



OFFICE OF CONSUMER ADVOCATE
1425 Strawberry Square
Harrisburg, Pennsylvania 17120

KJR

(717) 783-5048

IRWIN A. POPOWSKY
Consumer Advocate

April 14, 1997

James J. McNulty, Prothonotary
Pennsylvania Public Utility Commission
Room B-20, North Office Building
P. O. Box 3265
Harrisburg, PA 17105-3265

RECEIVED
97 APR 14 PM 4:11
P.A.P.U.C.'S OFFICE
PROTHONOTARY'S OFFICE

Re: Application of PECO Energy for Approval
of its Restructuring Plan Under Section
2806 of the Public Utility Code
Docket No. R-00973953 *20001*

Dear Prothonotary McNulty:

Enclosed please find for filing an original and three copies of the Office of Consumer Advocate's Formal Complaint and Public Statement in the above-captioned proceeding.

Sincerely,

Steven K. Steinmetz
Assistant Consumer Advocate

DOCUMENT
FOLDER

Enclosures

cc: All parties of record
41431

ORIGINAL

FORMAL COMPLAINT

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

For Commission Use Only:

COMPLAINT DOCKET NO. R-00973953 REF. # C0001 UTILITY CODE _____

PLEASE PRINT: VS. _____

DOCKETED
APR 21 1997

1. YOUR NAME, ADDRESS AND TELEPHONE NUMBER.

Name Irwin A. Popowsky, Consumer Advocate
Street 1425 Strawberry Square
City Harrisburg State Pennsylvania Zip 17120
County Dauphin Work Telephone-Area Code (717) 783-5048

2. COMPANY YOU ARE COMPLAINING ABOUT.

Name _____

3. WHAT IS YOUR COMPLAINT? (DESCRIBE PROBLEM).

A. On April 1, 1997, PECO Energy Company ("PECO") filed an application for Approval of its Restructuring Plan pursuant to the Electricity Generation Competition and Customer Choice Act ("Act"). 66 Pa.C.S. §2801, et seq. PECO's Plan proposes a Competitive Transition Charge ("CTC") tariff provision which seeks the recovery of \$6.805 billion of Transition and Stranded Costs. PECO's proposed CTC is to be recovered through the end of 2005, from all ratepayers within the Company's service

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97 APR 14 PM 4:11
PA. P.U.C.
PROTHONOTARY'S OFFICE

For Commission Use Only:

DATE FILED / / MONITOR _____ BUREAU _____

**DOCUMENT
FOLDER**

territory regardless of their future generation supplier. In its Application, PECO also sets out its specific proposal for the unbundling of its rates, which includes provisions for direct access, universal service, consumer education and energy conservation cost recovery.

- B. PECO Energy Company is engaged in the business of furnishing electric service to approximately 1,471,229 electric customers of which approximately 1,324,448 are residential customers. PECO furnishes electric service in all or substantially all of Bucks, Chester, Delaware, Montgomery and Philadelphia Counties and a portion of York County.
- C. The Consumer Advocate is empowered to represent the interests of consumers before the Pennsylvania Public Utility Commission, pursuant to Act 161 of the General Assembly, as amended. 71 P.S. §§ 309-1, et seq.
- D. Upon preliminary review of PECO's Application and Tariff Supplements, the Consumer Advocate submits that PECO's Restructuring Plan and its attendant proposed changes in rates are or may be unjust and unreasonable. Through its Application, PECO seeks to recover costs that PECO projects will not be recoverable in a competitive generation market--its "stranded or transition" costs. See, e.g. 66 Pa.C.S. §2801, et seq. Specifically, PECO seeks recovery of costs related to its generation-related assets, such as Limerick Nuclear Generating Station. In addition, PECO has sought recovery of generation-related regulatory assets, some of which are not currently reflected in rates. The Consumer Advocate submits that PECO's estimate of stranded costs may be overstated and that recovery of some or all of the stranded or transition costs requested by PECO may not be just and reasonable, or otherwise consistent with the Public Utility Code. Moreover, considering the size of the Company's stranded cost claim, the Consumer Advocate further submits that the Company's efforts to

- mitigate these costs may be unreasonable and inadequate to justify recovery of all or part of any such stranded or transition costs.
- E. The Consumer Advocate avers that PECO's proposed unbundled prices or rates for generation, jurisdictional transmission, distribution, universal service charges and other services may be unlawfully discriminatory, be unjust and unreasonable or otherwise inconsistent with the Public Utility Code; including the prohibition against the shifting of costs associated with the recovery of stranded costs as set forth in Section 2808(a) of the Public Utility Code, 66 Pa. C.S. § 2808(a).
 - F. The OCA submits that PECO's establishment of a CTC, including its design and application, may be unlawfully discriminatory, unjust and unreasonable or otherwise inconsistent with the Public Utility Code.
 - G. PECO also proposes methods of insuring the availability of universal service and customer assistance programs and for furnishing customers with the information they need to exercise their statutory right to choose generation suppliers. The Consumer Advocate avers that these proposals are or may be inadequate or otherwise inconsistent with the Public Utility Code, particularly with the recently enacted Electricity Generation Competition and Customer Choice Act.
 - H. The Consumer Advocate submits that all other elements, programs and organizational changes proposed by PECO require scrutiny to ascertain that they are in the public interest and consistent with the promotion of customer choice in the competitive electric generation market as required by the recently enacted Electricity Generation Competition and Customer Choice Act.

