

COMMONWEALTH OF PENNSYLVANIA



ORIGINAL

OFFICE OF SMALL BUSINESS ADVOCATE

Suite 1102, Commerce Building
300 North Second Street
Harrisburg, Pennsylvania 17101

Bernard A. Ryan, Jr.
Small Business Advocate

July 2, 1997

(717) 783-2525
(717) 783-2831(FAX)

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

MEM

**Re: Application of Pennsylvania Power & Light Company
For Approval Of Its Restructuring Plan Under
Section 2806 the Public Utility Code
Docket No. R-00973954**

Dear Prothonotary:

Enclosed is a certificate of service pursuant to 52 Pa. Code §5.412(f) for filing the direct testimony and exhibits of Mr. Robert D. Knecht in the above docket labeled OSBA Statement No. 1.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Karen Oill Moury
Karen Oill Moury
Deputy Small Business Advocate

Enclosure

DOCUMENT
FOLDER

RECEIVED
97 JUL -2 PM 3:22
PA.P.U.C.
PROTHONOTARY'S OFFICE

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

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

97-JUL-2 PM 3:22

RECEIVED

Application of Pennsylvania
Power & Light Company For
Approval Of Its Restructuring
Plan Under Section 2806 Of
The Public Utility Code :

Docket No. R-0097395

CERTIFICATE OF SERVICE

I certify that I am serving two copies of the direct testimony and exhibits of Robert D. Knecht, labeled OSBA Statement No. 1. on behalf of the Office of Small Business Advocate in the manner indicated upon the persons addressed below:

Hon. George M. Kashi
Administrative Law Judge
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17120
(hand delivered 7/2)

Paul E. Russell, Esquire
Pennsylvania Power & Light Co.
Two North Ninth Street
Allentown, PA 18101-1179
(PP&L)
(610) 774-4254
(610) 774-6726 (fax)
(overnight mail 7/1)

Donald A. Kaplan, Esquire
Lisa M. Helpert, Esquire
Preston Gates Ellis &
Rouvelas Meeds
Suite 500
1735 New York Avenue, N.W.
Washington, DC 20006-4759
(PP&L)
(202) 628-1700
(202) 331-1024 (fax)
(overnight mail 7/1)

Johnnie E. Simms, Esquire
Scott DeBroff, Esquire
Office of Trial Staff
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17101
(Office of Trial Staff)
(717) 787-1976
(717) 772-2677
(hand delivered 7/2)

Craig R. Burgraff, Esquire
Barrett C. Sheridan, Esquire
James A. Mullins, Esquire
Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120
(Office of Consumer Advocate)
(717) 783-5048
(717) 783-7152 (fax)
(hand delivered 7/2)

David Kleppinger, Esquire
Pamela C. Polacek, Esquire
McNees, Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
(PPLICA)
(717) 232-8000
(717) 237-5300 (fax)
(hand delivered 7/2)

Joan O. Brandeis, Esquire
Schnader, Harrison, Segal and Lewis
1600 Market Street, Suite 3600
Philadelphia, PA 19103
(Bethlehem Steel Corporation)
(215) 751-2000
(215) 751-2205 (fax)
(overnight mail 7/1)

Craig A. Doll, Esquire
214 State Street
Harrisburg, PA 17101
(Delmarva Power & Light Company)
(717) 230-9555
(717) 230-9750 (fax)
(hand delivered 7/2)

DOCUMENT
FOLDER

DOCKETED
JUL 09 1997

Alan J. Barak, Esquire
1417 Blue Mountain Parkway
Harrisburg, PA 17112
(Environmentalists)
(717) 540-5106
(717) 652-6899
(first class mail 7/1)

William T. Hawke, Esquire
Janet L. Miller, Esquire
Todd S. Stewart, Esquire
Malatesta, Hawke & McKeon
100 North Tenth Street
P. O. Box 1778
Harrisburg, PA 17105
(MAPSA)
(717) 236-1300
(717) 236-4841 (fax)
(hand delivered 7/2)

Mr. Eric Joseph Epstein
2308 Brandywine Drive
Harrisburg, PA 17110
(717) 541-1101
(717) 541-5487 (fax)
(first class mail 7/1)

Clinton A. Vince, Esquire
Paul E. Nordstrom, Esquire
Deborah A. Swanstrom, Esquire
Joel E. Newton, Esquire
Verner, Liipfert, Bernhard,
McPherson & Hand
901 15th Street, N.W.
Washington, DC 20005-2301
(Allegheny Power)
(202) 371-6000
(202) 371-6279 (fax)
(overnight mail 7/1)

Richard L. Caplan, Esquire
Mary Huwaldt, Esquire
Caplan & Lubert, LLP
The Caplan & Lubert Building
40 Darby Road
Paoli, PA 19301-1461
(Schuylkill Energy Resources)
(Gilberton Power Company)
(610) 640-1200
(610) 640-9865 (fax)
(overnight mail 7/1)

Daniel Clearfield, Esquire
Robert J. Longwell, Esquire
Alan Kohler, Esquire
Wolf, Block, Schorr &
Solis-Cohen
Suite 401
305 North Front Street
Harrisburg, PA 17101
(Enron Corp.)
(717) 237-7160
(717) 237-7161 (fax)
(hand delivered 7/2)

Billie E. Ramsey, Esquire
Executive Director - ARIPPA
1300 Market Street, Suite 7
Lemoyne, PA 17043
(Anthracite Region Independent Power
Producers Association)
(717) 763-7635
(717) 763-7455 (fax)
(first class mail 7/1)

John L. Munsch, Esquire
Allegheny Power
800 Cabin Hill Drive
Greensburg, PA 15601
(Allegheny Power)
(412) 837-3000
(412) 838-6177 (fax)
(overnight mail 7/1)

David A. McCormick, Esquire
Regulatory Law Office -U 3949
US Army Legal Services Agency
901 North Stuart Street
Arlington, VA 22203-1837
(Dept. of the Army)
(703) 696-1646
(703) 696-2960
(overnight mail 7/1)

Mary McFall Hopper, Esquire
Assistant General Counsel
PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103
(PECO Energy)
(215) 841-4917
(215) 568-3389 (fax)
(overnight mail 7/1)

Scott J. Rubin, Esquire
3 Lost Creek Drive
Selinsgrove, PA 17870
(Electrical Workers, Local 1600)
(overnight mail 7/1)

Robert F. Young, Esquire
Deputy General Counsel
212 Locust Street
P.O. Box 1266
Harrisburg, PA 17108-1266
(Allegheny Electric Cooperative)
(hand delivered 7/2)

Patricia Armstrong, Esquire
Thomas, Thomas, Armstrong
& Niesen
212 Locust Street
P. O. Box 9500
Harrisburg, PA 17108-9500
(Allegheny Electric Cooperative)
(hand delivered 7/2)

Robert P. Haynes, III, Esquire
Mette, Evans & Woodside
3401 North Front Street
P.O. Box 5950
Harrisburg, PA 17110
(Pa. Electric Consumers Council)
(717) 232-5000
(717) 236-1816 (fax)
(hand delivered 7/2)

Bruce A. Connell, Esquire
General Counsel
600 N. Dairy Ashford, ML-1034
Houston, TX 77079
(Dupont Power Marketing, Inc.)
(overnight mail 7/1)

Terence Fitzpatrick, Esquire
David Desalle, Esquire
Ryan, Russell, Ogden & Seltzer
800 North Third Street
Suite 101
Harrisburg, PA 17102-2025
(GPU Energy)
(717) 236-7714
(717) 236-7816 (fax)
(hand delivered 7/2)

Harry S. Geller, Esquire
118 Locust Street
Harrisburg, PA 17108
(Pa. Utility Law Project)
(hand delivered 7/2)

Michael A. Stosser, Esquire
Heller Ehrman White & McAuliffe
815 Connecticut Avenue, N.W.
Suite 200
Washington, DC 20006-4004
(Kraft Foods, Inc.)
(overnight mail 7/1)

Mr. Stephen J. Baron
J. Kennedy and Associates, Inc.
35 Glenlake Parkway, Suite 475
Atlanta, GA 30328
(overnight mail 7/1)

Michael L. Kessler, Esquire
Vice President/General Counsel
American Energy Solutions, Inc.
111 South Alfred Street
Alexandria, VA 22314
(American Energy Solutions, Inc.)
(703) 684-1006
(703) 683-3256
(overnight mail 7/1)

Mr. Bruce Biewald
Synapse Energy Economics, Inc
101 Chilton Street
Cambridge, MA 02138
(Witness for environmentalists)
(617) 661-3248
(617) 661-0599 (fax)
(overnight mail 7/1)

Usher Fogel, Esquire
Roland, Fogel, Koblenz
& Carr, LLP
1 Columbia Place
Albany, NY 12207
(Pa. Petroleum Assoc.)
(518) 434-8112
(518) 462-4242 (fax)
(overnight mail 7/1)

Michael T. Vough, Esquire
Vough & Mecadon
Greater Pittston Prof. Center
126 South Main Street
Pittston, PA 18640-1793
(Commission on Economic Opportunity)
(717) 654-6499
(717) 654-6509 (fax)
(overnight mail 7/1)

Gary A. Jeffries, Esquire
CNG Energy Services Corp.
One Park Ridge Center
P.O. Box 15746
Pittsburgh, PA 15244-0746
(For CNG Energy Services)
(412) 787-4268
(412) 787-4464 (fax)
(first class mail 7/1)

Susan M. Shanaman, Esquire
212 North Third Street
Suite 203
Harrisburg, PA 17101-1505
(For Center for Energy/Econ Dev)
(717) 236-2055
(717) 236-2070 (fax)
(hand delivered 7/2)

Joseph A. Dworetzky, Esquire
Hangley Aronchick Segal
& Pudlin
One Logan Square, Twelfth Floor
Philadelphia, PA 19103-6933
(New Energy Ventures)
(215) 496-7014
(215) 568-0300 (fax)
(overnight mail 7/1)

David M. Boonin
New Energy Ventures, Inc.
200 S. Broad Street
Suite 800
Philadelphia, PA 19102
(New Energy Ventures)
(215) 545-5058
(215) 545-5811 (fax)
(overnight mail 7/1)

John P. Zinkand
Executive Vice President
Pennsylvania Petroleum Association
Suite 121, Building 2
2001 N. Front Street
Harrisburg, PA 17102
(Pennsylvania Petroleum Association)
(717) 233-5838
(717) 233-4578 (fax)
(hand delivered 7/2)

Linda C. Smith, Esquire
Dilworth, Paxson, Kalish
& Kauffman LLP
305 N. Front Street, Suite 403
Harrisburg, PA 17101-1236
(AARP)
(717) 236-4812
(717) 236-7811 (fax)
(hand delivered 7/2)

Mr. Scott T. Jones
The Economic Resource Group
One Mifflin Place
Cambridge MA 02138
(overnight mail 7/1)

Brian A. Rider, President
Pennsylvania Retailers' Assoc.
224 Pine Street
Harrisburg, PA 17101-1325
(hand delivered 7/2)

David W. Francis, Esquire
Powell, Trachtman, Logan, Carrle,
Bowman & Lombardo
114 North Second Street
Harrisburg, PA 17101
(Caradon Mideast Aluminum)
(Metal Industries Inc.)
(717) 238-9300
(717) 238-9325 (fax)
(hand delivered 7/2)

Robert A. Mills, Esquire
McNees, Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
(717) 232-8000
(717) 237-5300 (fax)
(hand delivered 7/2)

Gordon Smith, Esquire
John & Hengerer
1200 17th Street, N.W.
Suite 600
Washington, DC 20036-3006
(Duke Energy Trading/Marketing)
(Electric Clearinghouse, Inc.)
(Vastar Power Marketing, Inc.)
(202) 429-8809
(202) 429-8805 (fax)
(overnight mail 7/1)

John R. Orr, Esquire
Duke Energy Trading/Marketing
One Westchase Center
10777 Westheimer, Suite 650
Houston, TX 77042
(Duke Energy Trading/Marketing)
(713) 260-1800
(713) 260-6511 (fax)
(first class mail 7/1)

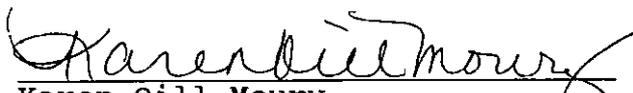
Mr. David L. Cruthirds
Electric Clearinghouse, Inc.
1000 Louisiana, Suite 5800
Houston, TX 77002-5050
(Electric Clearinghouse, Inc.)
(713) 507-3761
(first class mail 7/1)

Gene Stilp, Coordinator
1550 FCVR
Harrisburg, PA 17112-9240
(PP&L Ratepayers Association)
(first class mail 7/1)

John J. Gallagher, Esquire
Leboeuf, Lamb, Greene & MacRae
200 North Third Street, Suite 300
P.O. Box 12105
Harrisburg, PA 17108-2105
(Duquesne Light Company)
(hand delivered 7/2)

Norma J. Rosner, Esquire
Vastar Power Marketing, Inc.
200 Westlake Park Boulevard
Houston, TX 77079
(Vastar Power Marketing, Inc.)
(713) 584-3980
(first class mail 7/1)

Mr. Richard LaCapra
LaCapra Associates
The Province Building
333 Washington Street
Boston, MA 02108
(Witness for OCA)
(617) 367-6500
(617) 951-0528
(overnight mail 7/1)


Karen Oill Moury
Assistant Small Business Advocate

Date: July 2, 1997

RECEIVED
97 JUL -2 PM 3:22
P.A.P.U.C.
PROTHONOTARY'S OFFICE

Exhibit ____ (MK-1)

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Docket No. R-00973954

MEM

PREFILED DIRECT TESTIMONY of MICHAEL KARP

ON BEHALF OF
THE COMMISSION ON ECONOMIC OPPORTUNITY

RECEIVED
97 JUL -2 PM 3:48
PAPUC
PROTHONOTARY'S OFFICE

Statement No. 2

DOCUMENT
FOLDER

DOCKETED
JUL 10 1997

July 2, 1997

64

PREFILED DIRECT TESTIMONY OF MICHAEL KARP DOCKET NO. R-00973954

TABLE OF CONTENTS

I. INTRODUCTION 1

II. SUMMARY 2

III. THE NEED 3

IV. THE RESPONSE 8

V. CRITIQUE AND ANALYSIS 16

VI. RECOMMENDATIONS 23

EXHIBITS

Exhibit _____ (MK-2): Curriculum Vitae of Michael Karp

Exhibit _____ (MK-3): The General Assembly of Pennsylvania HOUSE BILL No. 1509, Session of 1995

Exhibit _____ (MK-4): Pennsylvania Public Utility Commission Tentative Order Re: Guidelines for Universal Service and Energy Conservation Programs Made Pursuant to 66 Pa. C.S. §2803, §2802(17), §2804(8) and 2804(9), Docket No. M-00960890, Folder 0010, dated April 24, 1997

Exhibit _____ (MK-5): Can We Ge There From Here (Tellus Institute)

Exhibit _____ (MK-6): Energetics, Inc. Paper on "Aggregation"

Exhibit _____ (MK-7): NARUC Low Income Restructuring Resolution

Exhibit _____ (MK-8): "Tucson" Principles on Restructuring

Exhibit _____ (MK-9): PP&L Response to CEO Interrogatories, Set 1, Question 41

Exhibit _____ (MK-10): T.R. Dahl response to RP.P5

Exhibit _____ (MK-11): PP&L Response to CEO, Interrogatories Set 1, Question 54

Exhibit _____ (MK-12): Pennsylvania Power and Light Company Comments on the Public Utility Commission Tentative Order Re: Guidelines for Universal Service and Energy Conservation Programs Made Pursuant to 66 Pa. C.S. §2803, §2802(17), §2804(8) and 2804(9), Docket No. M-00960890F0010, dated May 14, 1997

Exhibit _____ (MK-13): T.R. Dahl response to RP.P

1 **I. INTRODUCTION**

2 Q: Please state your name and business address.

3 A: My name is Michael Karp. I am the principal of a public interest consulting firm, Michael
4 Karp & Associates, located at 31 Appaloosa Road, Bellingham, WA 98226.

5
6 Q: On whose behalf are you testifying?

7 A: The Commission on Economic Opportunity of Luzerne County Pennsylvania (CEO) asked
8 me to present the views of an expert on, and advocate for, low income customers of
9 Pennsylvania Power & Light Company (PP&L) in this proceeding. This reflects the CEO's
10 view that low income people are an important part of PP&L's customer base, and that these
11 customers may be uniquely impacted by PP&L's restructuring plan.

12
13 Q: What is your relevant experience to this case before the Commission?

14 A: As a public interest consultant, I have provided training and technical assistance for over 30
15 State Governments & Community Action Associations across the country on low income
16 energy issues including electric industry restructuring. Additionally, for some of those states,
17 I have been an expert witness in regulatory proceedings, and have designed low income
18 utility programs. As a past administrator for eighteen years of a nonprofit Community
19 Action Agency that served the needs of low income households, I am very familiar with the
20 energy needs of low income consumers (Exhibit ____ MK-2).

21
22 Q: How have you organized your testimony addressing issues that affect low income households

1 in PP&L's proposed restructuring filing?

2 A: In Section II, I provide a summary of my testimony. In Section III, I outline the low income
3 need vis a vis electric industry restructuring in general and PP&L's service territory in
4 particular. In Section IV, I outline Pennsylvania's general response to these needs: first, by
5 restating the basic elements the *Electricity Generation Customer Choice and Competition*
6 *Act* (Act) (Exhibit ____ MK-3) that apply most directly to low income ratepayers and
7 Universal Service and Energy Conservation Program issues; and second, by restating the
8 basic elements that Pennsylvania Public Utility Commission believes should be included in
9 any Universal Service and Energy Conservation Program as proposed in its Tentative Order
10 on Universal Service and Energy Conservation (Exhibit ____ MK--4). This general response
11 is followed by a restatement of PP&L's proposed Universal and Energy Conservation
12 Program in this restructuring plan filing. In Section V, I offer criticism and analysis of
13 PP&L's proposed Universal Service and Energy Conservation Program. Finally, in Section
14 VI, I offer recommendations for improving PP&L's proposed Universal Service and Energy
15 Conservation Program in light of my criticisms and analysis

16 .
17 **II. SUMMARY**

18 Q: Please summarize your testimony?

19 A: My testimony will establish:

- 20 1) That the level of low income need for universal service and energy conservation
21 programs will be higher, at least during the transition years, than those historically
22 provided for under the regulated monopoly system;

- 1
- 2) That PP&L's universal service and energy conservation program is inadequately
3 funded with respect to the law and with respect to the level of low income need in its
4 service territory;
- 3) That additional funding is available for within the rate cap to bring PP&L's universal
5 service and energy conservation program in compliance with the Act and in line with
6 the low income need; and
- 4) That the proposed recommendations offered at the end should be adopted.
- 7
8
9

10 **III. THE NEED**

11 Q: What are the concerns about electric industry restructuring vis a vis low income
12 households?

13 A: Low income customers are likely not to share in the benefits of a restructured industry and
14 may be substantially harmed unless policies are put into place to protect this sector. Not only
15 are low-income households small consumers, and therefore less attractive, but they use even
16 less energy per household on the average than the other small customers in the residential
17 market. They are perhaps the most captive of customers. Additionally, they have virtually
18 no discretionary income for investments in efficiency measures and have a high risk of
19 arrearages, making them even less attractive to most aggregators. They are at high risk of
20 being on the short end of the stick on cost shifting from larger customers. There is concern
21 about the obligation to serve changing to the obligation to connect and the corresponding
22 gaps that may surface for these households. Low income, seniors, minorities, rural and other

1 vulnerable customers may suffer from neglect and redlining by providers because they pose
2 more difficulties in being served. Additionally, captive customers may be subject to
3 discriminatory customers service practices such as high deposit or credit requirements,
4 disconnect and reconnect fees, and substandard service or service limiters. Finally,
5 low-income households are generally less educated and informed about energy use than
6 typical customers, reducing their ability to take advantage of what benefits may fall their
7 way. Since the pursuit of adequate food and clothing, employment, and mere housing itself
8 are of paramount importance to these people, it is unlikely they will become informed or take
9 advantage of a market-based decision making.

10
11 According to a recent report done by the Institute for the public interest coalition in the
12 California restructuring process, the Executive Summary of which is entitled Can We Get
13 There From Here? (Exhibit ____ MK-5), ". . . residential and small business customers will
14 likely see few benefits and some cost increases if action is not taken to address market
15 inequities prior to the commencement of competition . . . Failing immediate action by policy
16 makers to address the concerns of small business and residential consumers, large industrial
17 and commercial customers will reap disproportionate benefits during the transition period
18 at the expense of the small customer."

19
20 A December 1995 report (Exhibit ____ MK-6) prepared by Energetics, Incorporated for the
21 National Renewable Energy Laboratory and the U.S. Department of Energy Office of Utility
22 Technologies that examined alternative "load aggregation" proposals to address the

1 electricity needs of small commercial and residential customers in restructured electricity
2 power markets had this to say in its Executive Summary: "The need for load aggregation
3 mechanisms rests on the premise that small electricity users will not benefit as much from
4 restructuring as large users due to lack of financial resources, political influence, technical
5 expertise, and market power."

6 Q: Have there been actions or policies elsewhere that have addressed these issues?

7 A: Yes.

8 NARUC/NASUCA

9 The National Association of Regulatory Utility Commissioners (NARUC) and the National
10 Association of State Consumer Advocates (NASUCA) have each adopted principles in the
11 form of resolutions to protect the rights of low income customers in the restructuring of the
12 electric industry (Exhibit _____ MK-7).

13 WUTC

14 On December 11, 1995 the WUTC issued a Policy Statement entitled Guiding Principles for
15 Regulation in an Evolving Electricity Industry that addressed many of the same issues.

16 NATIONAL LOW INCOME ENERGY ADVOCATES

17 Additionally, a national consortium of low income energy advocates adopted a set of
18 principles in September of 1995 that have served as the model in other proceedings across
19 the country (Exhibit _____ MK-8)

20 These principles generally provide for:

21 Affordable access;

22 Fair billing and collection procedures;

1 Participation in setting public policy;
2 Environmental justice;
3 Long term perspective;
4 Fair allocation of costs and benefits

5 They do this by:

6 Establishing a universal service as a minimum requirement of the restructured
7 system;
8 Securing affordable service;
9 Continuing and improving the delivery of comprehensive energy efficiency
10 services;
11 Guaranteeing fair service delivery, billing, and collection procedures; and
12 Fairly allocating the costs of restructuring to all end users.

13
14 Q: What are some other relevant demographics about PP&L's household population?

