



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

IN REPLY PLEASE
 REFER TO OUR FILE

June 26, 1998

R-00973953
 P-00971265

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Application of PECO Energy Company for
 Approval of its Restructuring Plan Under
 Section 2806 of the Public Utility Code, et al.

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To Whom It May Concern:

This is to advise you that an Emergency Order has been adopted by the Commission in Public Meeting on June 26, 1998 in the above entitled proceeding.

An Emergency Order has been enclosed for your records.

Very truly yours,

James J. McNulty
 James J. McNulty
 Secretary

law
 encls
 cert. mail

See attached
 for additional
 parties of record

DOCKETED
 JUN 29 1998

**DOCUMENT
 FOLDER**

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Application of PECO Energy Company	:	Docket Nos. R-00973953
for Approval of its Restructuring Plan	:	P-00971265
Under Section 2806 of the Public Utility	:	
Code, et al.	:	

EMERGENCY ORDER

BY THE COMMISSION:

On June 26, 1998, the Mid-Atlantic Power Supply Association ("MAPSA") filed a Petition for an Emergency Order and a related Complaint at the above-referenced docket. The Petition alleges that PECO Energy Company ("PECO") is currently violating the terms of the Commission's May 14, 1998, Order in the above-captioned matter in that the PECO internet website maintains a direct link to Excelon, a PECO-affiliated electric generation supplier ("EGS"). MAPSA avers that this website link is in direct violation of Paragraph 7b of the PECO Interim Code of Conduct, which prohibits joint marketing and which states, in pertinent part:

This prohibition . . . precludes a reference or link from PECO EDC's website to any PECO supplier.

MAPSA attached a printout of the PECO EDC website to its Petition, and even cursory access to the website confirms the cyber-link and the existence of an Excelon webpage that appears to be a joint marketing venture with PECO EDC, the words, "Not a new company . . . a new name," being juxtaposed with "Excelon: A PECO Energy Enterprise."

MAPSA avers that a further violation of our Order has occurred in that Excelon has used

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the PECO name without an appropriate disclaimer, in itself another violation of the Interim Code of Conduct at Paragraph 7(c). MAPSA points to both the PECO and Excelon websites in support of this contention.

In justifying its request for an Emergency Order, MAPSA states that customer choice is at a critical juncture, with customers making critical enrollment and supplier decisions. MAPSA persuasively argues that the complained of conduct causes irreparable harm to Pennsylvania consumers by promoting the PECO affiliate through the EDC website, by failing to include required disclaimers, and by effectively channeling customers away from competitors.

MAPSA also alleges a pattern of misconduct on the part of PECO and its affiliated supplier(s), pointing back to dealings with Horizon Energy and PECO Energy Horizon Group.

MAPSA goes on to request the following relief: appropriate sanctions if Excelon is holding itself out as an EGS without appropriate authority from the Commission; the imposition of monetary penalties upon PECO in an amount sufficient to deter PECO from further violations of the Commission's Order and the interim Code of Conduct; an order to PECO to cease and desist from creating a link on its corporate homepage to any PECO supplier and from allowing the supplier to hold itself out as a PECO affiliate without appropriate disclaimers, and finally that the Commission should consider denying, revoking or suspending the EGS license of Excelon.

Under our regulations at Title 52 of the Pennsylvania Code, Section 3.1, an emergency is defined as a situation which represents a clear and present danger to life or property or which is uncontested and requires action prior to the next scheduled public meeting. Throughout the proceedings to implement the Electricity Generation Customer Choice and Competition Act, in itself a law directly related to the safety and welfare of our citizens, the Commission has made the

critical importance of consumer education, open access for all participants, and a level playing field as delineated in the Code of Conduct abundantly clear. The initial implementation period for competition is indeed a crucial period. The linkage between the PECO EDC website and that of its affiliated supplier, Excelon, is a clear and present danger to the property and property interests of competitors and consumers alike. I believe that it is appropriate and necessary to grant the Petition for Emergency Order, in part, by directing PECO to immediately cease and desist from using the Excelon link on its corporate homepage, or any such link which is violative of the terms of our May 14, 1998, Order and the interim Code of Conduct.

With respect to the remainder of the MAPSA Petition, the allegations therein, and the request for relief, I note that MAPSA has included its affirmations by reference in the form of a Complaint attached to the Petition. The resolution of the remainder of the MAPSA Petition and a determination of what, if any, penalties should be imposed in this matter are appropriately referred to our complaint process, and a complaint docket and proceeding should go forward expeditiously to resolve those matters.

THEREFORE,

IT IS ORDERED:

1. That the Petition of the Mid-Atlantic Power Supply Association for an Emergency Order is granted, in part.

2. That PECO Energy and its affiliate power supplier, Excelon, comply with our Order of May 14, 1998, and the interim Code of Conduct, most particularly at Paragraphs 7(b) and 7(c).

3. That PECO Energy immediately cease and desist from creating and maintaining links, including the Excelon link or a link to any PECO supplier, on its corporate website.

4. That any communication by a PECO supplier to the public include the Commission-required disclaimer.

5. That the remainder of the allegations and requests for relief set forth in the MAPSA Petition be treated as a complaint and addressed through our complaint procedure.

6. That, pursuant to Title 52 of the Pennsylvania Code at Section 3.3, a copy of this Emergency Order be served upon all Commissioners, the Executive Director, and the Secretary in addition to all parties of record in this proceeding.

6/26/98
DATE



JOHN M. QUAIN

2:30 PM
TIME

* * * Transmission Result Report (Jun. 26. 1998 3:25PM) * * *

T T I ADMIN LAW JUDGE (HBG)

File	Mode	Option	Address (Group)	Result	Page
6326	SAF_TX		82158416447	OK	P. 5/5

Reason for Error

1) Hang up or line fail
3) No answer

2) Busy
4) No facsimile connection

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