I. The Consumer Advocate files this complaint to insure that the Commission fully and fairly adjudicates the issues pertaining to whether PECO's proposed Restructuring Plan results in unbundled rates which are just, reasonable, not unduly discriminatory, and are otherwise lawful and in the public interest. In addition, all issues within PECO's Restructuring Plan which may have an impact on the development of free and fair competition within the PECO service territory must be examined to ensure compliance with the dictates and goals of Chapter 28 of the Public Utility Code.

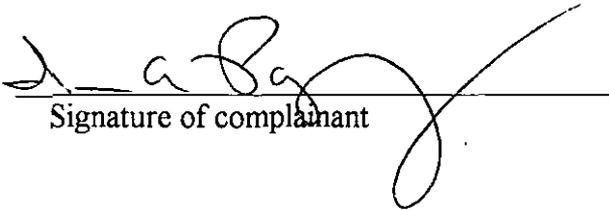
4. WHAT DO YOU WANT US TO DO?

The Consumer Advocate respectfully requests that the Public Utility Commission:

- A. Conduct an investigation of PECO's Application, pursuant to Chapter 28 of the Public Utility Code. 66 Pa.C.S. §§ 2801 et seq.;
- B. Hold full evidentiary hearings examining the reasonableness of PECO's Restructuring Plan;
- C. After providing the public with adequate notice, hold public inputs throughout PECO's service territory in order to provide customers with an opportunity to be heard on the record;
- D. Deny any rates or provisions in PECO's Plan that are unjust, unreasonable, unduly discriminatory or inconsistent with the Public Utility Code;
- E. Reject the plan and modify it to the extent that it fails to comply with the Electricity Generation Competition and Customer Choice Act; and
- F. Grant such other relief which the Commission may deem to be necessary and proper.

YOU MUST SIGN AND DATE YOUR COMPLAINT.

The information I have placed on this form is true and correct to the best of my knowledge. I understand that I could be punished under Pennsylvania State Law if I purposely give false information.


Signature of complainant

4/14/97
April 14, 1997

YOU DO NOT NEED A LAWYER If you DO have a lawyer PLEASE PRINT the lawyer's name, address and telephone number below.

Lawyer's Name Tanya J. McCloskey, Steven K. Steinmetz
Office of Consumer Advocate
Street 1425 Strawberry Square
City Harrisburg State PA Zip 17120
Telephone Number-Area Code (717) 783-5048

41341

PUBLIC STATEMENT OF THE CONSUMER ADVOCATE ISSUED IN
ACCORDANCE WITH SECTION 904-(e) OF THE ACT OF APRIL 9, 1929
(P.L. 177, NO. 175), KNOWN AS THE "ADMINISTRATIVE CODE OF
1929", AS AMENDED BY ACT 161 OF 1976 (APPROVED JULY 9, 1976)

Act 161 of the Pennsylvania General Assembly, 71 P.S. § 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers before the Pennsylvania Public Utility Commission (PUC or Commission). In accordance with Act 161, and for the following reasons, the Consumer Advocate determined to file a Formal Complaint and participate in proceedings before the Commission involving PECO Energy Company (PECO or the Company).

On April 1, 1997, PECO Energy Company filed an Application for Approval of its Restructuring Plan pursuant to the recently enacted Electricity Generation Competition and Customer Choice Act. In its Application, PECO presents a comprehensive Plan to unbundle its rates in preparation for consumer direct access of alternative generation suppliers. PECO also proposes a non-bypassable Competitive Transition Charge ("CTC") to recover from ratepayers approximately \$6.805 billion in stranded costs associated with assets claimed as non-recoverable in a competitive generation market. PECO projects that recovery of these costs through the CTC will last through December 31, 2005.

The Consumer Advocate has filed a Formal Complaint in this matter averring that PECO's proposed Restructuring Plan may result in rates that are unjust and unreasonable. In addition, after a preliminary review of the filing, the Consumer Advocate avers that certain provisions of PECO's proposed Plan may hinder the ability of consumers to achieve direct access to alternative generation providers in a free and fair competitive manner.