15 A: According to PP&L Witness Dahl, PP&L serves 1,081,979 households. In response to CEO,
16 Interrogatories, Set 1, Question 41, PP&L Witness O.G. Kasper states that "as of April 30,
17 1997, PP&L had an estimated 748,438 non-electric heat customers" (Exhibit ____ MK-9).
18 This means that PP&L residential customers base is approximately 30.9% electric heat
19 customers and 69.1% baseload customers—that is, customers that do not heat their homes
20 with electricity; rather, they use electricity for lighting, refrigeration and small appliances.
21 PP&L Witness Dahl further states that approximately 177,464 PP&L households, an amount
22 equal to 16.4% of PP&L's 1,081,979 total households, have incomes at or below 150% of

1 the federal poverty guidelines (RP-P.7.). Assuming the same 30.9% and 69.1% split between
2 electric heating and baseload customers, this means PP&L has an estimated 54,708 low
3 income electric heat customers, and an estimated 122,756 low income baseload customers.
4

5 Q: What are the special circumstances these low income households face?

6 A: Low income households pay the highest percentage of their income for energy costs
7 compared to other income groups and are the most vulnerable and at risk to change in a
8 competitive market. They live in society's worst case housing stock, are most at risk to
9 hypothermia and indoor air quality problems. Coupled with an array of other financial
10 burdens (cost of child care, lack of affordable housing, lack of living wage jobs, cutbacks
11 in federal assistance of most kinds, etc.) they are increasingly moving closer to homelessness.
12 Often, the affordability of a utility bill can mean the difference of eating, a medical
13 prescription, having a roof over their heads or living in a car, or worse. Federal energy
14 assistance and weatherization have been cut over 50% since peak funding in 1984 and over
15 40% in the past few years alone. When calculating the average take home pay of a low
16 income head of household and deducting basic living expenses such as housing (often 70%
17 of their income), childcare, and food, low income households are in financial crisis before
18 even looking at the cost of utilities, clothing, transportation, and other basic needs. Finally,
19 PP&L's low income baseload only customers are especially hard pressed in that PP&L has
20 historically offered only limited low LIURP income program services to this ratepayer group.
21
22

1 **IV. THE RESPONSE**

2 Q: How has Pennsylvania responded to the low income issues during restructuring?

3 A: On December 3, 1996, Governor Tom Ridge signed into law the *Electricity Generation*
4 *Customer Choice and Competition Act* (Act) by adding Chapter 28 to the Public Utility Code
5 and charging the Pennsylvania Public Utility Commission (the Commission) with its
6 implementation (Exhibit ____ MK-3). The Act sets forth, among other things, the following:

7 Electric service is essential to the health and well-being of residents, to public safety
8 and to orderly economic development; and electric service should be available to all
9 customers on reasonable terms and conditions (§2802 (9));

10 The Commonwealth must, at a minimum, the protections, policies and services that
11 now assist customers who are low-income to afford electric service (§2802 (10));

12 Electric distribution companies should continue to be the provider of last resort in
13 order to ensure the availability of universal electric service in this commonwealth
14 unless another provider of last resort is approved by the Commission (§2802 (16));

15 There are certain public purpose costs, including programs for low income assistance,
16 energy conservation and other, which have been implemented and supported by
17 public utilities' bundled rates. The public purpose is to be promoted by continuing
18 universal service and energy conservation policies, protections and services, and full
19 recovery of such costs is to be permitted through a non-bypassable rate mechanism
20 (§2802 (17));

21 Universal service and energy conservation is defined as policies, protections and
22 services that help low-income customers to maintain electric service. The term

1 includes customer assistance programs; termination of service protection and policies
2 and services that help low-income customers to reduce or manage energy
3 consumption in a cost-effective manner, such as the low income usage reduction
4 programs, and applicable renewable resources and consumer education (§2803).

5 The Commission shall establish for each electric utility an appropriate cost recovery
6 mechanism which is designed to fully recover the electric utility's universal service
7 and energy conservation costs over the life of these programs (§2804 (8));

8 The Commission shall ensure that universal service and energy conservation policies,
9 activities and services are appropriately funded and available in each electric
10 distribution territory. These policies, activities and services shall be funded in each
11 electric distribution territory by non-bypassable competitively neutral cost recovery
12 mechanisms that fully recover the costs of universal service and energy conservation
13 services. (§2804 (9));

14 The Commission shall encourage the use of community-based organizations that
15 have the necessary technical and administrative experience to be the direct providers
16 of services or programs which reduce energy consumption or otherwise assist low-
17 income customers to afford electric services (§2804 (9));

18
19 Q: How has the Commission responded to the Act's requirements with respect to low-income
20 Universal Service and Energy Conservation programs?

21 A: The Commission has responded in at least three ways:

22 1) By requiring as a part of each restructuring plan filing that the filing utility, in this

1 case PP&L, provide a detailed analysis and description of its past, current, and
2 proposed universal service and energy conservation program activities

3 2) By convening a Universal Service and Energy Conservation Working Group to make
4 recommendations to the Commission regarding this issue, and

5 3) By issuing a Tentative Order on Universal Service and Energy Conservation, which
6 incorporated the recommendations of the Universal Service and Energy Conservation
7 Working Group, and proposes guidelines for utilities to follow in meeting the
8 requirements of the Act.

9
10 Q: According to the Commission's Tentative Order Re: Guidelines for Universal Service and
11 Energy Conservation Programs Made Pursuant to 66 Pa. C.S. §2803, §2802(17), §2804(8)
12 and §2804(9), what are the basic elements that any utility Universal Service and Energy
13 Conservation Program must contain?

14 A: According to the Commission's Tentative Order (Exhibit ____ MK-4),

15 Each affected electric distribution company to submit a comprehensive and multi-
16 year Universal Service and [Energy] Conservation Program as part of its
17 Restructuring Filing;

18 Programs shall be available to electric customers whose household income is at or
19 below 150% of federal poverty guidelines and who meet other non-income criteria.

20 Up ten percent of the universal service [and energy conservation] budget may be
21 applied to customers with special needs who are between 150 percent and 200
22 percent of the federal poverty guidelines.

1 Programs should include, but not be limited to, the following programs, protections
2 and policies:

- 3 a) Chapter 56 credit, collection and termination protections. These
4 services shall include a Provider of Last Resort for customers who do
5 not choose an alternative generation provider or whose generation
6 provider refuses to grant service or cancels service based on
7 nonpayment or other reasons. These services shall also include
8 procedures for the distribution company and alternative generation
9 supplier to coordinate dispute, termination and payment arrangement
10 procedures to assure that universal service participants receive the
11 required protections in Chapter 56.
- 12 b) A low income usage reduction program (such as LIURP);
- 13 c) A payment assistance program (such as CAP);
- 14 d) A CARES program, or its equivalent, that meets the Commission's
15 minimum guidelines contained in the Commission's Secretarial Letter
16 of November 30, 1992;
- 17 e) Administration of a hardship fund. The Commission strongly
18 encourages generation suppliers to implement or join an existing
19 hardship fund;
- 20 f) Plain language guidelines covered under 52 PA Code, §69. 251. Any
21 written information from distribution companies and generation
22 suppliers to residential consumers should be written in plain

1 language; and

2 g) All Secretarial letters relating to collection activity that were issued
3 since June 1985.

4
5 Q: Does the Commission's Tentative Order address program size in terms of low income
6 households served?

7 A: Yes, on a statewide basis for universal service and energy conservation programs in general,
8 and payment assistance, or CAPs, in particular. In the Tentative Order, the Commission
9 specifically states that it

10 believes that between 289,660 - 361,830 households statewide may be eligible for
11 universal service programs. The 1990 Census Data shows that 2,170,979 persons in
12 Pennsylvania have incomes below 150% of the poverty level. Assuming a three-
13 person household, we can estimate that 723,660 households are below 150% of the
14 poverty level. The Commission's Investigation of Uncollectible Balances, at Docket
15 No. I-900002, found that 40% of the Commonwealth's low-income households are
16 payment troubled.

17 All consumers who are eligible for government benefits or programs do not
18 choose, for a variety of reasons, to apply for these benefits. For example, a 1989
19 report issued by the U.S. General Accounting Office found that nationwide only
20 about one-half of those eligible for food stamp benefits choose to participate in that
21 program. One of the major reasons mentioned for non-participation by those eligible
22 was a belief that the benefit was not necessary. The state of California currently

1 offers two programs to its low income residents: rate assistance and energy
2 efficiency services. On average, 58% of eligible customers participated in the rate
3 discount program and on average, 56% of eligible customers participated in the
4 weatherization programs. The California model bases eligibility on income only.
5 The Commission's model bases eligibility on income, usage and need. Therefore,
6 fewer households will be eligible for services using the Commonwealth model.

7 Based on the Census data information and the history that all households who
8 are eligible for benefits will not apply, the Commission projects that between 40%-
9 50% of eligible households (289,660 - 361,830 households) could apply for universal
10 service affordable payment programs. Presently, approximately 44,000 households
11 are enrolled in electric utility CAPs.

12
13 Q: Does the Commission's Tentative Order address minimum program funding necessary to
14 meet household service requirements?

15 A: Yes, but not with respect to individual utilities and only with respect to LIURPs and CAPs.

16 In general, the Commission's Tentative Order states that:

17 "A distribution company's level of expenditures should reflect at least 0.2% of
18 revenues for LIURP and 0.5% of jurisdictional revenues for CAP. The expenditures
19 for universal service and energy conservation programs must be examined in
20 conjunction with the costs of distribution rates, and competitive and intangible
21 transition charges. The total amount of dollars available under the rate cap should
22 be adjusted to meet all the requirements of the Act

- 1 a) LIURP expenditures should reflect at least 0.2% unless the utility
2 demonstrates through a needs assessment that a different funding
3 level is necessary.
- 4 b) Because of the level of need, a distribution company who currently
5 spends more than the proposed guidelines for its CAP, shall, at a
6 minimum, maintain the current level of expenditures.”
- 7

8 Q: Can you summarize the basic elements of PP&L's Universal Service and Energy
9 Conservation plan as proposed in this filing in response to the Commission's February 13,
10 1997 Order Re: Electric Utility Restructuring Filings made Pursuant to 66 Pa. C.S. §2806
11 (E)?

12 A: Yes, the essential elements of PP&L's Universal Service and Energy Conservation plan are
13 laid out in the direct testimony of PP&L representative Timothy R. Dahl in PP&L Statement
14 No.16. Mr. Dahl states that:

15 “PP&L's universal service programs include CARES, Operation HELP, and the
16 OnTrack Payment Program pilot; its energy conservation programs include WRAP
17 and the Keep Warm Plan. The Company will continue its efforts to maintain the
18 current level of annual funding for CARES, WRAP, and the Keep Warm Plan.
19 Because PP&L will continue to solicit donations from its customers and employees,
20 donations to Operation HELP are expected to increase annually. The annual level of
21 funding for OnTrack will be expanded from \$2 million to \$9 million over a three-
22 year period beginning January 1, 1999. The Company's annual funding for universal

1 service programs and energy conservation programs would increase from a current
 2 level of \$7 million to approximately \$14.3 million by the year 2002. The projected
 3 funding levels are summarized below.

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>Ongoing</u>
4 CARES	\$ 260,000	\$ 260,000	\$ 260,000	\$ 260,000
5 Operation HELP	856,000	877,000	899,000	922,000
6 WRAP	3,023,000	3,023,000	3,023,000	3,023,000
7 Keep Warm Plan	1,000,000	1,000,000	1,000,000	1,000,000
8 OnTrack	<u>5,875,000</u>	<u>7,750,000</u>	<u>9,625,000</u>	<u>9,100,000</u>
9 Total	\$11,014,000	\$12,910,000	\$14,807,000	\$14,305,000

10
 11 As of February 28, 1997, there were 1,040 customers enrolled in PP&L's OnTrack
 12 program. The Company is proposing to move OnTrack from its pilot phase to a full-
 13 time program. The level of enrollment would be increased from 1,040 customers to
 14 about 10,000 customers by the year 2001. This "ramping up" of OnTrack over three
 15 years anticipates an increase of 3,000 new participants annually. Based on PP&L's
 16 experience with its pilot, the annual turnover rate (i.e., existing customers leaving
 17 OnTrack and new participants joining the program) is expected to be approximately
 18 25-30 percent. In other words, between 2,500 and 3,000 customers would be added
 19 annually after 2001 to replace those who left OnTrack for a variety of reasons (e.g.,
 20 default for non-payment, left service area, requested removal)."

21 In summary, PP&L proposes to meet its Universal Service and Energy Conservation
 22 requirements through funding of five existing programs. With slight variations, four of these

1 programs are to be funded at historical levels, while funding for the fifth, PP&L's OnTrack
2 payment assistance program, is to be expanded over the next four years.

3
4 **V. Critique and Analysis.**

5 Q: In your expert opinion, is PP&L's Universal Service and Energy Conservation Program as
6 outlined in its restructuring plan filing "appropriately funded" as required by §2804(9) of
7 Pennsylvania's *Electricity Generation Customer Choice and Competition Act*.

8 A: No. Though PP&L's proposed Universal Service and Energy Conservation Program does
9 include the recommend components outlined in the Commission's Tentative Guidelines, i.e.,
10 a LIURP type program (WRAP), a CAP type program (OnTrack), a CARES, and a hardship
11 program (Operation Help), it is in the size and funding of these individual programs where
12 PP&L's overall plan does not meet the requirements of the act. Though there is every reason
13 to believe that funding will need to be increased for all of PP&L's proposed Universal
14 Service and Energy Conservation Programs, I will confine my testimony to the participation
15 and funding needs relative to PP&L's OnTrack and WRAP programs.

16
17 Q: How do PP&L's OnTrack household and funding needs projections compare to your own
18 analysis of OnTrack household and funding needs?

19 A: PP&L plans on ramping up its OnTrack program to 10,000 customers by 2001, with OnTrack
20 expenditure projections of \$5,875,000, \$7,750,000, \$9,625,000 annually in years 1999, 2000,
21 2001, and \$9,100,000 annually for 2002 and beyond. This is significantly below that which
22 is needed, these projects do not seem to have any basis in fact.

1 Of significant note, Tim Dahl's attachments starting at RP-P.5 page 2 of 2 (Exhibit ___ MK-
2 10), regarding annual collection costs, gross write offs, low income households in arrears,
3 is very instructive. For example, the following information was supplied by the company:
4

5 PP&L spends 7.9 million dollars a year on collection costs plus \$1 million on
6 postage for dunning letters;
7

8 Total gross write-offs for the residential class is \$22.7 million. Of that, 5.6 million
9 is attributed to Gross write-off of low income active accounts, \$1 million for
10 On-Track Revenue shortfall, and \$434,000 for On-Track arrearage forgiveness.
11 Additionally, they have estimated 50% of terminations are low income for level one
12 accounts and 20% for level two accounts for an additional total of \$6.6 million. That
13 means that of the \$29.9 million of total gross write offs, 23.3 million is for low
14 income, yet the company states it has no real data to base that on, only gross
15 estimates and extrapolations;
16

17 PP&L states that 177,464 as the number of low income customers in their service
18 area (estimated) yet the actual number are unavailable;
19

20 PP&L estimates that 58,000 are payment troubled yet they cite the number is not
21 available;
22

1 Of the total of 1,081,949 residential customers, 16% are estimated to be low income
2 but they are taking gross write offs of 78% and attributing them to these customers;

3
4 PP&L states that 47.7 million dollars are in arrears and that low income customers
5 constitute over 50% of that number, yet again, they have no data;

6
7 PP&L estimates 58,000 low income customers are payment troubled who would
8 qualify for OnTrack;

9
10 PP&L's collection costs per customer for the company are approximately \$140.

11
12 PP&L states that it costs them \$1,000 to handle a consumer that progresses from an
13 informal complaint investigation to a formal complaint hearing with an
14 Administrative Law Judge;

15
16 Taking these Company facts and figures into consideration, it is conceivable that PP&L
17 should be looking at significantly higher program penetration and funding rates.

18
19 By its own estimates, PP&L has 177,646 OnTrack income eligible households in its service
20 territory and at least 58,000 of them are payment troubled by PP&L's own definition. Based
21 on the 177,646 number and penetration rates of 40% to %50% due to non-income related
22 eligibility criteria, and self-selection factors, etc., it is conceivable that PP&L should be

1 looking at a minimum of between 70,986 and 88,732 OnTrack Participants one the program
2 is expanded to full scale operations. At these participation rates, and given PP&L stated
3 costs of between \$900 and \$1,000 per customer, PP&L Response to CEO, Interrogatory Set
4 1, Question 54 (Exhibit ____ MK-11), PP&L could be looking at an OnTrack budget of
5 between \$64 million and \$88 million annually. These numbers are not that much different
6 those contained in Pennsylvania Power and Light Company's Comments on the Public
7 Utility Commission Tentative Order Re: Guidelines for Universal Service and Energy
8 Conservation Programs of dated May 14, 1997 (Exhibit ____ MK-12). On the surface, these
9 program participation rates and costs may seem high. It must be noted therefore they do not
10 take into consideration the estimated historical costs and cost savings associated with
11 providing low income households electric service under the monopoly system as mentioned
12 above. In my opinion, it is very conceivable that actual OnTrack program costs for PP&L's
13 estimated 58,000 payment troubled customers would be much lower. I would think that an
14 meaningful OnTrack program could be developed and delivered with the help of community-
15 based organizations with a annual budget in the neighborhood of \$23 million annually.

16 .
17 Q: How do PP&L's WRAP household and funding needs projections compare to your own
18 analysis of WRAP household and funding needs?

19 A: PP&L's WRAP expenditure projections of \$3,023,000 annually for year 1999, 2000, 2001,
20 and beyond are based on the need to serve an estimated total 32,500 electric heating
21 households (PP&L Statement 16) and T.R. Dahl, RP-P.9 (Exhibit ____ EB-13). According
22 to PP&L Witness T.R. Dahl, these projections are based the assertion that an estimated

1 22,500 electric heat customers have been complete, or will have been completed through
2 1998, which will leave an estimated 32,500 household in need of services at an estimated
3 cost of \$1,200 per household for a total projected WRAP funding requirement of
4 \$39,000,000 (Exhibit ____ MK-13).

5
6 There are at least two problems with PP&L's WRAP funding projections. The first problem
7 is that annual funding of \$3,023,000 is below that which will necessary to satisfy the need
8 within a reasonable time frame. Weatherization interventions have limited life spans. In
9 order to squeeze maximum efficiency out of its system, it would make sense for PP&L to set
10 a goal of service all of its WRAP eligible households with that time frame. I would set this
11 time frame at 10 years.

12
13 The second problem is that PP&L's funding projections do not include any estimates of
14 funding requirements necessary to meet the needs of its 122,756 low income baseload
15 customers, 45,000 of which PP&L has conceded are in need of such services.

16
17 Taking these two problems and other factors into consideration, it is my opinion that annual
18 WRAP electric heat funding should be ramped up to \$4,143,900 annually and WRAP
19 baseload customers funding should ramped up to \$3,404,888 by 1999. Funding for both of
20 these programs should continue until at least 2008. These figures are more in line with the
21 actual need within PP&L's service territory.

1 Q: Are there any other areas of specific concern which you would like to address?

2 A: Yes, I would like to say a couple of things about consumer education and program provider
3 training.

4
5 Specifically, consumer education will be vital to successful industry restructuring and the
6 design and implementation of such will be particularly important for low income
7 participation. As such, low income consumer education programs must be funded by PP&L
8 and delivered by the same agencies that provide existing low income energy services.
9 Distribution through the network of independent low income assistance agencies is necessary
10 to ensure that low income, handicapped and elderly customers have the knowledge and tools
11 needed to objectively evaluate information presented and make informed choices, as well as
12 their rights.

13 Further, it should be required that restructuring education be delivered as a component to all
14 other public purpose programs and include information on the efficient use of heating, hot
15 water, appliance, and air conditioning, the meaning, environmental effects, and availability
16 of Green Power generating choices, health and safety measures, and customer rights and
17 responsibilities. Additionally, such consumer education programs should include, multi-
18 lingual materials, budget management counseling, targeted energy education for children,
19 specific component for high usage and remedial needs customers, and certification/training
20 for education providers.

21

22 To facilitate the accomplishment of these functions, PP&L should create Electric

1 Competition Consumer Information and Customer Assistance Program to be delivered
2 through its existing network of existing low income assistance organizations within its
3 service territory. Initially, this program should be funded \$150,000 per year in each of its
4 divisions with provisions for renewal upon positive evaluation.

5
6 To make potential participants aware of the availability of these programs and services,
7 PP&L should be required, at a minimum, to provide space for presentation of consumer
8 information regarding these programs in its September, December, March and July by
9 independent agencies. This space should be large enough to provide adequate information,
10 in a clear and understandable format regarding program availability, benefits, rights,
11 customer information etc.

12
13 Finally, effective training & technical assistance (T&TA) will be a necessity to ensure that
14 PP&L's Universal Service and Energy Conservation programs are the most cost-effective
15 possible. In this regard, PP&L should establish a \$50,000 annual budget for T&TA within
16 each of its geographical divisions to be used to provide up to date training and technical
17 assistance for its network of service providers. Further, to help ensure that the measures
18 offered in PP&L's programs are the most cutting edge of technologies available, PP&L
19 should establish a \$100,000 annual budget to fund a central research and development
20 program to seek out new techniques, evaluate national trends, etc. Finally, to help ensure
21 efficient and effective exchange ideas, information, suggestions, techniques, etc., PP&L
22 should provide for semi-annual meetings of Universal Services and Conservation Providers.

1 **VI. RECOMMENDATIONS**

2 Q: Do you have any recommendations to make to the Commission regarding this
3 proceeding?

4 A: Yes. They are as follows:

5
6 **Universal Service and Energy Conservation Program Eligibility**—In general, all
7 PP&L Universal Service and Energy Conservation programs should be available to
8 all of its electric customers with household incomes at or below 150% of the federal
9 poverty guidelines. Though the Public Utility Commission may deem it necessary
10 to include other non-income eligibility criteria in making eligibility determinations,
11 I would caution the Commission to keep non-income criteria to a minimum;

12
13 **OnTrack Expenditure Levels**—minimally, OnTrack funding should be ramped up
14 to \$23 million by 1999. This would place OnTrack funding at an amount
15 approximately equal to 0.75% of 1996 total gross operating revenues and would
16 ensure that this program is “appropriately funded” as required by §2804 (9) of the
17 Act;

18
19 **WRAP Expenditure Levels**—minimally, WRAP funding should be ramped up to
20 \$7,272,717 by 1999. This would place WRAP funding at an amount equal to 0.25%
21 of 1996 gross operating revenues of \$2,909,087,000 and would ensure that this
22 program is “appropriately funded” as required by §2804 (9) of the Act. Funding

1 should continue at this level until at least 2008, or until such time as all income
2 eligible households have received this program benefit. Further, of this total annual
3 funding amount, \$4,143,900 should be set aside annually for electric heating jobs and
4 \$3,404,888 should be set aside annually for comprehensive baseload jobs;

5
6 **Electric Competition Consumer Information and Customer Assistance PP&L**
7 should be required to create a program that would be delivered through its existing
8 network of low income assistance organizations within its service territory. Initially,
9 this program should be funded \$150,000 per year in each of its divisions with
10 provisions for renewal upon positive evaluation;

11
12 **Training & technical assistance (T&TA) PP&L** should establish a \$50,000 annual
13 budget for T&TA within each of its geographical divisions to be used to provide up
14 to date training and technical assistance for its network of service providers; and

15
16 **Research and Development (R&D) PP&L** should establish a \$100,000 annual
17 budget to fund a central research and development program to seek out new
18 techniques, evaluate national trends, etc., and to support semi-annual meetings of its
19 Universal Services and Conservation Providers to facilitate the exchange of ideas.

