of the numbers which may result from unnecessary haste at this point could hinder the ability of other market participants to develop their services and products.

For the foregoing reasons, we concur and dissent on this Motion.

1-15-98

DATE

1-15-98

DATE

John M. Quain

JOHN M. QUAIN
CHAIRMAN

Robert K. Bloom

ROBERT K. BLOOM
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1924 ARCH STREET
PHILADELPHIA PA 19103

VINCENT ROSSI
SENATOR FUMO'S OFFICE
545 MAIN CAPITOL
HARRISBURG, PA 17120

REP. KEITH MCCALL
HOUSE OF REPRESENTATIVES
313 SOUTH OFFICE BUILDING
HARRISBURG, PA 17120

REP. CHRIS WOGAN
HOUSE OF REPRESENTATIVES
5 EAST WING
HARRISBURG, PA 17120

SENATOR CLARENCE D. BELL
ROOM 20 EAST WING
HARRISBURG, PA 17120

CARL ROBERT ARON EXEC VICE
PRESIDENT
ITRON INC
2218 N SULLIVAN ROAD
SPOKANE WA 99216

ROBERT YOUNG
MCQUAIDE BLASKO
811 UNIVERSITY DRIVE
STATE COLLEGE PA 16801

MARGRET MURDOCH MAYOR
MUNICIPAL BLDG
100 GARRETT ROAD
UPPER DARBY PA 19082-3135

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

KJR

AND NOW, to wit, this 22nd day of January, 1998,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of ONE OPINION & ORDER an official Commission document entered, issued, or otherwise promulgated under date of JANUARY 15, 1998 at Docket No. R-00973953 & P-00971265 on behalf of:

HONORABLE JOSEPH M ULIANA

PENNSYLVANIA SENATE

DOCUMENT
FOLDER

Joseph M Uliana
Signature

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

SECRETARY BUREAU FILE ROOM
PA PUBLIC UTILITY COMMISSION
B-20, North Office Building
Harrisburg, PA 17105-3265

DOCKETED
JAN 26 1998

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

98 JAN 22 PM 2:47

RECEIVED

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

KJR

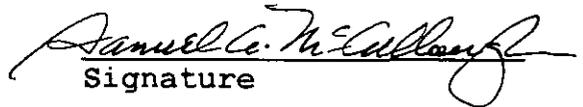
AND NOW, to wit, this 21 day of January, 1998,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of JANUARY 15, 1998 at Docket No. R-00973953, P-971265 on behalf of:

HONORABLE SAMUEL MCCULLOUGH SECRETARY

DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

DOCUMENT
FOLDER


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

PROTHONOTARY'S OFFICE
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98 JAN 22 PM 3:16

129263

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

DOCUMENT
FOLDER

AND NOW, to wit, this 20th day of January, 1998,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of JANUARY 15, 1998 at Docket No. R-00973953, P-971265 on behalf of:

KENNETH L MICKENS ESQUIRE

CHARLES DANIEL SHIELDS , OFFICE OF TRIAL STAFF

KJR

DOCKETED
JAN 22 1998

Mani J. Rudy
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

98 JAN 21 PM 1:01

128897

RECEIVED
JAN 20 AM 10:47

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

KJR

DOCUMENT
FOLDER

AND NOW, to wit, this 20th day of January, 1998,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of JANUARY 15, 1998 at Docket No. R-00973953, P-971265 on behalf of:

VERONICA A SMITH DEPUTY EXECUTIVE DIRECTOR

Veronica A. Smith
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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JAN 22 1998

8871

98 JAN 21 PM 12:56
RECEIVED
PROTHONOTARY'S OFFICE

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 20th day of January, 1998, KJR

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of JANUARY 15, 1998 at Docket No. R-00973953, P-971265 on behalf of:

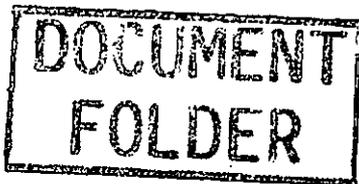
TANYA J MCCLOSKEY ASST CONSUMER ADVOCATE

STEVEN K STEINMETZ ASST CONSUMER ADVOCATE

Tanya J McCloskey
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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98 JAN 20 PM 3:49
PA.P.U.C.
PROTHONOTARY'S OFFICE

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 21 day of Jan, 1998,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of JANUARY 15, 1998 at Docket No. R-00973953, P-971265 on behalf of:

REP KEITH MCCALL

KJR

HOUSE OF REPRESENTATIVES

DOCUMENT
FOLDER

Keith R. McCall
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
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Harrisburg, PA 17105-3265

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FEB 04 1998

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98 JAN 21 AM 10:55
PA.P.U.C.
PROTHONOTARY'S OFFICE

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

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

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of JANUARY 15, 1998 at Docket No. R-00973953, P-971265 on behalf of:

REP CHRIS WOGAN

HOUSE OF REPRESENTATIVES

Suzanne Kopko

Signature

KJR

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

OFFICE OF PROTHONOTARY FILE ROOM
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98 JAN 21 AM 10:55
PA P.U.C.
PROTHONOTARY'S OFFICE

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 20 day of JANUARY, 1998,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of JANUARY 15, 1998 at Docket No. R-00973953, P-971265 on behalf of:

JOHN EARWOOD

PA DEPARTMENT OF AGING

DOCUMENT
FOLDER KJR


Signature

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

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8 9 95
98 JAN 21 PM 1:45
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PROTHONOTARY'S OFFICE

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

K2

AND NOW, to wit, this 20th day of January, 1998,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of JANUARY 15, 1998 at Docket No. R-00973953, P-971265 on behalf of:

NAN MCLAUGHLIN

GOVERNOR'S OFFICE

DOCUMENT
FOLDER

Nan McLaughlin/kab
Signature

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

128991

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FEB 05 1998

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PROTHONOTARY'S OFFICE