The objective of the Consumer Advocate in filing a Formal Complaint in this matter is to protect the interests of the Company's customers. The Consumer Advocate will strive to prevent the Company from collecting any costs from ratepayers that are not fully justified, or are otherwise unreasonable or contrary to law. The Consumer Advocate will, in the course of these proceedings, investigate all of the Company's proposals to ensure that PECO's consumers are provided with an effective transition into a competitive generation market consistent with the goals of the Electricity Generation Competition and Customer Choice Act.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: April 17, 1997

OFFICE OF CONSUMER
ADVOCATE

Complainant

VS.

PECO ENERGY COMPANY
Respondent

Complaint Docket
No: R-00973953C0001

DOCKETED

APR 21 1997

FORMAL COMPLAINT
NOTICE TO RESPONDENT
TO ANSWER OR SATISFY

**DOCUMENT
FOLDER**

TO: PECO ENERGY COMPANY

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa. C.S. Section 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the **Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17120**, an answer (original and two copies), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. The date of service is the mailing date as indicated by the date at the top of this Notice. Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

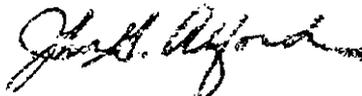
2. If you fail to either satisfy this complaint or to file answer or other responsive pleading within twenty (20) days, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy this complaint you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint may be dismissed by the Commission in accordance with Section 703(a) of the Public Utility Code, 66 Pa. C.S. Section 703(a), unless the Commission determines that such dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which

prescribes a payment schedule or which authorizes termination of utility services. In the imposition of a penalty after a hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.



John G. Alford
Secretary

(SEAL)

Certified Mail
Return Receipt Requested

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

KJR

DATE SERVED: April 17, 1997

R-00973953C0001

ROBIN L KRONGOLD PARALEGAL
PAUL BONNEY WARD SMITH
2301 MARKET ST P O BOX 8699
PHILADELPHIA PA 19101-8699

DOCUMENT
FOLDER

Dear SIR/MADAM:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by OFFICE OF CONSUMER ADVOCATE. To defend yourself against the claims stated in the following pages, you must act within twenty (20) days by filing in writing with the Commission, either personally or through your attorney, your defenses or objections to the claims stated against you. Or, you may satisfy the complaint by settling the matter with the Complainant and submitting proof of settlement to the Commission within twenty (20) days.

IF YOU FAIL TO RESPOND WITHIN TWENTY (20) DAYS, THE CASE MAY GO FORWARD IN YOUR ABSENCE AND A JUDGEMENT MAY BE ENTERED AGAINST YOU BY THE COMMISSION WITHOUT FURTHER NOTICE.

CUSTOMER OF A UTILITY

A payment schedule may be prescribed or a termination of utility services may be authorized. You may lose money or property or other rights important to you.

COMPANY/UTILITY

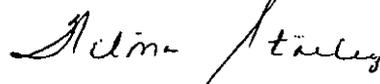
An Administrative Law Judge may revoke or suspend any certificate or permit held by you, or impose a fine, or any other appropriate penalty or remedy authorized by the Public Utility Code. You may lose money or property or other rights important to you.

Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.

Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

Very truly yours,



for John G. Alford
Secretary

SENDER: ■ Complete items 1 and/or 2 for additional services. ■ Attach this form to the front of the mailpiece, or on the back if space does not permit. ■ The Return Receipt will show to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.	
3. Article Addressed to: <div style="border: 1px solid black; padding: 5px; margin: 5px;"> R- 00973953 C0001 FCN Robin L. Krongold, PARALEGAL </div>		4a. Article Number P 962 042 736	
		4b. Service Type <input checked="" type="checkbox"/> CERTIFIED	
		7. Date of Delivery 4/21/97	
5. Received By: (Print Name)		8. Addressee's Address (Only if requested and fee is paid)	
6. Signature: (Addressee or Agent) X <i>M Green</i>			
PS Form 3811, January 1996		Domestic Return Receipt	

COMMONWEALTH OF PENNSYLVANIA

DATE: April 17, 1997

KJR

SUBJECT: R-00973953C0001

TO: Office of Administrative Law Judge

DOCKETED

APR 21 1997

FROM:  John G. Alford, Secretary

OFFICE OF CONSUMER ADVOCATE

V.

PECO ENERGY COMPANY

Attached is copy of a formal complaint filed in connection with the above docketed proceeding.

This matter is assigned to your office for action.

DOCUMENT
FOLDER

Attachment - copy of complaint

cc: Bureau of Fixed Utility Services - w/copy of complaint
Office of Trial Staff - w/copy of complaint
Press Secretary, John Frazier - w/copy of complaint
Office of ALJ, Charles Hilmer - w/copy of complaint
Office of Special Assistants - w/copy of complaint

was