20
21 Q: Does this conclude your testimony?

22 A: Yes.

**MICHAEL KARP & ASSOCIATES
PUBLIC INTEREST CONSULTING
31 APPALOOSA ROAD, BELLINGHAM, WASHINGTON 98226
Phone/Fax: (360) 724-3215
Home Phone: (360) 647-7605
E-MAIL: anmkarp@pacificrim.net**

VITAE

**PUBLIC INTEREST CONSULTANT
MICHAEL KARP & ASSOCIATES**

Principal since 1991 of a public interest national consulting firm specializing in affordable housing and energy policy, design, & intervention, with an emphasis on the special needs of low income households. Work includes: training & technical assistance; conservation program design/Integrated resource planning critique; advocacy; expert testimony. A sample of clients include:

- State of Washington Attorney General, Public Counsel
- State of Utah, Committee of Consumer Services
- National Community Action Foundation;
- National Association of State Community Service Providers;
- U.S. Department of Energy;
- National Consumer Law Center (funded by the Energy Foundation);
- Northwest Conservation Act Coalition (funded by the Energy Foundation).;
- Community Action Assns. of Washington, Oregon, California, Michigan, Arizona, Kentucky, Hawaii, Indiana and Wisconsin;
- States of Hawaii, Nevada, Arizona, Oregon, Alaska, Kansas, Virginia, W. Virginia, Delaware, Maryland, Washington, Iowa, New York, Alabama; Utah
- Local agencies in Montana, Tennessee, Georgia, Alabama, Nevada, Oregon, Idaho, Washington, and Pennsylvania.
- City of Blaine, Washington.

NON-PROFIT EXPERIENCE

THE OPPORTUNITY COUNCIL (1978-1996)

Director of Public Policy & Strategic Development for a private non-profit three County Community Action Agency in Northwest Washington State (agency had 170 staff/ 6 million dollar annual budget). Sixteen years as Director of the Housing Division. Administered a budget of over three million dollars and a staff of fifty and oversaw all facets of programs. Responsible for Legislative strategy; broad responsibilities in assisting with agency development and strategic planning. Excellent success in leveraging public and private sector money for energy efficiency, affordable housing. Leadership role in National, State and Regional public policy on energy policy. Co-initiator and supervisor of the Statewide Energy Project to leverage legislative and utility funds on behalf of the State of Washington's low income households.

NORTHWEST CONSERVATION ACT COALITION (1981-present)

Co-Founder and two term Chair of a regionwide (Washington, Oregon, Idaho, Montana, British Columbia) energy consumer coalition of over 80 organizations (Utilities, Environmental Groups, Good Government, Unions, Low Income groups, etc.) that has been successfully impacting Northwest energy policy for over fifteen years. Contractor (1995-97) for Energy Foundation capacity building program targeting tribes, other organizations representing people of color, and low income organizations to both join the Coalition and to participate in electric industry restructuring deliberations in NCAC service territory.

NATIONAL CONSUMER LAW CENTER (1995-96)

Contractor charged with drafting and then getting the National Association of Regulatory Utility Commissioners and the National Association of State Utility Consumer Advocates to adopt resolutions to hold harmless low income households during electric industry restructuring deliberations in each State. Drafted the first draft of principles to be used nationally by low income energy advocates for this purpose. Also wrote a "manual" in using both the resolutions and principles as a tool for advocates.

A WORLD INSTITUTE FOR A SUSTAINABLE HUMANITY (1995-Present)

Founder, President and Chief Executive Officer of the non-profit Washington State based A W.I.S.H's focus is locally, nationally, and internationally on a comprehensive approach merging affordable housing and energy, economic development, poverty and environmental issues under a sustainable development umbrella. Recent projects include expert witness training (in Wisconsin and Washington) for advocates; peer exchange meetings for low income energy advocates nationally; and an application for a multiple region pollution prevention EPA grant.

PEOPLES ORGANIZATION FOR WASHINGTON'S ENERGY RESOURCES (1979-81)

As Chair of federally funded P.O.W.E.R., was part of a team of attorneys, economists, and other advocates that intervened in Washington State utility rate cases on behalf of low income households.

CITIZENS FOR A SOLAR WASHINGTON (1979-81)

Regional Director for this former statewide sustainable and renewable energy organization. (Also past founder of the Whatcom Solar Association).

ADVISORY

National Low Income Energy Utilization & Conservation Project (Sponsored by NASCSP, funded by U.S. Dept. of Energy) (1982)

State of Washington Department of Community, Trade, & Economic Development (Chair, 1981-89);

Washington State Energy Office (1981)

Bonneville Power Administration (1983)

Puget Sound Power & Light (1983); Collaboratives (1992-94)

Snohomish PUD (1984)

U.S. Community Services Administration (1979)

City of Bellingham (1980)
San Juan County Affordable Housing Advisory Board (1991-96)

OTHER

Initiator of the National Ad Hoc Low Income Utility Advocates group. Over eighty advocates representing government, community action agencies, legal services, consultants, and environmental groups and others to promote affordable energy policy in the United States (1994-present)

RECENT AWARDS

NATIONAL: U.S. DEPARTMENT OF ENERGY, 1993, for "outstanding achievements in the Weatherization Assistance Programs";

REGIONAL: ENERGY NORTHWEST, 1996, for "the ability to dream, the foresight to plan, and the power to make things happen. In appreciation for all you've made possible". 1993, for "outstanding innovation, dedication, and achievement in Energy Conservation";

STATE: STATE OF WASHINGTON, 1992, for "outstanding dedication and commitment in working towards solutions to the energy needs of low income people".

RECENT PUBLICATIONS

"Leveraging Federal Weatherization Assistance Programs with Utility Demand Side Management Dollars" co-authored with Geoff Crandall and presented at the 1994 National Association of Regulatory Utility Commissioners' National Regulatory Research Institute's 9th Biennial Conference. The paper addresses programmatic leveraging opportunities under the 1992 National Energy Policy Act, utility competition, and other relevant issues from a low income household perspective.

"Plugging People Into Power" a co-author with staff and members of the Northwest Conservation Act Coalition. A comprehensive regionwide energy consumer manual.

"PRINCIPLES REGARDING LOW INCOME HOUSEHOLDS IN AN ELECTRIC UTILITY RESTRUCTURING ENVIRONMENT" co-authored with Nancy Brockway for the National Consumer Law Center, funded by the Energy Foundation.

UTILITY TESTIMONY: (a sampling)

Public Interest Expert witness/intervenor/public hearing testimony in:

Washington

Puget Power rate cases-late 1970's-early 1980's—supervised the intervention of the Washington

State Association of Community Action Agencies in the Washington Water; Power/Sierra Pacific merger filing in 1995; Puget Power/Washington Natural Gas Merger-Expert Witness for the Washington State Attorney General Office of Public Counsel in 1996

Wisconsin

Electric Industry Restructuring Docket—provided testimony on behalf of the Wisconsin Community Action Association in 1995;

Arizona

Generic statewide IRP—provided testimony on behalf of the State of Arizona Department of Commerce (State Energy Office) and the Arizona Community Action Association in 1994;

Oregon

Represented public interest parties in the Merger proceeding of ENRON/PGE in 1996-97;

Tennessee

(TVA IRP)-testified on behalf of the Tennessee Valley Energy Reform Coalition in 1995.

Additionally

National Training for advocates needing better understanding of "Taking the Stand" in 1997.

SENATE AMENDED

PRIOR PRINTER'S NO. 1762

PRINTER'S NO.

4282

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1509

Session of 1995

RECEIVED
97 JUL -2 PM 3:48
P.A.P.U.C.
PROTHONOTARY'S OFFICE

INTRODUCED BY DURHAM, FICHTER, KENNEY, EVANS, TRELLO,
YOUNGBLOOD, PRESTON AND WOGAN, APRIL 27, 1995

SENATOR LOEPER, RULES AND EXECUTIVE NOMINATIONS, IN SENATE, RE-
REPORTED AS AMENDED, NOVEMBER 20, 1996

AN ACT

1 ~~Amending Title 66 (Public Utilities) of the Pennsylvania~~ ←
2 ~~Consolidated Statutes, providing for the regulation of~~
3 ~~taxicabs in cities of the first class.~~
4 AMENDING TITLES 15 (CORPORATIONS AND UNINCORPORATED ←
5 ASSOCIATIONS) AND 66 (PUBLIC UTILITIES) OF THE PENNSYLVANIA
6 CONSOLIDATED STATUTES, PROVIDING FOR GENERATION CHOICE FOR
7 CUSTOMERS OF ELECTRIC COOPERATIVES AND UTILITIES; FURTHER
8 PROVIDING FOR DEFINITIONS; REENACTING PROCEDURAL REQUIREMENTS
9 FOR TAXICAB CERTIFICATES AND MEDALLIONS; PROVIDING FOR
10 RESTRUCTURING OF THE ELECTRIC UTILITY INDUSTRY; AND FURTHER
11 PROVIDING FOR TAXATION.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 ~~Section 1. Section 2404(a) of Title 66 of the Pennsylvania~~ ←
15 ~~Consolidated Statutes is amended to read:~~

16 SECTION 1. TITLE 15 OF THE PENNSYLVANIA CONSOLIDATED ←
17 STATUTES IS AMENDED BY ADDING A CHAPTER TO READ:

CHAPTER 74

GENERATION CHOICE FOR CUSTOMERS

OF ELECTRIC COOPERATIVES

21 SEC.

- 1 7401. SHORT TITLE OF CHAPTER.
2 7402. APPLICATION.
3 7403. DECLARATION OF POLICY.
4 7404. DEFINITIONS.
5 7405. CUSTOMER CHOICE IN ELECTRIC COOPERATIVE SERVICE
6 TERRITORIES.
7 7406. COMPETITION BY ELECTRIC COOPERATIVES.
8 7407. TRANSITION SURCHARGE AND STRANDED COST RECOVERY.
9 7408. OPTION TO ELECT COMMISSION REVIEW.
10 7409. UNIVERSAL SERVICE AND ENERGY CONSERVATION.
11 7410. SAVINGS PROVISION AND REPEALER.

12 § 7401. SHORT TITLE OF CHAPTER.

13 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE
14 ELECTRICITY GENERATION CHOICE FOR CUSTOMERS OF ELECTRIC
15 COOPERATIVES ACT.

16 § 7402. APPLICATION.

17 THE PROVISIONS OF 66 PA.C.S. CH. 28 (RELATING TO
18 RESTRUCTURING OF ELECTRIC UTILITY INDUSTRY) SHALL NOT APPLY TO
19 ELECTRIC COOPERATIVE CORPORATIONS OR TO THE LAWS RELATING TO
20 ELECTRIC COOPERATIVE CORPORATIONS.

21 § 7403. DECLARATION OF POLICY.

22 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

23 (1) BECAUSE OF ADVANCES IN ELECTRIC GENERATION
24 TECHNOLOGY AND FEDERAL INITIATIVES TO ENCOURAGE GREATER
25 COMPETITION IN THE WHOLESALE ELECTRIC MARKET, IT IS NOW IN
26 THE PUBLIC INTEREST TO PERMIT RETAIL CUSTOMERS TO OBTAIN
27 DIRECT ACCESS TO A COMPETITIVE GENERATION MARKET, AS LONG AS
28 SAFE AND AFFORDABLE SERVICE IS AVAILABLE AT LEVELS OF
29 RELIABILITY THAT ARE CURRENTLY ENJOYED BY THE CITIZENS AND
30 BUSINESSES OF THIS COMMONWEALTH.

1 (2) ELECTRIC COOPERATIVE CORPORATIONS WHICH OWN AND
2 OPERATE ELECTRIC GENERATION, TRANSMISSION OR DISTRIBUTION
3 FACILITIES IN THIS COMMONWEALTH, WHICH ARE OPERATED ON A
4 NONPROFIT BASIS AND WHICH ARE OWNED AND ARE DEMOCRATICALLY
5 CONTROLLED BY THE MEMBER CONSUMERS WHICH THEY SERVE ARE AN
6 ESSENTIAL PART OF THE RURAL INFRASTRUCTURE AND AN IMPORTANT
7 PARTICIPANT IN THE ECONOMIC DEVELOPMENT AND VITALITY OF
8 SIGNIFICANT AREAS OF THIS COMMONWEALTH.

9 (3) IN PROVIDING FOR CUSTOMER CHOICE FOR THE MEMBER
10 CONSUMERS OF ELECTRIC COOPERATIVE CORPORATIONS, THE FINANCIAL
11 INTEGRITY, OPERATIONS AND INDEPENDENCE OF ELECTRIC
12 COOPERATIVE CORPORATIONS MUST BE PROTECTED AND PRESERVED,
13 WHILE COMPARABLE STANDARDS ARE PROVIDED FOR ELECTRIC
14 SUPPLIERS FOR THE PROVISION OF SERVICE TO NEW LOADS, BY
15 PROVIDING FOR THE CONTINUED EXEMPTION FOR ELECTRIC
16 COOPERATIVE CORPORATIONS FROM THE JURISDICTION AND CONTROL OF
17 THE COMMISSION AND BY PROVIDING FOR A SEPARATE SYSTEM OF
18 CHOICE FOR PERSONS IN THE SERVICE TERRITORIES OF ELECTRIC
19 COOPERATIVE CORPORATIONS.

20 (4) THE COMPLETE RIGHT OF ELECTRIC COOPERATIVE
21 CORPORATIONS TO COMPETE WITH OTHERS IN PROVIDING ELECTRIC AND
22 OTHER SERVICES MUST BE PROVIDED FOR THROUGHOUT THIS
23 COMMONWEALTH.

24 § 7404. DEFINITIONS.

25 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
26 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
27 CONTEXT CLEARLY INDICATES OTHERWISE:

28 "COMMISSION." THE PENNSYLVANIA PUBLIC UTILITY COMMISSION.

29 "DEPARTING MEMBER." A MEMBER CONSUMER SERVED AT RETAIL BY AN
30 ELECTRIC COOPERATIVE CORPORATION THAT HAS GIVEN NOTICE OF INTENT

1 TO RECEIVE GENERATION SERVICE FROM ANOTHER SOURCE OR THAT IS
2 OTHERWISE IN THE PROCESS OF CHANGING GENERATION SUPPLIERS. THESE
3 PERSONS SHALL NONETHELESS REMAIN MEMBERS OF THE ELECTRIC
4 DISTRIBUTION COOPERATIVE CORPORATION FOR PURPOSES OF
5 DISTRIBUTION SERVICE.

6 "ELECTRIC-CONSUMING FACILITIES." AS DEFINED IN SECTION 7352
7 (RELATING TO DEFINITIONS).

8 "RETAIL ELECTRIC SERVICE." AS DEFINED IN SECTION 7352
9 (RELATING TO DEFINITIONS).

10 "SERVICE TERRITORY." THE SERVICE TERRITORY OF ELECTRIC
11 COOPERATIVE CORPORATIONS ESTABLISHED IN CHAPTER 73 (RELATING TO
12 ELECTRIC COOPERATIVE CORPORATIONS) AS INTERPRETED BY EXISTING
13 CASE LAW.

14 "TRANSITION SURCHARGE." THE TOTAL STRANDED COSTS PAYABLE TO
15 AN ELECTRIC COOPERATIVE CORPORATION AS A CONDITION PRECEDENT TO
16 A CONSUMER-MEMBER OF AN ELECTRIC COOPERATIVE CORPORATION HAVING
17 THE RIGHT TO RECEIVE ELECTRIC GENERATION SERVICE FROM ANOTHER
18 SOURCE.

19 § 7405. CUSTOMER CHOICE IN ELECTRIC COOPERATIVE SERVICE
20 TERRITORIES.

21 (A) GENERAL RULE.--

22 (1) AN ELECTRIC COOPERATIVE CORPORATION SHALL PROVIDE
23 OPEN AND NONDISCRIMINATORY ACCESS AND ALLOW OTHER ELECTRIC
24 GENERATION SUPPLIERS THAT HAVE BEEN LICENSED OR CERTIFIED BY
25 THE COMMISSION OR JURISDICTIONAL PUBLIC UTILITIES TO UTILIZE
26 THE COOPERATIVE'S FACILITIES TO MAKE SALES TO END-USE
27 CUSTOMERS IT SERVES. A PERSON THAT, ON OR AFTER THE EFFECTIVE
28 DATE OF THIS CHAPTER, RECEIVES RETAIL ELECTRIC SERVICE AT AN
29 ELECTRIC-CONSUMING FACILITY FROM AN ELECTRIC COOPERATIVE IN
30 THIS COMMONWEALTH OR OWNS OR OCCUPIES AN ELECTRIC-CONSUMING

1 FACILITY WITHIN THE SERVICE TERRITORY OF AN ELECTRIC
2 COOPERATIVE CORPORATION SHALL HAVE THE RIGHT TO PURCHASE AND
3 RECEIVE ELECTRIC GENERATION FROM ANOTHER SOURCE AT THE
4 CONCLUSION OF A FOUR-YEAR TRANSITION AND PHASE-IN PERIOD
5 BEGINNING ON THE EFFECTIVE DATE OF THIS CHAPTER AND ENDING
6 JANUARY 1, 2001. THE FOLLOWING SCHEDULE FOR PHASED
7 IMPLEMENTATION OF RETAIL ACCESS SHALL BE ADHERED TO UNLESS
8 THE COMMISSION SHOULD DETERMINE TO EXTEND THE TRANSITION AND
9 PHASE-IN PERIOD FOR ITS JURISDICTIONAL ELECTRIC UTILITIES
10 UNDER 66 PA.C.S. § 2806 (RELATING TO IMPLEMENTATION, PILOT
11 PROGRAMS AND PERFORMANCE-BASED RATES), IN WHICH CASE THE
12 TRANSITION AND PHASE-IN PERIOD FOR ELECTRIC COOPERATIVE
13 CORPORATIONS SHALL BE SUBSTANTIALLY SIMILAR TO THAT
14 ESTABLISHED BY THE COMMISSION FOR DIRECT ACCESS TO THE
15 COMPETITIVE ELECTRIC GENERATION MARKET BY CUSTOMERS OF
16 ELECTRIC UTILITIES:

17 (I) AS OF JANUARY 1, 1999, A MAXIMUM OF 33% OF THE
18 PEAK LOAD OF EACH CUSTOMER CLASS SHALL HAVE THE
19 OPPORTUNITY FOR DIRECT ACCESS.

20 (II) AS OF JANUARY 1, 2000, A MAXIMUM OF 66% OF THE
21 PEAK LOAD OF EACH CUSTOMER CLASS SHALL HAVE THE
22 OPPORTUNITY FOR DIRECT ACCESS.

23 (III) AS OF JANUARY 1, 2001, ALL CUSTOMERS OF
24 ELECTRIC COOPERATIVE CORPORATIONS IN THIS COMMONWEALTH
25 SHALL HAVE THE OPPORTUNITY FOR DIRECT ACCESS.

26 (2) IF THE COMMISSION ESTABLISHES A PHASE-IN PERIOD
27 WHICH IS NOT UNIFORM AMONG ELECTRIC UTILITIES, THEN THE
28 PHASE-IN PERIOD FOR PERSONS IN THE SERVICE TERRITORIES OF
29 ELECTRIC COOPERATIVE CORPORATIONS MAY BE AS LONG AS THAT OF
30 THE LONGEST PHASE-IN PERIOD PERMITTED BY THE COMMISSION. NO

1 ELECTRIC COOPERATIVE CORPORATION MAY UTILIZE THE TRANSMISSION
2 OR DISTRIBUTION SYSTEM OF AN ELECTRIC UTILITY REGULATED BY
3 THE COMMISSION FOR THE PURPOSE OF PROVIDING GENERATION
4 ELECTRIC SERVICE UNTIL THE ELECTRIC COOPERATIVE BEGINS ITS
5 PHASE-IN PERIOD. NO ELECTRIC UTILITY REGULATED BY THE
6 COMMISSION MAY UTILIZE THE TRANSMISSION OR DISTRIBUTION
7 SYSTEM OF AN ELECTRIC COOPERATIVE CORPORATION UNTIL THE
8 ELECTRIC UTILITY BEGINS ITS PHASE-IN PERIOD OTHER THAN FOR
9 PILOT PROGRAMS.

10 (3) ELECTRIC COOPERATIVE CORPORATIONS MAY DEVELOP RETAIL
11 PILOT PROGRAMS FOR THEIR OWN SERVICE TERRITORIES.

12 (4) CUSTOMER BILLS ISSUED BY AN ELECTRIC COOPERATIVE
13 CORPORATION SHALL CONTAIN UNBUNDLED CHARGES SUFFICIENT TO
14 ENABLE THE CUSTOMER TO DETERMINE THE GENERATION COMPONENT OF,
15 AND BASIS FOR THOSE CHARGES. ELECTRIC GENERATION SHALL BE
16 DELIVERED TO THE DEPARTING MEMBER BY THE ELECTRIC COOPERATIVE
17 WHICH HAS THE EXCLUSIVE RIGHT TO PROVIDE RETAIL ELECTRIC
18 SERVICE IN SUCH AREA UNDER CHAPTER 73 (RELATING TO ELECTRIC
19 COOPERATIVE CORPORATIONS) AT THE NONDISCRIMINATORY PRICES,
20 TERMS AND CONDITIONS DETERMINED BY THE ELECTRIC COOPERATIVE
21 CORPORATION.

22 (5) IT SHALL BE THE DUTY OF AN ELECTRIC COOPERATIVE
23 CORPORATION WHICH IS A BORROWER FROM THE RURAL UTILITIES
24 SERVICE OF THE UNITED STATES DEPARTMENT OF AGRICULTURE TO
25 MAINTAIN THE INTEGRITY AND SAFETY OF ITS DISTRIBUTION SYSTEM
26 IN A MANNER TO PROVIDE SERVICE TO ALL CUSTOMERS CONNECTED TO
27 SUCH SYSTEM CONSISTENT WITH STANDARDS ESTABLISHED BY THE
28 RURAL UTILITIES SERVICE. IT SHALL BE THE DUTY OF AN ELECTRIC
29 COOPERATIVE CORPORATION WHICH IS NOT A BORROWER FROM THE
30 RURAL UTILITIES SERVICE TO MAINTAIN THE INTEGRITY AND SAFETY

1 OF ITS DISTRIBUTION SYSTEM IN A MANNER TO PROVIDE SERVICE TO
2 ALL CUSTOMERS CONNECTED TO SUCH SYSTEM CONSISTENT WITH
3 STANDARDS OF THE NATIONAL ELECTRIC SAFETY CODE.

4 (5) THE RIGHT IN THIS SUBSECTION TO TAKE GENERATION
5 SERVICE FROM ANOTHER SOURCE, AND THE DUTY OF AN ELECTRIC
6 COOPERATIVE CORPORATION TO DELIVER SERVICE, SHALL BE
7 EXPRESSLY SUBJECT TO AND CONTINGENT UPON THE FULL ADVANCE
8 SATISFACTION BY A DEPARTING MEMBER OF ALL OF THE FOLLOWING
9 CONDITIONS, UNLESS WAIVED BY THE ELECTRIC COOPERATIVE
10 CORPORATION:

11 (I) THE DEPARTING MEMBER MUST GIVE WRITTEN NOTICE OF
12 INTENT TO RECEIVE GENERATION SERVICE FROM ANOTHER SOURCE
13 TO THE ELECTRIC COOPERATIVE CORPORATION.

14 (II) WITH THE WRITTEN NOTICE OF INTENT REQUIRED BY
15 SUBPARAGRAPH (I), THE DEPARTING MEMBER MUST PROVIDE TO
16 THE ELECTRIC COOPERATIVE CORPORATION WRITTEN EVIDENCE
17 REASONABLY SATISFACTORY TO THE ELECTRIC COOPERATIVE
18 CORPORATION THAT THE DEPARTING MEMBER HAS ACQUIRED ALL
19 NECESSARY TRANSMISSION SERVICES AND RELATED ANCILLARY
20 SERVICES AS MAY BE NECESSARY TO TRANSMIT THE GENERATION
21 SERVICE FROM THE ALTERNATIVE ELECTRIC SUPPLIER TO THE
22 DISTRIBUTION SYSTEM OF THE ELECTRIC COOPERATIVE
23 CORPORATION.

24 (III) THE DEPARTING MEMBER MUST HAVE MADE ALL
25 PAYMENTS FOR ELECTRIC SERVICE OR OTHER SERVICES OR
26 PRODUCTS RENDERED TO DATE BY THE ELECTRIC COOPERATIVE
27 CORPORATION AND MUST NOT OTHERWISE BE IN VIOLATION OR
28 DEFAULT OF ANY MEMBERSHIP REQUIREMENT, RULE OR REGULATION
29 OF THE ELECTRIC COOPERATIVE CORPORATION.

30 (IV) THE DEPARTING MEMBER, OR THE PROVIDER OF THE

1 COMPETING GENERATION SOURCE, MUST MAKE FULL PAYMENT OF A
2 TRANSITION SURCHARGE OR TRANSITION SURCHARGES TO EACH
3 ELECTRIC COOPERATIVE CORPORATION WHICH PROVIDES
4 DISTRIBUTION, TRANSMISSION OR GENERATION SERVICE,
5 DIRECTLY OR INDIRECTLY, TO THE DEPARTING MEMBER OR
6 ASSOCIATED ELECTRIC CONSUMING FACILITY. DURING THE
7 CONDUCT OF A PILOT PROGRAM THE ELECTRIC COOPERATIVE
8 CORPORATION MAY CHOOSE NOT TO APPLY THE TRANSITION
9 SURCHARGE TO DEPARTING MEMBERS. THE DUTY TO PAY A
10 TRANSITION SURCHARGE BY A DEPARTING MEMBER AND THE RIGHT
11 OF AN ELECTRIC COOPERATIVE CORPORATION TO COLLECT A
12 TRANSITION SURCHARGE SHALL NOT APPLY TO DEPARTING MEMBERS
13 WHO BECOME NEW MEMBERS OF AN ELECTRIC COOPERATIVE
14 CORPORATION FOLLOWING THE EXPIRATION OF THE PHASE-IN
15 PROVIDED FOR IN THIS CHAPTER.

16 (B) EFFECTIVENESS OF EXISTING CONTRACTS.--NOTWITHSTANDING
17 THE RIGHTS SET FORTH IN SUBSECTION (A), WHERE AN AGREEMENT FOR
18 ELECTRIC SERVICE, EVIDENCED BY A SIGNED WRITING BETWEEN AN
19 ELECTRIC COOPERATIVE CORPORATION AND ANY PERSON EXISTS PRIOR TO
20 THE EFFECTIVE DATE OF THIS CHAPTER, THE PERSON SHALL BE BOUND BY
21 ITS TERMS AND CONDITIONS AND SHALL NOT HAVE THE RIGHT TO RECEIVE
22 GENERATION SERVICE FROM ANOTHER SOURCE UNTIL THE EXPIRATION OF
23 THE TERM OF THE AGREEMENT OR OTHERWISE PURSUANT TO THE TERMS AND
24 CONDITIONS OF THE AGREEMENT.

25 § 7406. COMPETITION BY ELECTRIC COOPERATIVES.

26 (A) SERVICE RIGHTS.--ELECTRIC COOPERATIVE CORPORATIONS MAY
27 PROVIDE GENERATION ELECTRIC SERVICE TO ANY PERSON AND AT ANY
28 LOCATION WITHIN THIS COMMONWEALTH. IN THE CASE WHERE AN ELECTRIC
29 COOPERATIVE CORPORATION PROVIDES GENERATION ELECTRIC SERVICE AT
30 RETAIL TO A PERSON LOCATED OUTSIDE OF ITS SERVICE TERRITORY AND

1 WITHIN THE FRANCHISED TERRITORY OF AN ELECTRIC UTILITY SUBJECT
2 TO 66 PA.C.S. (RELATING TO PUBLIC UTILITIES), IT MUST FIRST HAVE
3 BEEN CERTIFIED BY THE COMMISSION PURSUANT TO SUBSECTION (E) AND,
4 UNLESS IT IS OTHERWISE EXEMPT UNDER SUBSECTION (D), IT SHALL
5 COMPLY WITH ALL RELEVANT TERMS, CONDITIONS AND OBLIGATIONS
6 APPLICABLE TO ELECTRIC GENERATION SUPPLIERS PURSUANT TO 66
7 PA.C.S. ELECTRIC COOPERATIVE CORPORATIONS SHALL NOT BE REQUIRED
8 TO BE LICENSED BY THE COMMISSION AND SHALL BE EXEMPT AS
9 OTHERWISE PROVIDED FOR IN THIS CHAPTER IN ANY AND ALL OTHER
10 RESPECTS FROM THE JURISDICTION AND CONTROL OF THE COMMISSION. TO
11 THE EXTENT SUCH SERVICES ARE NOT PROVIDED FOR RESALE TO OTHERS,
12 SUCH PERSONS MUST BE MEMBERS OF THE ELECTRIC COOPERATIVE
13 CORPORATION. IT SHALL NOT BE NECESSARY FOR AN ELECTRIC
14 COOPERATIVE CORPORATION TO AMEND ITS BYLAWS TO PERMIT IT TO
15 PROVIDE SERVICE TO ANY PERSON AT ANY LOCATION WITHIN THIS
16 COMMONWEALTH. ALL OTHER UTILITIES AND PERSONS OWNING, OPERATING
17 OR CONTROLLING ELECTRIC TRANSMISSION OR DISTRIBUTION FACILITIES
18 WITHIN THIS COMMONWEALTH SHALL BE OBLIGATED TO TRANSMIT AND
19 DELIVER GENERATION SERVICE BY ELECTRIC COOPERATIVE CORPORATIONS
20 AT THE SAME PRICES AND AT THE SAME TERMS AND CONDITIONS AS ARE
21 APPROVED BY THE COMMISSION OR THE FEDERAL ENERGY REGULATORY
22 COMMISSION FOR SIMILAR SERVICE TO OTHERS.

23 (B) NEW LOAD TERMINATION CONDITIONS.--IN THE CASE WHERE AN
24 ELECTRIC COOPERATIVE CORPORATION PROVIDES GENERATION SERVICE
25 UNDER SUBSECTION (A) TO A PERSON NOT LOCATED WITHIN ITS
26 EXCLUSIVE RETAIL ELECTRIC SERVICE TERRITORY AND, CONSISTENT WITH
27 ANY THEN-EXISTING CONTRACT RIGHTS OF THE ELECTRIC COOPERATIVE
28 CORPORATION, SUCH PERSON SUBSEQUENTLY DESIRES TO RECEIVE
29 GENERATION SERVICE FROM ANOTHER SOURCE, THE DEPARTING MEMBER
30 SHALL HAVE THE RIGHT TO DO SO, CONTINGENT UPON THE FULL ADVANCE

1 SATISFACTION OF THE FOLLOWING CONDITIONS, UNLESS WAIVED BY THE
2 ELECTRIC COOPERATIVE CORPORATION:

3 (1) THE DEPARTING MEMBER MUST GIVE WRITTEN NOTICE OF
4 INTENT TO RECEIVE GENERATION SERVICE FROM ANOTHER SOURCE TO
5 THE ELECTRIC COOPERATIVE CORPORATION PRIOR TO THE INITIATION
6 OF THE NEW GENERATION SERVICE.

7 (2) THE DEPARTING MEMBER MUST HAVE MADE ALL PAYMENTS FOR
8 ELECTRIC SERVICE OR OTHER SERVICES OR PRODUCTS RENDERED TO
9 DATE BY THE ELECTRIC COOPERATIVE CORPORATION.

10 (C) RELATION TO UTILITIES GROSS RECEIPTS TAX.--

11 (1) TO THE EXTENT THAT AN ELECTRIC COOPERATIVE
12 CORPORATION PROVIDES GENERATION ELECTRIC SERVICE AT RETAIL TO
13 A PERSON IN THIS COMMONWEALTH AND LOCATED OUTSIDE OF ITS
14 SERVICE TERRITORY AS SET FORTH IN SUBSECTION (A), THEN FOR
15 THAT LIMITED PURPOSE AND IN THAT LIMITED AREA, IT SHALL BE
16 DEEMED TO BE THE STATUTORY EQUIVALENT OF AN "ELECTRIC LIGHT
17 COMPANY," A "WATERPOWER COMPANY" AND A "HYDRO-ELECTRIC
18 COMPANY" FOR PURPOSES OF SECTION 1101 OF THE ACT OF MARCH 4,
19 1971 (P.L. 6, NO. 2), KNOWN AS THE TAX REFORM CODE OF 1971.

20 (2) TO THE EXTENT THAT AN ELECTRIC COOPERATIVE
21 CORPORATION PROVIDES GENERATION ELECTRIC SERVICE AT RETAIL TO
22 A PERSON IN THIS COMMONWEALTH AND LOCATED OUTSIDE OF ITS
23 SERVICE TERRITORY AS SET FORTH IN SUBSECTION (A) AND TO THE
24 EXTENT THAT THE TAX ON SALES OF ELECTRIC ENERGY UNDER SECTION
25 1101 OF THE TAX REFORM CODE OF 1971 HAS NOT PREVIOUSLY BEEN
26 IMPOSED ON SUCH GENERATION ELECTRIC SERVICE OR ELECTRIC
27 ENERGY, THEN, FOR THAT LIMITED PURPOSE AND IN THAT LIMITED
28 AREA, SUCH RETAIL SALES TO END-USE CONSUMERS UNDER THIS
29 CHAPTER SHALL BE DEEMED "SALES OF ELECTRIC ENERGY" FOR
30 PURPOSES OF SECTION 1101 OF THE TAX REFORM CODE OF 1971.

1 (D) SMALL COOPERATIVE EXCEPTIONS.--BECAUSE OF THE RELATIVELY
2 SMALL NUMBER OF CONSUMERS WHICH ELECTRIC COOPERATIVE
3 CORPORATIONS SERVE, THEIR RELATIVELY SMALL ELECTRIC LOADS, THE
4 NONPROFIT NATURE OF THEIR OPERATIONS AND THEIR OTHER UNIQUE
5 CHARACTERISTICS, THE GENERAL ASSEMBLY FINDS THAT IT MAY BE
6 UNDULY BURDENSOME AND COSTLY FOR SMALL ELECTRIC COOPERATIVE
7 CORPORATIONS TO COMPLY WITH THE RELEVANT TERMS, CONDITIONS AND
8 OBLIGATIONS APPLICABLE TO ELECTRIC GENERATION SUPPLIERS PURSUANT
9 TO 52 PA. CODE CH. 56 (RELATING TO STANDARDS AND BILLING
10 PRACTICES FOR RESIDENTIAL UTILITY SERVICE) AND REGULATIONS
11 PROMULGATED UNDER 66 PA.C.S. CH. 28 (RELATING TO RESTRUCTURING
12 OF ELECTRIC UTILITY INDUSTRY) WHEN SERVING PERSONS LOCATED
13 OUTSIDE OF THEIR SERVICE TERRITORIES. NOTWITHSTANDING THE
14 PROVISIONS OF SUBSECTION (A) REQUIRING AN ELECTRIC COOPERATIVE
15 CORPORATION WHEN SERVING PERSONS OUTSIDE OF ITS TERRITORY TO
16 COMPLY WITH RELEVANT TERMS, CONDITIONS AND OBLIGATIONS OF
17 ELECTRIC GENERATION SUPPLIERS PURSUANT TO 52 PA. CODE CH. 56 AND
18 REGULATIONS PROMULGATED UNDER 66 PA.C.S. CH. 28, AN ELECTRIC
19 COOPERATIVE CORPORATION MAY PETITION THE COMMISSION TO GRANT
20 EXEMPTION FROM COMPLIANCE WITH ANY OR ALL SUCH RELEVANT TERMS,
21 CONDITIONS OR OBLIGATIONS OR OTHERWISE MAY PETITION THE
22 COMMISSION TO ESTABLISH AND GRANT STREAMLINED OR REDUCED TERMS,
23 CONDITIONS OR STANDARDS. THE COMMISSION SHALL APPROVE SUCH
24 EXEMPTION, STREAMLINING OR REDUCTION UPON REACHING A FINDING
25 THAT THE PROPOSAL IS IN THE PUBLIC INTEREST. EXEMPTIONS SHALL
26 NOT BE TRANSFERABLE TO ANY ENTITY WITHOUT PRIOR COMMISSION
27 APPROVAL. TO THE EXTENT THAT AN ELECTRIC COOPERATIVE
28 CORPORATION, ON ITS OWN OR IN PARTNERSHIP OR COMBINATION WITH
29 ANY OTHER ENTITY WHICH OPERATES ON A FOR-PROFIT BASIS, BY SALES
30 OUTSIDE OF ITS SERVICE TERRITORY, INCREASES ITS TOTAL NET

1 ELECTRIC LOAD BY MORE THAN 20% OF ITS TOTAL NET ELECTRIC LOAD AS
2 OF THE EFFECTIVE DATE OF THIS CHAPTER, THIS SUBSECTION SHALL NOT
3 APPLY. NOTHING IN THIS CHAPTER SHALL BE CONSTRUED AS ALLOWING
4 ANY ENTITY, EITHER THROUGH FORMATION OF A COOPERATIVE OR THROUGH
5 ANY OTHER METHOD DESCRIBED IN THIS CHAPTER, TO AVOID
6 RESPONSIBILITY FOR PAYING A COMPETITIVE TRANSITION CHARGE THAT
7 IT WOULD OTHERWISE BE REQUIRED TO PAY PURSUANT TO 66 PA.C.S. CH.
8 28.

9 (E) COMMISSION CERTIFICATION.--PRIOR TO AN ELECTRIC
10 COOPERATIVE CORPORATION HAVING THE RIGHT TO PROVIDE GENERATION
11 ELECTRIC SERVICE AT RETAIL TO A PERSON LOCATED OUTSIDE OF ITS
12 SERVICE TERRITORY AS DEFINED BY CHAPTER 73 SUBCH. C (RELATING TO
13 UNINCORPORATED AREA CERTIFIED TERRITORY) AND WITHIN THE
14 FRANCHISED TERRITORY OF AN ELECTRIC UTILITY SUBJECT TO 66
15 PA.C.S., IT MUST FIRST HAVE OBTAINED FROM THE COMMISSION A
16 CERTIFICATION OF ITS FINANCIAL RESPONSIBILITY AND TECHNICAL
17 CAPABILITY, INCLUDING THE ASSURANCE THAT ADEQUATE RESERVE
18 MARGINS OF ELECTRIC SUPPLY ARE MAINTAINED. AN APPLICATION FOR
19 CERTIFICATION BY AN ELECTRIC COOPERATIVE CORPORATION MUST BE
20 MADE TO THE COMMISSION IN WRITING, BE VERIFIED BY OATH OR
21 AFFIRMATION AND BE IN SUCH FORM AND CONTAIN SUCH INFORMATION AS
22 THE COMMISSION MAY REQUIRE. A CERTIFICATION SHALL BE ISSUED BY
23 THE COMMISSION TO ANY QUALIFIED APPLICANT IF IT IS FOUND THAT
24 THE APPLICANT IS FIT, WILLING AND ABLE TO PERFORM PROPERLY THE
25 SERVICE PROPOSED IN CONFORMITY WITH THE PROVISIONS OF THIS
26 CHAPTER. NO CERTIFICATION ISSUED UNDER THIS SUBSECTION MAY BE
27 TRANSFERRED WITHOUT PRIOR COMMISSION APPROVAL.

28 § 7407. TRANSITION SURCHARGE AND STRANDED COST RECOVERY.

29 (A) TRANSITION SURCHARGE.--A TRANSITION SURCHARGE IS THE
30 TOTAL STRANDED COSTS PAYABLE TO AN ELECTRIC COOPERATIVE

1 CORPORATION AS A CONDITION PRECEDENT TO A CONSUMER-MEMBER OF AN
2 ELECTRIC COOPERATIVE CORPORATION HAVING THE RIGHT TO RECEIVE
3 ELECTRIC GENERATION SERVICE FROM ANOTHER SOURCE.

4 (B) DETERMINATION OF STRANDED COSTS.--TOTAL STRANDED COSTS
5 SHALL BE REASONABLY DETERMINED BY AN ELECTRIC COOPERATIVE AND
6 MAY INCLUDE:

7 (1) THE PRO RATA SHARE IN ALL INVESTMENTS IN ELECTRIC
8 COOPERATIVE DISTRIBUTION, TRANSMISSION AND GENERATION PLANT
9 AND FACILITIES.

10 (2) THE PRO RATA SHARE OF FORESEEABLE DECOMMISSIONING
11 COSTS OF GENERATION FACILITIES.

12 (3) THE PRO RATA SHARE OF ALL EFFECTIVE ELECTRIC
13 COOPERATIVE CONTRACTUAL COMMITMENTS TO OTHERS, REGULATORY
14 ASSETS, DEFERRED DEBITS AND CREDITS, FIXED OPERATION AND
15 MAINTENANCE EXPENSES, EXPENDITURES MADE FOR THE BENEFIT OF
16 THE DEPARTING CUSTOMER AND ADMINISTRATIVE AND OTHER COSTS,
17 INCURRED OR TO BE INCURRED BY AN ELECTRIC COOPERATIVE AS A
18 RESULT OF A DECISION BY A CONSUMER-MEMBER TO TAKE ELECTRIC
19 GENERATION SERVICE FROM ANOTHER SOURCE.

20 (C) DETERMINATION OF PRO RATA SHARE.--THE PRO RATA SHARE OF
21 ELECTRIC COOPERATIVE STRANDED COSTS SHALL BE DETERMINED ON THE
22 BASIS OF HISTORICAL ENERGY AND CAPACITY USAGE BY THIS CONSUMER-
23 MEMBER, COMPARED TO HISTORICAL TOTAL ENERGY AND CAPACITY USAGE
24 OF SUCH ELECTRIC COOPERATIVE OR BY DIRECT ASSIGNMENT WHERE
25 APPLICABLE.

26 § 7408. OPTION TO ELECT COMMISSION REVIEW.

27 (A) GENERAL RULE.--THE TRANSITION SURCHARGE ASSESSED BY AN
28 ELECTRIC COOPERATIVE CORPORATION UNDER THIS CHAPTER GENERALLY
29 SHALL NOT BE SUBJECT TO THE JURISDICTION OR CONTROL OF THE
30 COMMISSION. AN ELECTRIC COOPERATIVE CORPORATION SHALL HAVE THE

1 OPTION OF SUBMITTING ITS PROPOSED TRANSITION SURCHARGE FOR
2 REVIEW BY THE COMMISSION IN THE MANNER SET FORTH IN SUBSECTION
3 (B).

4 (B) SUBMISSION TO COMMISSION.--EITHER BY AN AFFIRMATIVE VOTE
5 OF TWO-THIRDS OF ALL MEMBERS OF THE CORPORATION OR BY AN
6 AFFIRMATIVE VOTE OF TWO-THIRDS OF ALL DIRECTORS, AT A MEETING OF
7 THE MEMBERS OR DIRECTORS CALLED FOR THE PURPOSE, AN ELECTRIC
8 COOPERATIVE CORPORATION MAY ELECT THE OPTION OF SUBMITTING A
9 TRANSITION SURCHARGE WHICH HAS BEEN ADOPTED BY ITS BOARD OF
10 DIRECTORS TO THE COMMISSION FOR REVIEW AND APPROVAL. WITHIN 30
11 DAYS OF SUCH ACTION BY AN ELECTRIC COOPERATIVE CORPORATION, THE
12 SECRETARY OF THE CORPORATION SHALL CERTIFY SUCH AN ACTION BY THE
13 MEMBERS OR DIRECTORS, AS THE CASE MAY BE, AND SUBMIT THE
14 TRANSITION SURCHARGE TO THE SECRETARY OF THE COMMISSION
15 REQUESTING REVIEW AND APPROVAL.

16 (C) COMMISSION DETERMINATION.--THE COMMISSION, WITHIN 90
17 DAYS AFTER A SUBMISSION UNDER SUBSECTION (B,) SHALL MAKE A
18 DETERMINATION AS TO WHETHER THE TRANSITION SURCHARGE OF AN
19 ELECTRIC COOPERATIVE CORPORATION IS JUST AND REASONABLE AND
20 SHALL ISSUE AN ORDER REFLECTING ITS DETERMINATION. IF NO ORDER
21 IS ISSUED WITHIN 90 DAYS, THE TRANSITION SURCHARGE SHALL BE
22 DEEMED TO BE APPROVED AS BEING JUST AND REASONABLE; AND ALL
23 REVIEW PROCEEDINGS SHALL BE TERMINATED. IF NO ORDER IS ISSUED BY
24 THE COMMISSION WITHIN THE 90 DAYS, NO APPEAL MAY BE TAKEN
25 RELATIVE TO THE EFFECTIVENESS OF THE TRANSITION SURCHARGE; AND
26 IT SHALL HAVE FULL FORCE AND EFFECT.

27 (D) ALTERNATIVE.--AN ELECTRIC COOPERATIVE CORPORATION MAY
28 TAKE ACTION BY A MAJORITY VOTE OF ITS BOARD OF DIRECTORS TO
29 ALTER THE AMOUNT OF ITS TRANSITION SURCHARGE. IF THE TRANSITION
30 SURCHARGE HAS PREVIOUSLY BEEN SUBMITTED TO THE COMMISSION FOR

1 REVIEW AND APPROVAL UNDER SUBSECTION (B) AND THE CHANGE BY
2 THE BOARD OF DIRECTORS CAUSES A REDUCTION OF THE CURRENT
3 TRANSITION SURCHARGE OF GREATER THAN 10%, THAT ACTION BY THE
4 BOARD OF DIRECTORS SHALL HAVE THE EFFECT OF IMMEDIATELY
5 TERMINATING ANY PENDING APPROVAL PROCEEDING BY THE COMMISSION
6 AND ENDING ITS JURISDICTION AND CONTROL OVER THE SUBJECT
7 TRANSITION SURCHARGE.

8 § 7409. UNIVERSAL SERVICE AND ENERGY CONSERVATION.

9 (A) GENERAL RULE.--ELECTRIC COOPERATIVE CORPORATIONS SHALL
10 ENSURE THAT UNIVERSAL SERVICE AND ENERGY CONSERVATION POLICIES,
11 ACTIVITIES AND SERVICES THAT THEY PROVIDE AS OF THE EFFECTIVE
12 DATE OF THIS CHAPTER TO ASSIST CUSTOMERS WHO ARE LOW-INCOME TO
13 AFFORD ELECTRIC SERVICE, ARE APPROPRIATELY FUNDED AND AVAILABLE
14 WITHIN THEIR TERRITORIES. SUCH ACTIVITIES SHALL BE FUNDED BY
15 NONBYPASSABLE, COMPETITIVELY-NEUTRAL COST RECOVERY MECHANISMS
16 THAT FULLY RECOVER THE COSTS OF UNIVERSAL SERVICE AND ENERGY
17 CONSERVATION SERVICES.

18 (B) DEFINITION.--AS USED IN THIS SECTION, THE TERM
19 "UNIVERSAL SERVICE AND ENERGY CONSERVATION" SHALL MEAN POLICIES,
20 PROTECTIONS AND SERVICES THAT HELP LOW-INCOME CUSTOMERS TO
21 MAINTAIN ELECTRIC SERVICE, INCLUDING CUSTOMER ASSISTANCE
22 PROGRAMS AND POLICIES AND SERVICES THAT HELP LOW-INCOME
23 CUSTOMERS TO REDUCE OR MANAGE ENERGY CONSUMPTION IN A COST-
24 EFFECTIVE MANNER, SUCH AS THE LOW-INCOME USAGE REDUCTION
25 PROGRAMS AND CUSTOMER EDUCATION.

26 § 7410. SAVINGS PROVISION AND REPEALER.

27 (A) SAVINGS.--EXCEPT AS SET FORTH IN SUBSECTION (B), ALL
28 PROVISIONS OF CH. 73 (RELATING TO ELECTRIC COOPERATIVE
29 CORPORATION) ARE SAVED FROM REPEAL AND SHALL REMAIN IN FULL
30 FORCE AND EFFECT.

1 (B) REPEAL.

2 (1) THOSE PROVISIONS OF CHAPTER 73 SUBCH. C (RELATING TO
3 UNINCORPORATED AREA CERTIFIED TERRITORY) ARE REPEALED INsofar
4 AS THEY CONFLICT WITH THE RIGHT OF A DEPARTING MEMBER TO TAKE
5 GENERATION SERVICE FROM AN ALTERNATIVE GENERATION SUPPLIER.

6 (2) THOSE PROVISIONS OF CHAPTER 73 SUBCHS. A. (RELATING
7 TO PRELIMINARY PROVISIONS) AND B (RELATING TO POWERS, DUTIES
8 AND SAFEGUARDS) ARE REPEALED INsofar AS THEY CONFLICT WITH
9 THE RIGHT OF AN ELECTRIC COOPERATIVE CORPORATION TO PROVIDE
10 GENERATION SERVICE TO ANY PERSON AND AT ANY LOCATION WITHIN
11 THIS COMMONWEALTH.

12 SECTION 2. PARAGRAPH 2 OF THE DEFINITION OF "PUBLIC UTILITY"
13 IN SECTION 102 OF TITLE 66 OF THE PENNSYLVANIA CONSOLIDATED
14 STATUTES IS AMENDED BY ADDING SUBPARAGRAPHS TO READ:

15 § 102. DEFINITIONS.

16 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
17 PROVISIONS OF THIS PART WHICH ARE APPLICABLE TO SPECIFIC
18 PROVISIONS OF THIS PART, THE FOLLOWING WORDS AND PHRASES WHEN
19 USED IN THIS PART SHALL HAVE, UNLESS THE CONTEXT CLEARLY
20 INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:

21 * * *

22 "PUBLIC UTILITY."

23 * * *

24 (2) THE TERM [PUBLIC UTILITY] DOES NOT INCLUDE:

25 * * *

26 (V) ANY BUILDING OR FACILITY OWNER/OPERATORS WHO
27 HOLD OWNERSHIP OVER, AND MANAGE THE INTERNAL DISTRIBUTION
28 SYSTEM SERVING, SUCH BUILDING OR FACILITY AND WHO SUPPLY
29 ELECTRIC POWER AND OTHER RELATED ELECTRIC POWER SERVICES
30 TO OCCUPANTS OF THE BUILDING OR FACILITY.

1 (VI) ELECTRIC GENERATION SUPPLIER COMPANIES EXCEPT
2 FOR THE LIMITED PURPOSES AS DESCRIBED IN SECTIONS 2809
3 (RELATING TO REQUIREMENTS FOR ELECTRIC GENERATION
4 SUPPLIERS) AND 2810 (RELATING TO REVENUE NEUTRAL
5 RECONCILIATION).

6 * * *

7 SECTION 3. SECTION 2404(A) OF TITLE 66 IS REENACTED TO READ:

8 § 2404. Certificate and medallion required.

9 (a) Procedure.--A vehicle may not be operated as a taxicab
10 in cities of the first class unless a certificate of public
11 convenience is issued authorizing the operation of the taxicab
12 and a medallion is attached to the hood of the vehicle. Prior to
13 the issuance of a medallion, the certificate holder shall have
14 its vehicle inspected by the commission. The commission shall
15 require, by order or regulation, that each medallion holder
16 submit to a periodic vehicle inspection of its taxicab by
17 commission personnel to ensure that the vehicle meets the
18 requirements of this title and commission regulations.
19 Commission inspection requirements shall be in addition to the
20 vehicle requirements set forth in Title 75 (relating to
21 vehicles). Commission inspection and recording requirements
22 shall be established by regulations. No vehicle which is more
23 than ~~six~~ eight EIGHT years old shall continue in operation as <—
24 a taxicab. Notwithstanding the foregoing, the commission may
25 authorize the operation of antique vehicles in call or demand
26 service in such circumstances as the commission may deem
27 appropriate. Each medallion holder's tariff rates shall be
28 clearly and visibly displayed in each taxicab. A medallion shall
29 not be removed from a vehicle without prior notification to and
30 permission of the commission. A medallion authorizes operation

1 of a vehicle as a taxicab only for the fiscal year for which the
2 medallion is issued.

3 * * *

4 ~~Section 2. This act shall take effect in 60 days.~~ ←

5 SECTION 4. TITLE 66 IS AMENDED BY ADDING A CHAPTER TO READ: ←

6 CHAPTER 28

7 RESTRUCTURING OF ELECTRIC UTILITY INDUSTRY

8 SEC.

9 2801. SHORT TITLE OF CHAPTER.

10 2802. DECLARATION OF POLICY.

11 2803. DEFINITIONS.

12 2804. STANDARDS FOR RESTRUCTURING OF ELECTRIC INDUSTRY.

13 2805. REGIONALISM AND RECIPROCITY.

14 2806. IMPLEMENTATION PILOT PROGRAMS AND

15 PERFORMANCE-BASED RATES.

16 2807. DUTIES OF ELECTRIC DISTRIBUTION COMPANIES.

17 2808. COMPETITIVE TRANSITION CHARGE.

18 2809. REQUIREMENTS FOR ELECTRIC GENERATION SUPPLIERS.

19 2810. REVENUE NEUTRAL RECONCILIATION.

20 2811. MARKET POWER REMEDIATION.

21 2812. APPROVAL OF TRANSITION BONDS.

22 2813. SEVERABILITY.

23 § 2801. SHORT TITLE OF CHAPTER.

24 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE
25 ELECTRICITY GENERATION CUSTOMER CHOICE AND COMPETITION ACT.

26 § 2802. DECLARATION OF POLICY.

27 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

28 (1) OVER THE PAST 20 YEARS, THE FEDERAL GOVERNMENT AND
29 STATE GOVERNMENT HAVE INTRODUCED COMPETITION IN SEVERAL
30 INDUSTRIES THAT PREVIOUSLY HAD BEEN REGULATED AS NATURAL

1 MONOPOLIES.

2 (2) MANY STATE GOVERNMENTS ARE IMPLEMENTING OR STUDYING
3 POLICIES THAT WOULD CREATE A COMPETITIVE MARKET FOR THE
4 GENERATION OF ELECTRICITY.

5 (3) BECAUSE OF ADVANCES IN ELECTRIC GENERATION
6 TECHNOLOGY AND FEDERAL INITIATIVES TO ENCOURAGE GREATER
7 COMPETITION IN THE WHOLESALE ELECTRIC MARKET, IT IS NOW IN
8 THE PUBLIC INTEREST TO PERMIT RETAIL CUSTOMERS TO OBTAIN
9 DIRECT ACCESS TO A COMPETITIVE GENERATION MARKET AS LONG AS
10 SAFE AND AFFORDABLE TRANSMISSION AND DISTRIBUTION SERVICE IS
11 AVAILABLE AT LEVELS OF RELIABILITY THAT ARE CURRENTLY ENJOYED
12 BY THE CITIZENS AND BUSINESSES OF THIS COMMONWEALTH.

13 (4) RATES FOR ELECTRICITY IN THIS COMMONWEALTH ARE ON
14 AVERAGE HIGHER THAN THE NATIONAL AVERAGE, AND SIGNIFICANT
15 DIFFERENCES EXIST AMONG THE RATES OF PENNSYLVANIA ELECTRIC
16 UTILITIES.

17 (5) COMPETITIVE MARKET FORCES ARE MORE EFFECTIVE THAN
18 ECONOMIC REGULATION IN CONTROLLING THE COST OF GENERATING
19 ELECTRICITY.

20 (6) THE COST OF ELECTRICITY IS AN IMPORTANT FACTOR IN
21 DECISIONS MADE BY BUSINESSES CONCERNING LOCATING, EXPANDING
22 AND RETAINING FACILITIES IN THIS COMMONWEALTH.

23 (7) THIS COMMONWEALTH MUST BEGIN THE TRANSITION FROM
24 REGULATION TO GREATER COMPETITION IN THE ELECTRICITY
25 GENERATION MARKET TO BENEFIT ALL CLASSES OF CUSTOMERS AND TO
26 PROTECT THIS COMMONWEALTH'S ABILITY TO COMPETE IN THE
27 NATIONAL AND INTERNATIONAL MARKETPLACE FOR INDUSTRY AND JOBS.

28 (8) IN MOVING TOWARD GREATER COMPETITION IN THE
29 ELECTRICITY GENERATION MARKET, THE COMMONWEALTH MUST RESOLVE
30 CERTAIN TRANSITIONAL ISSUES IN A MANNER THAT IS FAIR TO

1 CUSTOMERS, ELECTRIC UTILITIES, INVESTORS, THE EMPLOYEES OF
2 ELECTRIC UTILITIES, LOCAL COMMUNITIES, NONUTILITY GENERATORS
3 OF ELECTRICITY AND OTHER AFFECTED PARTIES.

4 (9) ELECTRIC SERVICE IS ESSENTIAL TO THE HEALTH AND
5 WELL-BEING OF RESIDENTS, TO PUBLIC SAFETY AND TO ORDERLY
6 ECONOMIC DEVELOPMENT; AND ELECTRIC SERVICE SHOULD BE
7 AVAILABLE TO ALL CUSTOMERS ON REASONABLE TERMS AND
8 CONDITIONS.

9 (10) THE COMMONWEALTH MUST, AT A MINIMUM, CONTINUE THE
10 PROTECTIONS, POLICIES AND SERVICES THAT NOW ASSIST CUSTOMERS
11 WHO ARE LOW-INCOME TO AFFORD ELECTRIC SERVICE.

12 (11) IN ORDER TO ENSURE THE SAFETY AND RELIABILITY OF
13 THE ELECTRIC SYSTEM, ENSURE THE CONTINUED PROVISION OF HIGH-
14 QUALITY CUSTOMER SERVICE AND AVOID ECONOMIC DISLOCATION,
15 UTILITIES SHALL CONSIDER THE EXPERIENCE AND EXPERTISE OF
16 THEIR WORK FORCE IN MOVING TOWARDS COMPETITION.

17 (12) THE PURPOSE OF THIS CHAPTER IS TO MODIFY EXISTING
18 LEGISLATION AND REGULATIONS AND TO ESTABLISH STANDARDS AND
19 PROCEDURES IN ORDER TO CREATE DIRECT ACCESS BY RETAIL
20 CUSTOMERS TO THE COMPETITIVE MARKET FOR THE GENERATION OF
21 ELECTRICITY, WHILE MAINTAINING THE SAFETY AND RELIABILITY OF
22 THE ELECTRIC SYSTEM FOR ALL PARTIES. RELIABLE ELECTRIC
23 SERVICE IS OF THE UTMOST IMPORTANCE TO THE HEALTH, SAFETY AND
24 WELFARE OF THE CITIZENS OF THE COMMONWEALTH. ELECTRIC
25 INDUSTRY RESTRUCTURING SHOULD ENSURE THE RELIABILITY OF THE
26 INTERCONNECTED ELECTRIC SYSTEM BY MAINTAINING THE EFFICIENCY
27 OF THE TRANSMISSION AND DISTRIBUTION SYSTEM.

28 (13) UNDER CURRENT LAW AND REGULATION THERE EXISTS SOME
29 COMPETITION IN THE WHOLESALE MARKET FOR THE GENERATION OF
30 ELECTRICITY; BUT THE GENERATION, TRANSMISSION, DISTRIBUTION

1 AND RETAIL SALE OF ELECTRICITY IS PROVIDED GENERALLY BY
2 PUBLIC UTILITIES UNDER BUNDLED RATES REGULATED BY THE
3 COMMISSION. THE PROCEDURES ESTABLISHED UNDER THIS CHAPTER
4 PROVIDE FOR A FAIR AND ORDERLY TRANSITION FROM THE CURRENT
5 REGULATED STRUCTURE TO A STRUCTURE UNDER WHICH RETAIL
6 CUSTOMERS WILL HAVE DIRECT ACCESS TO A COMPETITIVE MARKET FOR
7 THE GENERATION AND SALE OR PURCHASE OF ELECTRICITY.

8 (14) THIS CHAPTER REQUIRES ELECTRIC UTILITIES TO
9 UNBUNDLE THEIR RATES AND SERVICES AND TO PROVIDE OPEN ACCESS
10 OVER THEIR TRANSMISSION AND DISTRIBUTION SYSTEMS TO ALLOW
11 COMPETITIVE SUPPLIERS TO GENERATE AND SELL ELECTRICITY
12 DIRECTLY TO CONSUMERS IN THIS COMMONWEALTH. THE GENERATION OF
13 ELECTRICITY WILL NO LONGER BE REGULATED AS A PUBLIC UTILITY
14 FUNCTION EXCEPT AS OTHERWISE PROVIDED FOR IN THIS CHAPTER.
15 ELECTRIC GENERATION SUPPLIERS WILL BE REQUIRED TO OBTAIN
16 LICENSES, DEMONSTRATE FINANCIAL RESPONSIBILITY AND COMPLY
17 WITH SUCH OTHER REQUIREMENTS CONCERNING SERVICE AS THE
18 COMMISSION DEEMS NECESSARY FOR THE PROTECTION OF THE PUBLIC.

19 (15) IN ESTABLISHING THE STANDARDS FOR THE TRANSITION TO
20 AND CREATION OF A COMPETITIVE ELECTRIC MARKET, HERETOFORE,
21 PUBLIC UTILITIES GENERALLY HAVE HAD AN OBLIGATION TO SERVE
22 CUSTOMERS WITHIN THEIR DEFINED SERVICE TERRITORIES;
23 CONSISTENT WITH THAT OBLIGATION, HAVE UNDERTAKEN LONG-TERM
24 INVESTMENTS IN GENERATION, TRANSMISSION AND DISTRIBUTION
25 FACILITIES IN ORDER TO MEET THE NEEDS OF THEIR CUSTOMERS; AND
26 HAVE ENTERED INTO LONG-TERM POWER SUPPLY AGREEMENTS AS
27 REQUIRED BY FEDERAL LAW. IN MANY INSTANCES, THESE INVESTMENTS
28 AND AGREEMENTS HAVE CREATED COSTS WHICH MAY NOT BE
29 RECOVERABLE IN A COMPETITIVE MARKET. THE COMMISSION IS
30 EMPOWERED UNDER THIS CHAPTER TO DETERMINE THE LEVEL OF

1 TRANSITION OF UNBUNDLED COSTS FOR EACH ELECTRIC UTILITY AND TO
2 PROVIDE A MECHANISM, THE COMPETITIVE TRANSITION CHARGE, FOR
3 RECOVERY OF AN APPROPRIATE AMOUNT OF SUCH COSTS IN ACCORDANCE
4 WITH THE STANDARDS ESTABLISHED IN THIS CHAPTER.

5 (16) IT IS IN THE PUBLIC INTEREST FOR THE TRANSMISSION
6 AND DISTRIBUTION OF ELECTRICITY TO CONTINUE TO BE REGULATED
7 AS A NATURAL MONOPOLY SUBJECT TO THE JURISDICTION AND ACTIVE
8 SUPERVISION OF THE COMMISSION. ELECTRIC DISTRIBUTION
9 COMPANIES SHOULD CONTINUE TO BE THE PROVIDER OF LAST RESORT
10 IN ORDER TO ENSURE THE AVAILABILITY OF UNIVERSAL ELECTRIC
11 SERVICE IN THIS COMMONWEALTH UNLESS ANOTHER PROVIDER OF LAST
12 RESORT IS APPROVED BY THE COMMISSION.

13 (17) THERE ARE CERTAIN PUBLIC PURPOSE COSTS, INCLUDING
14 PROGRAMS FOR LOW-INCOME ASSISTANCE, ENERGY CONSERVATION AND
15 OTHERS, WHICH HAVE BEEN IMPLEMENTED AND SUPPORTED BY PUBLIC
16 UTILITIES' BUNDLED RATES. THE PUBLIC PURPOSE IS TO BE
17 PROMOTED BY CONTINUING UNIVERSAL SERVICE AND ENERGY
18 CONSERVATION POLICIES, PROTECTIONS AND SERVICES; AND FULL
19 RECOVERY OF SUCH COSTS IS TO BE PERMITTED THROUGH A NON-
20 BYPASSABLE RATE MECHANISM.

21 (18) THERE ARE CERTAIN CHANGES TO A UTILITY, WHICH WILL
22 CREATE TRANSITION COSTS, TO ACCOMPLISH THE MOVE TO A
23 COMPETITIVE MARKET. THESE CHANGES MAY ENTAIL THE CLOSURE OF
24 FACILITIES OR REDUCTION IN EMPLOYEE LEVELS. IF SUCH ACTIONS
25 ARE TO BE UNDERTAKEN, THE UTILITY MUST FULLY INFORM THE
26 COMMISSION OF THE IMPACT OF SUCH DECISIONS ON LOCAL
27 COMMUNITIES AND ON SOCIAL SERVICES AND OF ANY TAX
28 IMPLICATIONS OF THE ACTIONS. THE UTILITY IS EXPECTED TO
29 DISCUSS THE TRANSITION TO COMPETITION WITH ITS EMPLOYEES OR
30 THEIR CERTIFIED REPRESENTATIVES AND MAY PROVIDE SEVERANCE,

1 RETRAINING, EARLY RETIREMENT AND OUTPLACEMENT SERVICES. SUCH
2 TRANSITION COSTS MAY BE RECOVERABLE UNDER THE COMPETITIVE
3 TRANSITION CHARGE IN SECTION 2808 (RELATING TO COMPETITIVE
4 TRANSITION CHARGE).

5 (19) ALL PARTICIPANTS IN THE RESTRUCTURED ELECTRIC
6 INDUSTRY ARE ENCOURAGED TO COORDINATE THEIR PLANS AND
7 TRANSACTIONS THROUGH AN INDEPENDENT SYSTEM OPERATOR OR ITS
8 FUNCTIONAL EQUIVALENT.

9 (20) SINCE CONTINUING AND ENSURING THE RELIABILITY OF
10 ELECTRIC SERVICE DEPENDS ON ADEQUATE GENERATION AND ON
11 CONSCIENTIOUS INSPECTION AND MAINTENANCE OF TRANSMISSION AND
12 DISTRIBUTION SYSTEMS, THE INDEPENDENT SYSTEM OPERATOR OR ITS
13 FUNCTIONAL EQUIVALENT SHOULD SET, AND THE COMMISSION SHALL
14 SET, THROUGH REGULATIONS, INSPECTION, MAINTENANCE, REPAIR AND
15 REPLACEMENT STANDARDS AND ENFORCE THOSE STANDARDS.

16 (21) UNDER FEDERAL AND STATE CLEAN AIR LAWS AND
17 REGULATIONS, ELECTRICITY GENERATORS LOCATED IN STATES TO THE
18 WEST AND SOUTH OF THIS COMMONWEALTH ARE NOT SUBJECT TO
19 REQUIREMENTS AS STRINGENT AS THOSE WHICH APPLY TO GENERATORS
20 AND OTHER "PERSONS" AS DEFINED IN SECTION 3 OF THE ACT OF
21 JANUARY 8, 1960 (1959 P.L.2119, NO.787), KNOWN AS THE AIR
22 POLLUTION CONTROL ACT, OPERATING IN THIS COMMONWEALTH AND
23 THAT DIFFERENT REGIONS WITHIN THIS COMMONWEALTH ARE SUBJECT
24 TO VARYING AIR EMISSION REQUIREMENTS. UNDER SOME SCENARIOS,
25 COMPETITION AMONG ELECTRICITY GENERATORS LOCATED IN DIFFERENT
26 STATES AND DIFFERENT REGIONS WITHIN THIS COMMONWEALTH COULD
27 MAKE IT MORE DIFFICULT FOR AREAS IN THIS COMMONWEALTH TO
28 DEMONSTRATE ATTAINMENT WITH FEDERAL AND STATE AIR QUALITY
29 STANDARDS. SINCE THIS RESULT MAY BE CAUSED BY THE DISPARATE
30 REQUIREMENTS IMPOSED BY FEDERAL AND STATE LAW ON GENERATORS

1 AND OTHER "PERSONS" AS DEFINED IN SECTION 3 OF THE AIR
2 POLLUTION CONTROL ACT IN THIS COMMONWEALTH AND GENERATORS
3 LOCATED IN OTHER STATES, THE GENERAL ASSEMBLY SUPPORTS
4 CHANGES TO FEDERAL CLEAN AIR LAWS AND REGULATIONS THAT WILL
5 PROTECT PENNSYLVANIA'S ENVIRONMENT AND ENSURE THAT
6 ELECTRICITY GENERATORS AND OTHER "PERSONS" AS DEFINED IN
7 SECTION 3 OF THE AIR POLLUTION CONTROL ACT LOCATED IN THIS
8 COMMONWEALTH ARE NOT PLACED AT AN UNDUE COMPETITIVE
9 DISADVANTAGE. THE COMMISSION WILL CONSULT WITH THE DEPARTMENT
10 OF ENVIRONMENTAL PROTECTION REGARDING THIS ISSUE DURING THE
11 TRANSITION TO RETAIL COMPETITION.

12 § 2803. DEFINITIONS.

13 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
14 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
15 CONTEXT CLEARLY INDICATES OTHERWISE:

16 "AGGREGATOR OR MARKET AGGREGATOR." AN ENTITY, LICENSED BY
17 THE COMMISSION, THAT PURCHASES ELECTRIC ENERGY AND TAKES TITLE
18 TO ELECTRIC ENERGY AS AN INTERMEDIARY FOR SALE TO RETAIL
19 CUSTOMERS.

20 "BROKER OR MARKETER." AN ENTITY, LICENSED BY THE COMMISSION,
21 THAT ACTS AS AN AGENT OR INTERMEDIARY IN THE SALE AND PURCHASE
22 OF ELECTRIC ENERGY BUT THAT DOES NOT TAKE TITLE TO ELECTRIC
23 ENERGY.

24 "COMPETITIVE TRANSITION CHARGE." A NONBYPASSABLE CHARGE
25 APPLIED TO THE BILL OF EVERY CUSTOMER ACCESSING THE TRANSMISSION
26 OR DISTRIBUTION NETWORK WHICH (CHARGE) IS DESIGNED TO RECOVER AN
27 ELECTRIC UTILITY'S TRANSITION OR STRANDED COSTS AS DETERMINED BY
28 THE COMMISSION UNDER SECTIONS 2804 (RELATING TO STANDARDS) AND
29 2808 (RELATING TO COMPETITIVE TRANSITION CHARGE).

30 "CONSUMER." A RETAIL ELECTRIC CUSTOMER.

1 "CUSTOMER." A RETAIL ELECTRIC CUSTOMER.
2 "DIRECT ACCESS." THE RIGHT OF ELECTRIC GENERATION SUPPLIERS
3 AND END-USE CUSTOMERS TO UTILIZE AND INTERCONNECT WITH THE
4 ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM ON A
5 NONDISCRIMINATORY BASIS AT RATES, TERMS AND CONDITIONS OF
6 SERVICE COMPARABLE TO THE TRANSMISSION AND DISTRIBUTION
7 COMPANIES' OWN USE OF THE SYSTEM TO TRANSPORT ELECTRICITY FROM
8 ANY GENERATOR OF ELECTRICITY TO ANY END-USE CUSTOMER.

9 "ELECTRIC DISTRIBUTION COMPANY." THE PUBLIC UTILITY
10 PROVIDING FACILITIES FOR THE JURISDICTIONAL TRANSMISSION AND
11 DISTRIBUTION OF ELECTRICITY TO RETAIL CUSTOMERS, EXCEPT BUILDING
12 OR FACILITY OWNERS/OPERATORS THAT MANAGE THE INTERNAL
13 DISTRIBUTION SYSTEM SERVING SUCH BUILDING OR FACILITY AND THAT
14 SUPPLY ELECTRIC POWER AND OTHER RELATED ELECTRIC POWER SERVICES
15 TO OCCUPANTS OF THE BUILDING OR FACILITY.

16 "ELECTRIC GENERATION SUPPLIER OR ELECTRICITY SUPPLIER." A
17 PERSON OR CORPORATION, INCLUDING MUNICIPAL CORPORATIONS WHICH
18 CHOOSE TO PROVIDE SERVICE OUTSIDE THEIR MUNICIPAL LIMITS EXCEPT
19 TO THE EXTENT PROVIDED PRIOR TO THE EFFECTIVE DATE OF THIS
20 CHAPTER, BROKERS AND MARKETERS, AGGREGATORS OR ANY OTHER
21 ENTITIES, THAT SELLS TO END-USE CUSTOMERS ELECTRICITY OR RELATED
22 SERVICES UTILIZING THE JURISDICTIONAL TRANSMISSION OR
23 DISTRIBUTION FACILITIES OF AN ELECTRIC DISTRIBUTION COMPANY OR
24 THAT PURCHASES, BROKERS, ARRANGES OR MARKETS ELECTRICITY OR
25 RELATED SERVICES FOR SALE TO END-USE CUSTOMERS UTILIZING THE
26 JURISDICTIONAL TRANSMISSION AND DISTRIBUTION FACILITIES OF AN
27 ELECTRIC DISTRIBUTION COMPANY. THE TERM EXCLUDES BUILDING OR
28 FACILITY OWNER/OPERATORS THAT MANAGE THE INTERNAL DISTRIBUTION
29 SYSTEM SERVING SUCH BUILDING OR FACILITY AND THAT SUPPLY
30 ELECTRIC POWER AND OTHER RELATED POWER SERVICES TO OCCUPANTS OF

1 THE BUILDING OR FACILITY. THE TERM EXCLUDES ELECTRIC COOPERATIVE
2 CORPORATIONS EXCEPT AS PROVIDED IN 15 PA.C.S. CH.74 (RELATING TO
3 GENERATION CHOICE FOR CUSTOMERS OF ELECTRIC COOPERATIVES).

4 "END-USE CUSTOMER." A RETAIL ELECTRIC CUSTOMER.

5 "RELIABILITY." INCLUDES ADEQUACY AND SECURITY. AS USED IN
6 THIS DEFINITION, "ADEQUACY" MEANS THE PROVISION OF SUFFICIENT
7 GENERATION, TRANSMISSION AND DISTRIBUTION CAPACITY SO AS TO
8 SUPPLY THE AGGREGATE ELECTRIC POWER AND ENERGY REQUIREMENTS OF
9 CONSUMERS, TAKING INTO ACCOUNT SCHEDULED AND UNSCHEDULED OUTAGES
10 OF SYSTEM FACILITIES; AND "SECURITY" MEANS DESIGNING,
11 MAINTAINING AND OPERATING A SYSTEM SO THAT IT CAN HANDLE
12 EMERGENCIES SAFELY WHILE CONTINUING TO OPERATE.

13 "RENEWABLE RESOURCE." INCLUDES TECHNOLOGIES SUCH AS SOLAR
14 PHOTOVOLTAIC ENERGY, SOLAR THERMAL ENERGY, WIND POWER, LOW HEAD
15 HYDRO POWER, GEOTHERMAL ENERGY, LANDFILL AND MINEBASED METHANE
16 GAS, ENERGY FROM WASTE AND SUSTAINABLE BIOMASS ENERGY.

17 "RETAIL CUSTOMER." A RETAIL ELECTRIC CUSTOMER.

18 "RETAIL ELECTRIC CUSTOMER." A DIRECT PURCHASER OF ELECTRIC
19 POWER. THE TERM EXCLUDES AN OCCUPANT OF A BUILDING OR FACILITY
20 WHERE THE OWNERS/OPERATORS MANAGE THE INTERNAL DISTRIBUTION
21 SYSTEM SERVING SUCH BUILDING OR FACILITY AND SUPPLY ELECTRIC
22 POWER AND OTHER RELATED POWER SERVICES TO OCCUPANTS OF THE
23 BUILDING OR FACILITY; WHERE SUCH OWNERS/OPERATORS ARE DIRECT
24 PURCHASERS OF ELECTRIC POWER; AND WHERE THE OCCUPANTS ARE NOT
25 DIRECT PURCHASERS.

26 "TRANSITION OR STRANDED COSTS." AN ELECTRIC UTILITY'S KNOWN
27 AND MEASURABLE NET ELECTRIC GENERATION-RELATED COSTS, DETERMINED
28 ON A NET PRESENT VALUE BASIS OVER THE LIFE OF THE ASSET OR
29 LIABILITY AS PART OF ITS RESTRUCTURING PLAN, WHICH TRADITIONALLY
30 WOULD BE RECOVERABLE UNDER A REGULATED ENVIRONMENT BUT WHICH MAY

1 NOT BE RECOVERABLE IN A COMPETITIVE ELECTRIC GENERATION MARKET
2 AND WHICH THE COMMISSION DETERMINES WILL REMAIN FOLLOWING
3 MITIGATION BY THE ELECTRIC UTILITY. THIS TERM INCLUDES:

4 (1) REGULATORY ASSETS AND OTHER DEFERRED CHARGES
5 TYPICALLY RECOVERABLE UNDER CURRENT REGULATORY PRACTICE, THE
6 UNFUNDED PORTION OF THE UTILITY'S PROJECTED NUCLEAR
7 GENERATING PLANT DECOMMISSIONING COSTS AND COST OBLIGATIONS
8 UNDER CONTRACTS WITH NONUTILITY GENERATING PROJECTS WHICH
9 HAVE RECEIVED A COMMISSION ORDER, THE RECOVERABILITY OF WHICH
10 SHALL BE DETERMINED UNDER SECTION 2808(C)(1) (RELATING TO
11 COMPETITIVE TRANSITION CHARGE).

12 (2) PRUDENTLY INCURRED COSTS RELATED TO CANCELLATION,
13 BUYOUT, BUYDOWN OR RENEGOTIATION OF NONUTILITY GENERATING
14 PROJECTS CONSISTENT WITH SECTION 527 (RELATING TO
15 COGENERATION RULES AND REGULATIONS), THE RECOVERABILITY OF
16 WHICH SHALL BE DETERMINED PURSUANT TO SECTION 2808(C)(2).

17 (3) THE FOLLOWING COSTS, THE RECOVERABILITY OF WHICH
18 SHALL BE DETERMINED PURSUANT TO SECTION 2808(C)(3):

19 (I) NET PLANT INVESTMENTS AND COSTS ATTRIBUTABLE TO
20 THE UTILITY'S EXISTING GENERATION PLANTS AND FACILITIES.

21 (II) THE UTILITY'S DISPOSAL OF SPENT NUCLEAR FUEL.

22 (III) THE UTILITY'S LONG TERM PURCHASE POWER
23 COMMITMENTS OTHER THAN THE COSTS DEFINED IN PARAGRAPHS
24 (1) AND (2).

25 (IV) RETIREMENT COSTS ATTRIBUTABLE TO THE UTILITY'S
26 EXISTING GENERATING PLANTS OTHER THAN THE COSTS DEFINED
27 IN PARAGRAPH (1).

28 (V) OTHER TRANSITION COSTS OF THE UTILITY, INCLUDING
29 COSTS OF EMPLOYEE SEVERANCE, RETRAINING, EARLY
30 RETIREMENT, OUTPLACEMENT AND RELATED EXPENSES, AT

1 REASONABLE LEVELS, FOR EMPLOYEES WHO ARE AFFECTED BY
2 CHANGES THAT OCCUR AS A RESULT OF THE RESTRUCTURING OF
3 THE ELECTRIC INDUSTRY OCCASIONED BY THIS CHAPTER.

4 THE TERM INCLUDES ANY COSTS ATTRIBUTABLE TO PHYSICAL PLANT NO
5 LONGER USED AND USEFUL BECAUSE OF THE TRANSITION TO RETAIL
6 COMPETITION. THE TERM EXCLUDES ANY AMOUNTS PREVIOUSLY DISALLOWED
7 BY THE COMMISSION AS IMPRUDENTLY INCURRED. TO THE EXTENT THAT
8 THE RECOVERABILITY OF AMOUNTS THAT ARE SOUGHT TO BE INCLUDED AS
9 TRANSITION OR STRANDED COSTS ARE SUBJECT TO APPELLATE REVIEW AS
10 OF THE TIME OF THE COMMISSION DETERMINATION, ANY DETERMINATION
11 TO INCLUDE SUCH COSTS SHALL BE REVERSED TO THE EXTENT REQUIRED
12 BY THE RESULTS OF THAT APPELLATE REVIEW.

13 "TRANSMISSION AND DISTRIBUTION COSTS." ALL COSTS DIRECTLY OR
14 INDIRECTLY INCURRED TO PROVIDE TRANSMISSION AND DISTRIBUTION
15 SERVICES TO RETAIL ELECTRIC CUSTOMERS. THIS INCLUDES THE RETURN
16 OF AND RETURN ON FACILITIES AND OTHER CAPITAL INVESTMENTS
17 NECESSARY TO PROVIDE TRANSMISSION AND DISTRIBUTION SERVICES AND
18 ASSOCIATED OPERATING EXPENSES, INCLUDING APPLICABLE TAXES.

19 "UNIVERSAL SERVICE AND ENERGY CONSERVATION." POLICIES,
20 PROTECTIONS AND SERVICES THAT HELP LOW-INCOME CUSTOMERS TO
21 MAINTAIN ELECTRIC SERVICE. THE TERM INCLUDES CUSTOMER ASSISTANCE
22 PROGRAMS; TERMINATION OF SERVICE PROTECTION AND POLICIES AND
23 SERVICES THAT HELP LOW-INCOME CUSTOMERS TO REDUCE OR MANAGE
24 ENERGY CONSUMPTION IN A COST-EFFECTIVE MANNER, SUCH AS THE LOW-
25 INCOME USAGE REDUCTION PROGRAMS, APPLICATION OF RENEWABLE
26 RESOURCES AND CONSUMER EDUCATION.

27 § 2804. STANDARDS FOR RESTRUCTURING OF ELECTRIC INDUSTRY.

28 THE FOLLOWING INTERDEPENDENT STANDARDS SHALL GOVERN THE
29 COMMISSION'S ASSESSMENT AND APPROVAL OF EACH PUBLIC UTILITY'S
30 RESTRUCTURING PLAN, OVERSIGHT OF THE TRANSITION PROCESS AND

1 REGULATION OF THE RESTRUCTURED ELECTRIC UTILITY INDUSTRY:

2 (1) THE COMMISSION SHALL ENSURE CONTINUATION OF SAFE AND
3 RELIABLE ELECTRIC SERVICE TO ALL CONSUMERS IN THE
4 COMMONWEALTH, INCLUDING:

5 (I) THE MAINTENANCE OF ADEQUATE RESERVE MARGINS BY
6 ELECTRIC SUPPLIERS IN CONFORMITY WITH THE STANDARDS
7 REQUIRED BY THE NORTH AMERICAN ELECTRIC RELIABILITY
8 COUNCIL (NERC) AND THE REGIONAL RELIABILITY COUNCIL
9 APPROPRIATE TO EACH SUPPLIER, OR ANY SUCCESSORS TO THOSE
10 RELIABILITY ENTITIES, AND IN CONFORMITY WITH ESTABLISHED
11 INDUSTRY STANDARDS AND PRACTICES.

12 (II) THE INSTALLATION AND MAINTENANCE OF
13 TRANSMISSION AND DISTRIBUTION FACILITIES IN CONFORMITY
14 WITH ESTABLISHED INDUSTRY STANDARDS AND PRACTICES,
15 INCLUDING THE STANDARDS SET FORTH IN THE NATIONAL
16 ELECTRIC SAFETY CODE.

17 (2) CONSISTENT WITH THE TIME LINE SET FORTH IN SECTION
18 2806 (RELATING TO IMPLEMENTATION, PILOT PROGRAMS AND
19 PERFORMANCE-BASED RATES), THE COMMISSION SHALL ALLOW
20 CUSTOMERS TO CHOOSE AMONG ELECTRIC GENERATION SUPPLIERS IN A
21 COMPETITIVE GENERATION MARKET THROUGH DIRECT ACCESS.
22 CUSTOMERS SHOULD BE ABLE TO CHOOSE AMONG ALTERNATIVES SUCH AS
23 FIRM AND INTERRUPTIBLE SERVICE, FLEXIBLE PRICING AND
24 ALTERNATE GENERATION SOURCES, INCLUDING REASONABLE AND FAIR
25 OPPORTUNITIES TO SELF-GENERATE AND INTERCONNECT. THESE
26 ALTERNATIVES MAY BE PROVIDED BY DIFFERENT ELECTRIC GENERATION
27 SUPPLIERS.

28 (3) THE COMMISSION SHALL REQUIRE THE UNBUNDLING OF
29 ELECTRIC UTILITY SERVICES, TARIFFS AND CUSTOMER BILLS TO
30 SEPARATE THE CHARGES FOR GENERATION, TRANSMISSION AND

1 DISTRIBUTION. THE COMMISSION MAY REQUIRE THE UNBUNDLING OF
2 OTHER SERVICES.

3 (4) THE FOLLOWING CAPS ON ELECTRIC UTILITY RATES SHALL
4 APPLY:

5 (I) FOR A PERIOD OF 54 MONTHS FROM THE EFFECTIVE
6 DATE OF THIS CHAPTER OR UNTIL AN ELECTRIC DISTRIBUTION
7 UTILITY IS NO LONGER RECOVERING ITS TRANSITION OR
8 STRANDED COSTS THROUGH A COMPETITIVE TRANSITION CHARGE OR
9 INTANGIBLE TRANSITION CHARGE AND ALL THE CUSTOMERS OF AN
10 ELECTRIC DISTRIBUTION UTILITY CAN CHOOSE AN ALTERNATIVE
11 PROVIDER OF ELECTRIC GENERATION, WHICHEVER IS SHORTER:

12 (A) THE TOTAL CHARGES OF AN ELECTRIC
13 DISTRIBUTION UTILITY FOR SERVICE TO ANY CUSTOMER WHO
14 PURCHASES GENERATION FROM THAT UTILITY SHALL NOT
15 EXCEED THE TOTAL CHARGES THAT HAVE BEEN APPROVED BY
16 THE COMMISSION FOR SUCH SERVICE AS OF THE EFFECTIVE
17 DATE OF THIS CHAPTER; AND

18 (B) FOR CUSTOMERS WHO PURCHASE GENERATION FROM A
19 SUPPLIER OTHER THAN THE ELECTRIC DISTRIBUTION
20 UTILITY, THE CHARGES OF THE UTILITY FOR NON-
21 GENERATION SERVICES THAT ARE REGULATED AS OF THE
22 EFFECTIVE DATE OF THIS CHAPTER, EXCLUSIVE OF THE
23 COMPETITIVE TRANSITION CHARGE AND INTANGIBLE
24 TRANSITION CHARGE, SHALL NOT EXCEED THE NON-
25 GENERATION CHARGES THAT HAVE BEEN APPROVED BY THE
26 COMMISSION FOR SUCH SERVICE AS OF THE EFFECTIVE DATE
27 OF THIS CHAPTER.

28 (II) IN ADDITION TO THE RATE CAP SET FORTH IN
29 SUBPARAGRAPH (I), FOR A PERIOD OF NINE YEARS FROM THE
30 EFFECTIVE DATE OF THIS CHAPTER, OR UNTIL AN ELECTRIC

1 DISTRIBUTION UTILITY IS NO LONGER RECOVERING ITS
2 TRANSITION OR STRANDED COSTS THROUGH A COMPETITIVE
3 TRANSITION CHARGE OR INTANGIBLE TRANSITION CHARGE AND ALL
4 CUSTOMERS OF AN ELECTRIC DISTRIBUTION UTILITY CAN CHOOSE
5 AN ALTERNATIVE PROVIDER OF ELECTRIC GENERATION, WHICHEVER
6 IS SHORTER, THE GENERATION COMPONENT OF A UTILITY'S
7 CHARGES TO CUSTOMERS WHO PURCHASE GENERATION FROM THE
8 UTILITY, INCLUDING THE COMPETITIVE TRANSITION CHARGE AND
9 INTANGIBLE TRANSITION CHARGE, SHALL NOT EXCEED THE
10 GENERATION COMPONENT CHARGED TO THE CUSTOMERS THAT HAS
11 BEEN APPROVED BY THE COMMISSION FOR SUCH SERVICE, AS OF
12 THE EFFECTIVE DATE OF THIS CHAPTER.

13 (III) AN ELECTRIC DISTRIBUTION UTILITY MAY SEEK, AND
14 THE COMMISSION MAY APPROVE, AN EXCEPTION TO THE
15 LIMITATIONS SET FORTH IN SUBPARAGRAPHS (I) AND (II) ONLY
16 IN ANY OF THE FOLLOWING CIRCUMSTANCES:

17 (A) THE ELECTRIC DISTRIBUTION UTILITY MEETS THE
18 REQUIREMENTS FOR EXTRAORDINARY RATE RELIEF UNDER
19 SECTION 1308(E) (RELATING TO VOLUNTARY CHANGES IN
20 RATES).

21 (B) EITHER THE ELECTRIC DISTRIBUTION UTILITY IS
22 REQUIRED TO BEGIN PAYMENT UNDER CONTRACTS WITH NON-
23 UTILITY GENERATION PROJECTS THAT HAVE RECEIVED
24 COMMISSION ORDERS, HAS BEEN UNABLE TO MITIGATE SUCH
25 COSTS, SUCH COSTS ARE NOT RECOVERABLE IN A
26 COMPETITIVE GENERATION MARKET, AND SUCH COSTS WERE
27 NOT PREVIOUSLY COVERED IN THE COMPETITIVE TRANSITION
28 CHARGE OR INTANGIBLE TRANSITION CHARGE; OR THE
29 UTILITY PRUDENTLY INCURS COSTS RELATED TO
30 CANCELLATION, BUYOUT, BUYDOWN OR RENEGOTIATION OF

1 NONUTILITY GENERATING PROJECT OBLIGATIONS OF THE
2 UTILITY CONSISTENT WITH SECTION 527 (RELATING TO
3 COGENERATION RULES AND REGULATIONS) AND SUCH COSTS
4 WERE NOT PREVIOUSLY COVERED IN THE COMPETITIVE
5 TRANSITION CHARGE OR INTANGIBLE TRANSITION CHARGE.
6 COSTS RELATED TO CANCELLATION, BUYOUT, BUYDOWN OR
7 RENEGOTIATION SHALL BE RECOVERED FROM RATEPAYERS OVER
8 A PERIOD NOT TO EXCEED THREE YEARS, UNLESS THE
9 COMMISSION DETERMINES WITHIN ITS DISCRETION TO
10 REQUIRE A LONGER RECOVERY PERIOD DUE TO THE MAGNITUDE
11 OF SUCH COSTS, BUT SHALL BE ACCOUNTED FOR BY THE
12 UTILITY ON A LEVELIZED BASIS OVER THE TOTAL PERIOD IN
13 WHICH THE GENERATION PORTION OF THE UTILITY'S RATES
14 ARE CAPPED.

15 (C) THE ELECTRIC DISTRIBUTION UTILITY IS SUBJECT
16 TO SIGNIFICANT INCREASES IN THE RATES OF FEDERAL OR
17 STATE TAXES OR OTHER SIGNIFICANT CHANGES IN LAW OR
18 REGULATIONS THAT WOULD NOT ALLOW THE UTILITY TO EARN
19 A FAIR RATE OF RETURN.

20 (D) THE ELECTRIC DISTRIBUTION UTILITY IS SUBJECT
21 TO SIGNIFICANT INCREASES IN THE UNIT RATE OF FUEL FOR
22 UTILITY GENERATION OR THE PRICE OF PURCHASED POWER
23 THAT ARE OUTSIDE OF THE CONTROL OF THE UTILITY AND
24 THAT WOULD NOT ALLOW THE UTILITY TO EARN A FAIR RATE
25 OF RETURN.

26 (E) THE ELECTRIC DISTRIBUTION UTILITY IS
27 DIRECTED BY THE COMMISSION OR AN INDEPENDENT SYSTEM
28 OPERATOR OR ITS FUNCTIONAL EQUIVALENT TO MAKE
29 EXPENDITURES TO REPAIR OR UPGRADE ITS TRANSMISSION OR
30 DISTRIBUTION SYSTEM.

1 (F) THE ELECTRIC DISTRIBUTION UTILITY SEEKS TO
2 INCREASE ITS ALLOWANCE FOR NUCLEAR DECOMMISSIONING
3 COSTS TO REFLECT NEW INFORMATION NOT AVAILABLE AT THE
4 TIME THE UTILITY'S EXISTING RATES WERE DETERMINED,
5 AND SUCH COSTS ARE NOT RECOVERABLE IN THE COMPETITIVE
6 GENERATION MARKET AND ARE NOT COVERED IN THE
7 COMPETITIVE TRANSITION CHARGE OR INTANGIBLE
8 TRANSITION CHARGE, AND SUCH COSTS WOULD NOT ALLOW THE
9 UTILITY TO EARN A FAIR RATE OF RETURN.

10 (G) AS PERMITTED BY PARAGRAPH (16).

11 (IV) CONSISTENT WITH THE REQUIREMENTS OF DUE
12 PROCESS, THE COMMISSION MAY EXPEDITE PROCEEDINGS THAT
13 INVOKE THE PROVISIONS OF SUBPARAGRAPH (III).

14 (V) IF AN ELECTRIC DISTRIBUTION UTILITY ROLLS ITS
15 ENERGY COST RATE INTO BASE RATES AT A COMBINED LEVEL THAT
16 DOES NOT EXCEED ITS COMBINED LEVEL OF SUCH RATES WHICH
17 HAVE BEEN APPROVED BY THE COMMISSION AS OF THE EFFECTIVE
18 DATE OF THIS CHAPTER, THE UTILITY SHALL NOT BE REQUIRED
19 TO REDUCE ITS CAPPED RATES BELOW THE CAPPED LEVEL UPON
20 THE COMPLAINT OF ANY PARTY IF THE COMMISSION DETERMINES
21 THAT ANY EXCESS EARNINGS ACHIEVED UNDER THE CAP ARE BEING
22 UTILIZED TO MITIGATE TRANSITION OR STRANDED COSTS FOR THE
23 BENEFIT OF RATEPAYERS OR TO OFFSET OTHER KNOWN AND
24 MEASURABLE COST INCREASES THAT WOULD BE RECOVERABLE UNDER
25 TRADITIONAL RATEMAKING BUT ARE NOT INCLUDED WITHIN THE
26 CAPPED RATES.

27 (VI) THIS PARAGRAPH SHALL NOT APPLY TO NEW SERVICES
28 OFFERED FOR THE FIRST TIME AFTER THE EFFECTIVE DATE OF
29 THIS CHAPTER.

30 (5) THE COMMISSION MAY PERMIT, BUT SHALL NOT REQUIRE, AN

1 ELECTRIC UTILITY TO DIVEST ITSELF OF FACILITIES OR TO
2 REORGANIZE ITS CORPORATE STRUCTURE.

3 (6) CONSISTENT WITH THE PROVISION OF SECTION 2806, THE
4 COMMISSION SHALL REQUIRE THAT A PUBLIC UTILITY THAT OWNS OR
5 OPERATES JURISDICTIONAL TRANSMISSION AND DISTRIBUTION
6 FACILITIES SHALL PROVIDE TRANSMISSION AND DISTRIBUTION
7 SERVICE TO ALL RETAIL ELECTRIC CUSTOMERS IN THEIR SERVICE
8 TERRITORY AND TO ELECTRIC COOPERATIVE CORPORATIONS AND
9 ELECTRIC GENERATION SUPPLIERS, AFFILIATED OR NONAFFILIATED,
10 ON RATES, TERMS OF ACCESS AND CONDITIONS THAT ARE COMPARABLE
11 TO THE UTILITY'S OWN USE OF ITS SYSTEM.

12 (7) THE COMMISSION SHALL REQUIRE THAT RESTRUCTURING OF
13 THE ELECTRIC UTILITY INDUSTRY BE IMPLEMENTED IN A MANNER THAT
14 DOES NOT UNREASONABLY DISCRIMINATE AGAINST ONE CUSTOMER CLASS
15 TO THE BENEFIT OF ANOTHER.

16 (8) THE COMMISSION SHALL ESTABLISH FOR EACH ELECTRIC
17 UTILITY AN APPROPRIATE COST RECOVERY MECHANISM WHICH IS
18 DESIGNED TO FULLY RECOVER THE ELECTRIC UTILITY'S UNIVERSAL
19 SERVICE AND ENERGY CONSERVATION COSTS OVER THE LIFE OF THESE
20 PROGRAMS.

21 (9) THE COMMISSION SHALL ENSURE THAT UNIVERSAL SERVICE
22 AND ENERGY CONSERVATION POLICIES, ACTIVITIES AND SERVICES ARE
23 APPROPRIATELY FUNDED AND AVAILABLE IN EACH ELECTRIC
24 DISTRIBUTION TERRITORY. POLICIES, ACTIVITIES AND SERVICES
25 UNDER THIS PARAGRAPH SHALL BE FUNDED IN EACH ELECTRIC
26 DISTRIBUTION TERRITORY BY NONBYPASSABLE, COMPETITIVELY-
27 NEUTRAL COST RECOVERY MECHANISMS THAT FULLY RECOVER THE COSTS
28 OF UNIVERSAL SERVICE AND ENERGY CONSERVATION SERVICES. THE
29 COMMISSION SHALL ENCOURAGE THE USE OF COMMUNITY-BASED
30 ORGANIZATIONS THAT HAVE THE NECESSARY TECHNICAL AND

1 ADMINISTRATIVE EXPERIENCE TO BE THE DIRECT PROVIDERS OF
2 SERVICES OR PROGRAMS WHICH REDUCE ENERGY CONSUMPTION OR
3 OTHERWISE ASSIST LOW-INCOME CUSTOMERS TO AFFORD ELECTRIC
4 SERVICE. PROGRAMS UNDER THIS PARAGRAPH SHALL BE SUBJECT TO
5 THE ADMINISTRATIVE OVERSIGHT OF THE COMMISSION WHICH WILL
6 ENSURE THAT THE PROGRAMS ARE OPERATED IN A COST-EFFECTIVE
7 MANNER.

8 (10) THE COMMISSION SHALL ESTABLISH RATES FOR
9 JURISDICTIONAL TRANSMISSION AND DISTRIBUTION SERVICES AND
10 SHALL CONTINUE TO REGULATE DISTRIBUTION SERVICES FOR NEW AND
11 EXISTING CUSTOMERS IN ACCORDANCE WITH THIS CHAPTER AND
12 CHAPTER 13 (RELATING TO RATES AND RATEMAKING).

13 (11) THE TIME LINE FOR THE TRANSITION TO AND PHASE IN OF
14 DIRECT ACCESS TO COMPETITIVE ELECTRIC GENERATION SHALL BE IN
15 ACCORDANCE WITH SECTION 2806.

16 (12) THE COMMISSION HAS THE AUTHORITY TO ORDER UTILITY
17 PARTICIPATION IN RETAIL ACCESS PILOT PROGRAMS, AS SET FORTH
18 IN SECTION 2806 AND AS FURTHER IMPLEMENTED OR MODIFIED BY THE
19 COMMISSION, WITH DIRECT ACCESS TO BEGIN ON APRIL 1, 1997. THE
20 COMMISSION SHALL CONDUCT MILESTONE REVIEWS OF THE TRANSITION
21 TO RETAIL ELECTRIC GENERATION COMPETITION TO ASSURE A
22 TECHNICALLY WORKABLE AND EQUITABLE TRANSITION PERIOD.

23 (13) CONSISTENT WITH SECTION 2808 (RELATING TO
24 COMPETITIVE TRANSITION CHARGE), THE COMMISSION HAS THE POWER
25 AND DUTY TO APPROVE A COMPETITIVE TRANSITION CHARGE FOR THE
26 RECOVERY OF TRANSITION OR STRANDED COSTS IT DETERMINES TO BE
27 JUST AND REASONABLE TO RECOVER FROM RATEPAYERS.

28 (14) THE TRANSITION TO A COMPETITIVE GENERATION MARKET
29 SHALL BE ORDERLY, PROTECT ELECTRIC SYSTEM RELIABILITY, BE
30 FAIR TO RATEPAYERS AND PROVIDE THE INVESTORS IN PENNSYLVANIA

1 ELECTRIC UTILITIES WITH A FAIR OPPORTUNITY TO FULLY RECOVER
2 THE AMOUNT OF TRANSITION OR STRANDED COSTS THAT THE
3 COMMISSION DETERMINES TO BE JUST AND REASONABLE.

4 (15) AT THE TIME EACH UTILITY FILES ITS RESTRUCTURING
5 PLAN WITH THE COMMISSION, THE UTILITY SHALL SUBMIT AN INITIAL
6 PLAN THAT SETS FORTH HOW IT SHALL MEET ITS UNIVERSAL SERVICE
7 AND ENERGY CONSERVATION OBLIGATIONS.

8 (16) THE FOLLOWING SHALL APPLY:

9 (I) THE COMMISSION SHALL ISSUE REGULATIONS THAT
10 PERMIT THE ELECTRIC DISTRIBUTION COMPANY TO RECOVER ANY
11 CHANGE IN ITS STATE TAX LIABILITY UNDER SECTIONS 2806(H),
12 2809(C) (RELATING TO REQUIREMENTS FOR ELECTRIC GENERATION
13 SUPPLIERS) AND 2810 (RELATING TO REVENUE NEUTRAL
14 RECONCILIATION) OR IN ITS LIABILITY UNDER 52 PA. CODE §§
15 69.51 THROUGH 69.56 (RELATING TO INCLUSION OF STATE TAXES
16 AND GROSS RECEIPTS TAXES IN BASE RATES) TO THE EXTENT
17 THAT THE RESULTING RATE DOES NOT EXCEED THE RATE CAP
18 ESTABLISHED IN THIS SECTION EXCEPT AS PROVIDED IN THIS
19 CHAPTER.

20 (II) WITH REGARD TO ANY PORTION OF THE CHANGE IN AN
21 ELECTRIC DISTRIBUTION COMPANY'S TAX LIABILITY UNDER
22 SECTION 2810 WHICH WOULD CAUSE IT TO EXCEED THE RATE CAP,
23 THE ELECTRIC DISTRIBUTION COMPANY MAY FILE A SINGLE ISSUE
24 RATE PROCEEDING UNDER SECTION 1308(A) TO RECOVER THAT
25 AMOUNT. THE COMMISSION SHALL ADJUDICATE, WITHIN 60 DAYS,
26 WHETHER THE RESULTING RATES ARE JUST AND REASONABLE.

27 (III) WITH REGARD TO ANY PORTION OF THE CHANGE IN AN
28 ELECTRIC DISTRIBUTION COMPANY'S TAX LIABILITY UNDER
29 SECTIONS 2806(H) AND 2809(C) WHICH WOULD CAUSE IT TO
30 EXCEED THE PRICE CAP, UPON CERTIFICATION TO THE

1 COMMISSION, BY AFFIDAVIT, THAT THE ELECTRIC DISTRIBUTION
2 COMPANY HAS NOT COLLECTED THE TAXES DUE PURSUANT TO THE
3 TARIFF INDEMNIFICATION PROVISIONS REQUIRED BY SECTION
4 2810(M) AND THAT THE ELECTRIC DISTRIBUTION COMPANY AND
5 THE DEPARTMENT OF REVENUE HAVE NOT COLLECTED THE TAXES
6 DUE PURSUANT TO THE OTHER MEANS SET FORTH IN SECTIONS
7 2806(G)(3)(I) AND (II) AND 2809(C) TO RECOVER THE TAXES
8 DUE AND ANY INTEREST THEREON, THE ELECTRIC DISTRIBUTION
9 UTILITY SHALL BE PERMITTED TO RECOVER THAT AMOUNT IN THE
10 STATE TAX ADJUSTMENT SURCHARGE.

11 § 2805. REGIONALISM AND RECIPROCITY.

12 (A) OTHER STATES.--THE COMMISSION SHALL TAKE ALL NECESSARY
13 AND APPROPRIATE STEPS TO ENCOURAGE INTERSTATE POWER POOLS TO
14 ENHANCE COMPETITION AND TO COMPLEMENT INDUSTRY RESTRUCTURING ON
15 A REGIONAL BASIS. THE COMMONWEALTH, THE COMMISSION AND
16 PENNSYLVANIA ELECTRIC UTILITIES SHALL WORK WITH THE FEDERAL
17 GOVERNMENT, OTHER STATES IN THE REGION AND INTERSTATE POWER
18 POOLS TO ACCOMPLISH THE GOALS OF RESTRUCTURING AND TO ESTABLISH
19 INDEPENDENT SYSTEM OPERATORS OR THEIR FUNCTIONAL EQUIVALENTS TO
20 OPERATE THE TRANSMISSION SYSTEM AND INTERSTATE POWER POOLS. THE
21 COMMISSION, PENNSYLVANIA ELECTRIC UTILITIES AND ALL ELECTRICITY
22 SUPPLIERS SHALL WORK WITH THE FEDERAL GOVERNMENT, OTHER STATES
23 IN THE REGION, THE NORTH AMERICAN ELECTRIC RELIABILITY COUNCIL
24 AND ITS REGIONAL COORDINATING COUNCILS OR THEIR SUCCESSORS,
25 INTERSTATE POWER POOLS, AND WITH THE INDEPENDENT SYSTEM OPERATOR
26 OR ITS FUNCTIONAL EQUIVALENT TO ENSURE THE CONTINUED PROVISION
27 OF ADEQUATE, SAFE AND RELIABLE ELECTRIC SERVICE TO THE CITIZENS
28 AND BUSINESSES OF THIS COMMONWEALTH.

29 (B) ELECTRIC COOPERATIVES, MUNICIPALITIES AND OTHER ELECTRIC
30 GENERATION SUPPLIERS.--

1 (1) IN ORDER TO MAKE THE BENEFITS OF COMPETITION IN THE
2 GENERATION AND SALE OF ELECTRICITY AS WIDELY AVAILABLE AS
3 POSSIBLE TO RETAIL CUSTOMERS AND TO PROVIDE OPEN, FAIR AND
4 NONDISCRIMINATORY ACCESS TO ALL ELECTRIC GENERATION
5 SUPPLIERS:

6 (I) CONSISTENT WITH 15 PA.C.S. CH. 74 (RELATING TO
7 GENERATION CHOICE FOR CUSTOMERS OF ELECTRIC
8 COOPERATIVES), NO ELECTRIC COOPERATIVE OR MUNICIPALITY
9 WHICH DISTRIBUTES ELECTRICITY TO END-USE CUSTOMERS MAY
10 UTILIZE THE TRANSMISSION OR DISTRIBUTION SYSTEM OF AN
11 ELECTRIC UTILITY REGULATED BY THE COMMISSION FOR THE
12 PURPOSE OF SUPPLYING ELECTRICITY TO AN END-USE CUSTOMER
13 UNLESS THE ELECTRIC COOPERATIVE OR MUNICIPALITY PROVIDES
14 OPEN AND NONDISCRIMINATORY ACCESS AND ALLOWS OTHER
15 ELECTRIC GENERATION SUPPLIERS TO UTILIZE ITS FACILITIES,
16 INCLUDING ANY FACILITIES IT IS ENTITLED TO PROVIDE TO
17 THIRD PARTIES PURSUANT TO CONTRACT, TO MAKE SALES TO THE
18 END-USE CUSTOMERS IT SERVES. A BOROUGH MAY PROHIBIT
19 ELECTRIC GENERATION SUPPLIERS FROM SERVING END-USE
20 CUSTOMERS WITHIN ITS BOROUGH LIMITS; HOWEVER, SUCH A
21 BOROUGH SHALL BE PROHIBITED FROM PROVIDING GENERATION
22 SERVICE TO END-USE CUSTOMERS OUTSIDE OF ITS BOROUGH
23 LIMITS WHICH IT DID NOT SERVE PRIOR TO THE EFFECTIVE DATE
24 OF THIS CHAPTER.

25 (II) THE COMMISSION SHALL REQUIRE ANY ELECTRIC
26 COOPERATIVE SEEKING A CERTIFICATE UNDER 15 PA.C.S. CH. 74
27 TO PROVIDE OPEN AND NONDISCRIMINATORY ACCESS TO ITS
28 TRANSMISSION AND DISTRIBUTION FACILITIES AS A CONDITION
29 TO THE GRANTING OF THE CERTIFICATE.

30 (III) THE RELIABILITY OF THE TRANSMISSION SERVICE

1 PROVIDED TO ELECTRIC COOPERATIVE CORPORATIONS MUST BE
2 COMPARABLE TO THE RELIABILITY WHICH THE TRANSMISSION
3 SUPPLIER PROVIDES AT THE WHOLESALE LEVEL.

4 (2) NO ELECTRIC UTILITY REGULATED BY THE COMMISSION AND
5 NO AFFILIATE OF SUCH ELECTRIC UTILITY MAY USE THE
6 DISTRIBUTION SYSTEM OF ANOTHER ELECTRIC UTILITY REGULATED BY
7 THE COMMISSION OR MAKE SALES TO END-USE CUSTOMERS IN ANOTHER
8 ELECTRIC UTILITY'S SERVICE TERRITORY UNLESS THE COMMISSION
9 HAS APPROVED A RESTRUCTURING PLAN FOR THE SUPPLYING ELECTRIC
10 UTILITY WHICH PROVIDES FOR DIRECT ACCESS COMPARABLE TO THE
11 DIRECT ACCESS PROVIDED UNDER THE APPROVED PLAN OF THE
12 ELECTRIC UTILITY OPERATING THE DISTRIBUTION SYSTEM IN THE
13 LOCATION WHERE THE SUPPLYING ELECTRIC UTILITY SEEKS TO SELL
14 ELECTRICITY TO AN END-USE CUSTOMER. NO ELECTRIC UTILITY
15 REGULATED BY THE COMMISSION AND NO AFFILIATE OF SUCH ELECTRIC
16 UTILITY MAY USE THE DISTRIBUTION SYSTEM OF AN ELECTRIC
17 COOPERATIVE CORPORATION OR MAKE SALES TO END-USE CUSTOMERS IN
18 THE TERRITORY OF AN ELECTRIC COOPERATIVE CORPORATION UNLESS
19 THE COMMISSION HAS APPROVED A RESTRUCTURING PLAN FOR THE
20 SUPPLYING ELECTRIC UTILITY.

21 § 2806. IMPLEMENTATION, PILOT PROGRAMS AND PERFORMANCE-BASED
22 RATES.

23 (A) GENERAL RULE.--THE GENERATION OF ELECTRICITY SHALL NO
24 LONGER BE REGULATED AS A PUBLIC UTILITY SERVICE OR FUNCTION
25 EXCEPT AS OTHERWISE PROVIDED FOR IN THIS CHAPTER AT THE
26 CONCLUSION OF A TRANSITION AND PHASE-IN PERIOD BEGINNING ON THE
27 EFFECTIVE DATE OF THIS CHAPTER AND ENDING, CONSISTENT WITH THE
28 COMMISSION'S DISCRETION UNDER THIS SECTION, JANUARY 1, 2001. AS
29 OF JANUARY 1, 2001, CONSISTENT WITH THE COMMISSION'S DISCRETION
30 UNDER THIS SECTION, ALL CUSTOMERS OF ELECTRIC DISTRIBUTION

1 COMPANIES IN THE COMMONWEALTH SHALL HAVE THE OPPORTUNITY TO
2 PURCHASE ELECTRICITY FROM THEIR CHOICE OF ELECTRIC GENERATION
3 SUPPLIERS. THE ULTIMATE CHOICE OF THE ELECTRIC GENERATION
4 SUPPLIER IS TO REST WITH THE CONSUMER.

5 (B) SCHEDULE.--RECOGNIZING THAT APPROXIMATELY 5% OF THE PEAK
6 LOAD WILL HAVE RETAIL ACCESS THROUGH PILOT PROGRAMS, THE
7 FOLLOWING SCHEDULE FOR PHASED IMPLEMENTATION OF RETAIL ACCESS
8 SHALL BE ADHERED TO UNLESS A DETERMINATION IS MADE BY THE
9 COMMISSION UNDER SUBSECTION (C):

10 (1) AS OF JANUARY 1, 1999, A MAXIMUM OF 33% OF THE PEAK
11 LOAD OF EACH CUSTOMER CLASS SHALL HAVE THE OPPORTUNITY FOR
12 DIRECT ACCESS.

13 (2) AS OF JANUARY 1, 2000, A MAXIMUM OF 66% OF THE PEAK
14 LOAD OF EACH CUSTOMER CLASS SHALL HAVE THE OPPORTUNITY FOR
15 DIRECT ACCESS.

16 (3) AS OF JANUARY 1, 2001, ALL CUSTOMERS OF ELECTRIC
17 DISTRIBUTION COMPANIES IN THIS COMMONWEALTH SHALL HAVE THE
18 OPPORTUNITY FOR DIRECT ACCESS.

19 (4) THE COMMISSION SHALL ESTABLISH REGULATIONS
20 SPECIFYING THAT, WITHIN EACH CUSTOMER CLASS, THE CUSTOMERS
21 THAT ARE ELIGIBLE FOR DIRECT ACCESS PRIOR TO FULL DIRECT
22 ACCESS SHALL BE DETERMINED ON A FIRST-COME-FIRST-SERVED BASIS
23 UNLESS OTHERWISE DETERMINED BY THE COMMISSION THROUGH
24 REGULATION, IN THE CONTEXT OF RESTRUCTURING PLANS, OR IN
25 OTHER APPROPRIATE ADMINISTRATIVE PROCEEDINGS, TO PREVENT
26 COMPETITIVE DISADVANTAGES AMONG SIMILARLY SITUATED CUSTOMERS
27 WITHIN A CUSTOMER CLASS.

28 (C) ADDITIONAL TIME.--

29 (1) THE COMMISSION MAY DETERMINE THAT AN ADDITIONAL SIX-
30 MONTH TRANSITION PERIOD IS NECESSARY PRIOR TO THE JANUARY 1,

1 1999, IMPLEMENTATION DATE. A DETERMINATION UNDER THIS
2 SUBSECTION MUST BE MADE AT LEAST 45 DAYS IN ADVANCE OF THE
3 SCHEDULED DATE FOR IMPLEMENTATION AND MUST BE BASED ON ONE OR
4 MORE OF THE FOLLOWING CONSIDERATIONS:

5 (I) IMPLEMENTATION WOULD MATERIALLY AFFECT THE
6 RELIABILITY OF THE ELECTRIC SYSTEM.

7 (II) FEDERAL APPROVALS NECESSARY FOR THE
8 IMPLEMENTATION OF THE PROVISIONS OF THIS CHAPTER HAVE NOT
9 BEEN GRANTED.

10 (III) COMMUNICATIONS AND INFORMATION SYSTEMS
11 NECESSARY FOR THE IMPLEMENTATION OF RETAIL ACCESS HAVE
12 NOT BEEN INSTALLED FOR REASONS BEYOND THE UTILITY'S
13 CONTROL, AS MEASURED BY APPROPRIATE INDUSTRY STANDARDS.

14 (IV) PENNSYLVANIA GENERATORS WOULD BE DISADVANTAGED
15 DUE TO LACK OF REGIONAL RECIPROCITY WITH RESPECT TO
16 DIRECT ACCESS.

17 (V) THE INTERESTS OF PENNSYLVANIA CONSUMERS AND THE
18 COMPETITIVE POSITION OF PENNSYLVANIA BUSINESS AND
19 INDUSTRY WOULD BE MATERIALLY AFFECTED.

20 (VI) SUCH OTHER CONSIDERATION AS WOULD MATERIALLY
21 AFFECT THE ORDERLY IMPLEMENTATION OF THE LEGISLATIVE
22 PURPOSE OF THIS CHAPTER UNDER SECTION 2802(12) THROUGH
23 (21) (RELATING TO DECLARATION OF POLICY).

24 (2) CONSISTENT WITH THE CONSIDERATIONS LISTED IN
25 PARAGRAPH (1), THE COMMISSION MAY DETERMINE THAT AN
26 ADDITIONAL SIX-MONTH TRANSITION PERIOD IS NECESSARY. THIS
27 DETERMINATION MUST BE MADE BY THE COMMISSION BY MAY 15, 1999.

28 (D) FILING OF RESTRUCTURING PLANS.--ALL ELECTRIC UTILITIES
29 IN THIS COMMONWEALTH SHALL SUBMIT TO THE COMMISSION, PURSUANT TO
30 A SCHEDULE TO BE DETERMINED BY THE COMMISSION IN CONSULTATION

1 WITH THE ELECTRIC UTILITIES, BEGINNING ON APRIL 1, 1997, BUT IN
2 NO EVENT LATER THAN SEPTEMBER 30, 1997, A RESTRUCTURING PLAN TO
3 IMPLEMENT DIRECT ACCESS TO A COMPETITIVE MARKET FOR THE
4 GENERATION OF ELECTRICITY.

5 (E) CONTENTS OF RESTRUCTURING PLANS.--A RESTRUCTURING PLAN
6 UNDER SUBSECTION (D) MUST INCLUDE, CONSISTENT WITH THE
7 DETERMINATIONS OF THE COMMISSION, UNBUNDLED PRICES OR RATES FOR
8 GENERATION, JURISDICTIONAL TRANSMISSION, DISTRIBUTION AND OTHER
9 SERVICES; A PROPOSED COMPETITIVE TRANSITION CHARGE; A PROPOSED
10 UNIVERSAL SERVICE AND ENERGY CONSERVATION COST RECOVERY
11 MECHANISM; PROCEDURES FOR ENSURING DIRECT ACCESS TO ALL LICENSED
12 ELECTRIC GENERATION SUPPLIERS; A DISCUSSION OF THE IMPACTS OF
13 THE PROPOSED PLAN ON THE UTILITY'S EMPLOYEES; AND REVISED
14 TARIFFS AND RATE SCHEDULES IMPLEMENTING THE ABOVE.

15 (F) COMMISSION REVIEW.--THE COMMISSION SHALL REVIEW THE
16 RESTRUCTURING PLAN FILED BY EACH ELECTRIC UTILITY AND SHALL,
17 AFTER OPEN EVIDENTIARY HEARINGS WITH PROPER NOTICE AND
18 OPPORTUNITY FOR ALL PARTIES TO CROSS-EXAMINE WITNESSES, ISSUE AN
19 ORDER ACCEPTING, MODIFYING OR REJECTING SUCH PLAN AT THE
20 EARLIEST DATE POSSIBLE, BUT NO LATER THAN NINE MONTHS FROM THE
21 FILING OF SUCH RESTRUCTURING PLAN. IF THE COMMISSION REJECTS A
22 RESTRUCTURING PLAN, IT SHALL STATE THE SPECIFIC REASONS FOR
23 REJECTION AND DIRECT THE ELECTRIC UTILITY TO FILE AN ALTERNATIVE
24 PLAN ADDRESSING THESE OBJECTIONS WITHIN 30 DAYS OF THE ENTRY
25 DATE OF THE COMMISSION ORDER REJECTING THE PLAN. THE COMMISSION
26 SHALL REVIEW THE ALTERNATIVE PLAN, SOLICIT COMMENTS FROM
27 INTERESTED PARTIES AND ISSUE A FINAL ORDER WITHIN 45 DAYS OF THE
28 FILING OF THE REVISED PLAN.

29 (G) RETAIL ACCESS PILOT PROGRAMS.--AS OF THE EFFECTIVE DATE
30 OF THIS CHAPTER, THE COMMISSION HAS AUTHORITY TO ORDER ELECTRIC

1 UTILITIES TO SUBMIT PROPOSALS FOR RETAIL ACCESS PILOT PROGRAMS
2 TO BEGIN APRIL 1, 1997. THE COMMISSION SHALL PROVIDE GUIDELINES
3 FOR RETAIL ACCESS PILOT PROGRAMS BY ORDER.

4 (1) IN ORDER TO DETERMINE WHETHER ALL CUSTOMERS CLASSES
5 CAN BENEFIT FROM COMPETITIVE MARKETS, UTILITIES SHALL TAILOR
6 PROPOSED RETAIL ACCESS PILOT PROGRAMS TO ACCOMMODATE THE
7 SPECIFIC GEOGRAPHIC, DEMOGRAPHIC AND SOCIOECONOMIC
8 CHARACTERISTICS OF THEIR CUSTOMER BASE. RETAIL ACCESS PILOT
9 PROGRAMS MUST INCLUDE AN EQUAL OPPORTUNITY FOR THE BROADEST
10 PRACTICAL DIRECT ACCESS BY ALL CUSTOMER CLASSES TO ELECTRIC
11 GENERATION SUPPLIERS.

12 (2) THE MINIMUM PERIOD OF TIME FOR A RETAIL ACCESS PILOT
13 PROGRAM SHALL BE ONE YEAR AND SHALL INCLUDE AN EVALUATION
14 PROCESS AS DIRECTED BY THE COMMISSION.

15 (3) IN ORDER TO ENSURE THE SAFETY AND RELIABILITY OF THE
16 GENERATION OF ELECTRICITY IN THIS COMMONWEALTH, PARTICIPATION
17 IN THE RETAIL ACCESS PILOT PROGRAMS SHALL BE LIMITED TO
18 ELECTRICITY SUPPLIERS SUBJECT TO COMMISSION LICENSURE OR
19 CERTIFICATION.

20 (I) EACH PARTICIPATING ELECTRICITY SUPPLIER SHALL DO
21 ALL OF THE FOLLOWING:

22 (A) CERTIFY TO THE COMMISSION THAT IT WILL PAY
23 AND, IN SUBSEQUENT YEARS, HAS PAID, THE FULL AMOUNT
24 OF TAXES IMPOSED BY ARTICLES II AND XI OF THE ACT OF
25 MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM
26 CODE OF 1971 AND ANY TAX IMPOSED BY THIS CHAPTER.

27 (B) PROVIDE THE COMMISSION WITH THE ADDRESS OF
28 THE PARTICIPANT'S PRINCIPAL OFFICE IN THIS
29 COMMONWEALTH OR THE ADDRESS OF THE PARTICIPANT'S
30 REGISTERED AGENT IN THIS COMMONWEALTH, THE LATTER

1 BEING THE ADDRESS AT WHICH THE PARTICIPANT MAY BE
2 SERVED PROCESS.

3 (C) AGREE THAT IT SHALL BE SUBJECT TO ALL TAXES
4 IMPOSED BY THE TAX REFORM CODE OF 1971 AND ANY TAX
5 IMPOSED BY THIS CHAPTER.

6 (II) FAILURE OF AN ELECTRICITY SUPPLIER TO PAY A TAX
7 REFERRED TO IN SUBPARAGRAPH (I) OR TO OTHERWISE COMPLY
8 WITH THE PROVISIONS OF THIS PARAGRAPH SHALL BE CAUSE FOR
9 THE COMMISSION TO REVOKE THE LICENSE OF THE ELECTRICITY
10 SUPPLIER.

11 (III) IF AN ELECTRICITY SUPPLIER, OTHER THAN AN
12 ELECTRIC DISTRIBUTION COMPANY, DOES NOT PAY THE TAX
13 IMPOSED UPON GROSS RECEIPTS UNDER SECTION 1101 OF THE TAX
14 REFORM CODE OF 1971 OR THIS CHAPTER, THE ELECTRIC
15 DISTRIBUTION COMPANY TO WHOSE RETAIL CUSTOMER THE
16 ELECTRICITY SUPPLIER PROVIDED GENERATION SERVICE SHALL
17 REMIT THE UNPAID TAX, AS A TAX ON THE USE OF ELECTRICITY
18 IN THIS COMMONWEALTH, TO THE DEPARTMENT OF REVENUE AND
19 MAY COLLECT OR SEEK REIMBURSEMENT OF THE TAX SO PAID FROM
20 THE ELECTRICITY PROVIDER OR ANY OTHER APPROPRIATE PARTY
21 THAT USED THE ELECTRICITY IN THIS COMMONWEALTH. THE
22 DEPARTMENT SHALL COLLECT AND ENFORCE THE USE TAX HEREIN
23 PROVIDED UNDER SECTION 1102 OF THE TAX REFORM CODE OF
24 1971. FAILURE OF THE ELECTRIC DISTRIBUTION COMPANY TO PAY
25 THE AMOUNT WITHIN 30 DAYS AFTER NOTICE PROVIDED BY THE
26 DEPARTMENT SHALL CAUSE INTEREST TO BE IMPOSED ON THE
27 ELECTRIC DISTRIBUTION COMPANY IN ACCORDANCE WITH ARTICLE
28 XI OF THE TAX REFORM CODE OF 1971. INTEREST SHALL BE
29 CALCULATED FROM THE 31ST DAY AFTER THE DEPARTMENT GIVES
30 THE NOTICE REQUIRED IN THIS SUBPARAGRAPH. AN ELECTRIC

1 DISTRIBUTION COMPANY OR OTHER APPROPRIATE PERSON MAY
2 CHALLENGE THE IMPOSITION OF THE TAX AND INTEREST BY
3 FILING A PETITION WITH THE DEPARTMENT NOT LATER THAN 30
4 DAYS AFTER THE DATE ON WHICH THE TAX BECAME DUE.

5 (4) THE PERCENTAGE OF UTILITY LOAD COMMITTED TO A RETAIL
6 ACCESS PILOT PROGRAM MUST BE APPROXIMATELY 5% OF UTILITY'S
7 PEAK LOAD FOR EACH CUSTOMER CLASS. WAIVERS OF THIS CONDITION
8 MAY BE CONSIDERED BY THE COMMISSION FOR ECONOMIC DEVELOPMENT
9 PURPOSES OR SPECIAL CIRCUMSTANCES.

10 (H) FLEXIBLE PRICING.--IN ADDITION TO THE IMPLICIT AUTHORITY
11 OF THE COMMISSION UNDER SECTION 501 (RELATING TO GENERAL
12 POWERS), THE COMMISSION HAS THE AUTHORITY TO APPROVE FLEXIBLE
13 PRICING AND FLEXIBLE RATES, INCLUDING NEGOTIATED, CONTRACT-BASED
14 TARIFFS DESIGNED TO MEET THE SPECIFIC NEEDS OF A UTILITY
15 CUSTOMER AND TO ADDRESS COMPETITIVE ALTERNATIVES.

16 (I) PERFORMANCE BASED RATES AND ALTERNATIVE REGULATION.--THE
17 COMMISSION HAS AUTHORITY TO USE PERFORMANCE BASED RATES AS AN
18 ALTERNATIVE TO EXISTING RATE BASE/RATE OF RETURN RATEMAKING,
19 SUBJECT TO THE RESTRICTIONS PERTAINING TO RATE CAPS IN SECTION
20 2804(4) (RELATING TO STANDARDS FOR RESTRUCTURING FOR ELECTRIC
21 INDUSTRY).

22 § 2807. DUTIES OF ELECTRIC DISTRIBUTION COMPANIES.

23 (A) GENERAL RULE.--EACH ELECTRIC DISTRIBUTION COMPANY SHALL
24 MAINTAIN THE INTEGRITY OF THE DISTRIBUTION SYSTEM AT LEAST IN
25 CONFORMITY WITH THE NATIONAL ELECTRIC SAFETY CODE AND SUCH OTHER
26 STANDARDS PRACTICED BY THE INDUSTRY IN A MANNER SUFFICIENT TO
27 PROVIDE SAFE AND RELIABLE SERVICE TO ALL CUSTOMERS CONNECTED TO
28 THE SYSTEM CONSISTENT WITH THIS TITLE AND THE COMMISSION'S
29 REGULATIONS. IN PERFORMING SUCH DUTIES, THE ELECTRIC
30 DISTRIBUTION COMPANY SHALL IMPLEMENT PROCEDURES TO REQUIRE ALL

1 ELECTRIC GENERATION SUPPLIERS TO DELIVER ENERGY TO THE ELECTRIC
2 DISTRIBUTION COMPANY AT LOCATIONS AND IN AMOUNTS WHICH ARE
3 ADEQUATE TO MEET THE ENERGY SUPPLIER'S OBLIGATIONS TO ITS
4 CUSTOMERS. SUBJECT TO COMMISSION APPROVAL, THE ELECTRIC
5 DISTRIBUTION COMPANY MAY REQUIRE THAT THE CUSTOMER INSTALL, AT
6 THE CUSTOMER'S EXPENSE, ENHANCED METERING CAPABILITY SUFFICIENT
7 TO MATCH THE ENERGY DELIVERED BY THE ELECTRIC GENERATION
8 SUPPLIERS WITH CONSUMPTION BY THE CUSTOMER.

9 (B) PROCEDURES FOR REVIEW BY THE COMMISSION.--THERE SHALL BE
10 A REBUTTABLE PRESUMPTION THAT THE ELECTRIC DISTRIBUTION COMPANY
11 HAS THE ABILITY TO RECEIVE ENERGY AT ALL POINTS ON ITS SYSTEM
12 SUFFICIENT TO MEET THE NEEDS OF ALL ELECTRIC GENERATION
13 SUPPLIERS' CUSTOMERS ON ITS SYSTEM. THE ELECTRIC DISTRIBUTION
14 COMPANY SHALL NOT HAVE AN OBLIGATION TO INSTALL NONSTANDARD
15 FACILITIES, EITHER AS TO TYPE OR LOCATION, FOR THE PURPOSE OF
16 RECEIVING ENERGY FROM THE ENERGY SUPPLIER UNLESS THE ENERGY
17 SUPPLIER OR ITS CUSTOMER PAYS THE FULL COST OF THESE FACILITIES.
18 NOTHING IN THIS CHAPTER SHALL PREVENT THE ELECTRIC DISTRIBUTION
19 COMPANY FROM UPGRADING ITS SYSTEM TO MEET CHANGING CUSTOMER
20 REQUIREMENTS CONSISTENT WITH THE REQUIREMENTS OF SECTION 1501
21 (RELATING TO CHARACTER OF SERVICE AND FACILITIES), AND THE
22 COMMISSION MAY ESTABLISH INCENTIVE PROGRAMS TO ENCOURAGE SUCH
23 SYSTEM UPGRADES. DISPUTES CONCERNING FACILITIES SHALL BE SUBJECT
24 TO THE JURISDICTION OF THE COMMISSION AND MAY BE INITIATED BY
25 THE FILING OF A COMPLAINT UNDER SECTION 701 (RELATING TO
26 COMPLAINTS) BY THE ELECTRIC GENERATION SUPPLIER OR THE CUSTOMER.

27 (C) CUSTOMER BILLING.--SUBJECT TO THE RIGHT OF AN END-USE
28 CUSTOMER TO CHOOSE TO RECEIVE SEPARATE BILLS FROM ITS ELECTRIC
29 GENERATION SUPPLIER, THE ELECTRIC DISTRIBUTION COMPANY MAY BE
30 RESPONSIBLE FOR BILLING CUSTOMERS FOR ALL ELECTRIC SERVICES,

1 CONSISTENT WITH THE REGULATIONS OF THE COMMISSION, REGARDLESS OF
2 THE IDENTITY OF THE PROVIDER OF THOSE SERVICES.

3 (1) CUSTOMER BILLS SHALL CONTAIN UNBUNDLED CHARGES
4 SUFFICIENT TO ENABLE THE CUSTOMER TO DETERMINE THE BASIS FOR
5 THOSE CHARGES.

6 (2) IF SERVICES ARE PROVIDED BY AN ENTITY OTHER THAN THE
7 ELECTRIC DISTRIBUTION COMPANY, THE ENTITY THAT PROVIDES THOSE
8 SERVICES SHALL FURNISH TO THE ELECTRIC DISTRIBUTION COMPANY
9 BILLING DATA SUFFICIENT TO ENABLE THE ELECTRIC DISTRIBUTION
10 COMPANY TO BILL CUSTOMERS.

11 (3) THE ELECTRIC DISTRIBUTION COMPANY SHALL NOT BE
12 REQUIRED TO FORWARD PAYMENT TO ENTITIES PROVIDING SERVICES TO
13 CUSTOMERS, AND ON WHOSE BEHALF THE ELECTRIC DISTRIBUTION
14 COMPANY IS BILLING THOSE CUSTOMERS, BEFORE THE ELECTRIC
15 DISTRIBUTION COMPANY HAS RECEIVED PAYMENT FOR THOSE SERVICES
16 FROM CUSTOMERS.

17 (D) CONSUMER PROTECTIONS AND CUSTOMER SERVICE.--THE ELECTRIC
18 DISTRIBUTION COMPANY SHALL CONTINUE TO PROVIDE CUSTOMER SERVICE
19 FUNCTIONS CONSISTENT WITH THE REGULATIONS OF THE COMMISSION,
20 INCLUDING METER READING, COMPLAINT RESOLUTION AND COLLECTIONS.
21 CUSTOMER SERVICES SHALL, AT A MINIMUM, BE MAINTAINED AT THE SAME
22 LEVEL OF QUALITY UNDER RETAIL COMPETITION.

23 (1) THE COMMISSION SHALL ESTABLISH REGULATIONS TO ENSURE
24 THAT AN ELECTRIC DISTRIBUTION COMPANY DOES NOT CHANGE A
25 CUSTOMER'S ELECTRICITY SUPPLIER WITHOUT DIRECT ORAL
26 CONFIRMATION FROM THE CUSTOMER OF RECORD OR WRITTEN EVIDENCE
27 OF THE CUSTOMER'S CONSENT TO A CHANGE OF SUPPLIER.

28 (2) THE COMMISSION SHALL ESTABLISH REGULATIONS TO
29 REQUIRE EACH ELECTRIC DISTRIBUTION COMPANY, ELECTRICITY
30 SUPPLIER, MARKETER, AGGREGATOR AND BROKER TO PROVIDE ADEQUATE

1 AND ACCURATE CUSTOMER INFORMATION TO ENABLE CUSTOMERS TO MAKE
2 INFORMED CHOICES REGARDING THE PURCHASE OF ALL ELECTRICITY
3 SERVICES OFFERED BY THAT PROVIDER. INFORMATION SHALL BE
4 PROVIDED TO CONSUMERS IN AN UNDERSTANDABLE FORMAT THAT
5 ENABLES CONSUMERS TO COMPARE PRICES AND SERVICES ON A UNIFORM
6 BASIS.

7 (3) PRIOR TO THE IMPLEMENTATION OF ANY RESTRUCTURING
8 PLAN UNDER SECTION 2806 (RELATING TO IMPLEMENTATION, PILOT
9 PROGRAM AND PERFORMANCE-BASED RATES), EACH ELECTRIC
10 DISTRIBUTION COMPANY, IN CONJUNCTION WITH THE COMMISSION,
11 SHALL IMPLEMENT A CONSUMER EDUCATION PROGRAM INFORMING
12 CUSTOMERS OF THE CHANGES IN THE ELECTRIC UTILITY INDUSTRY.
13 THE PROGRAM SHALL PROVIDE CONSUMERS WITH INFORMATION
14 NECESSARY TO HELP THEM MAKE APPROPRIATE CHOICES AS TO THEIR
15 ELECTRIC SERVICE. THE EDUCATION PROGRAM SHALL BE SUBJECT TO
16 APPROVAL BY THE COMMISSION.

17 (E) OBLIGATION TO SERVE.--AN ELECTRIC DISTRIBUTION COMPANY'S
18 OBLIGATION TO PROVIDE ELECTRIC SERVICE FOLLOWING IMPLEMENTATION
19 OF RESTRUCTURING AND THE CHOICE OF ALTERNATIVE GENERATION BY A
20 CUSTOMER IS REVISED AS FOLLOWS:

21 (1) WHILE AN ELECTRIC DISTRIBUTION COMPANY COLLECTS
22 EITHER A COMPETITIVE TRANSITION CHARGE OR AN INTANGIBLE
23 TRANSITION CHARGE OR UNTIL 100% OF ITS CUSTOMERS HAVE CHOICE,
24 WHICHEVER IS LONGER, THE ELECTRIC DISTRIBUTION COMPANY SHALL
25 CONTINUE TO HAVE THE FULL OBLIGATION TO SERVE, INCLUDING THE
26 CONNECTION OF CUSTOMERS, THE DELIVERY OF ELECTRIC ENERGY AND
27 THE PRODUCTION OR ACQUISITION OF ELECTRIC ENERGY FOR
28 CUSTOMERS.

29 (2) AT THE END OF THE TRANSITION PERIOD, THE COMMISSION
30 SHALL PROMULGATE REGULATIONS TO DEFINE THE ELECTRIC

1 DISTRIBUTION COMPANY'S OBLIGATION TO CONNECT AND DELIVER AND
2 ACQUIRE ELECTRICITY UNDER PARAGRAPH (3) THAT WILL EXIST AT
3 THE END OF THE PHASE-IN PERIOD.

4 (3) IF A CUSTOMER CONTRACTS FOR ELECTRIC ENERGY AND IT
5 IS NOT DELIVERED OR IF A CUSTOMER DOES NOT CHOOSE AN
6 ALTERNATIVE ELECTRIC GENERATION SUPPLIER, THE ELECTRIC
7 DISTRIBUTION COMPANY OR COMMISSION-APPROVED ALTERNATIVE
8 SUPPLIER SHALL ACQUIRE ELECTRIC ENERGY AT PREVAILING MARKET
9 PRICES TO SERVE THAT CUSTOMER AND SHALL RECOVER FULLY ALL
10 REASONABLE COSTS.

11 (4) IF A CUSTOMER THAT CHOOSES AN ALTERNATIVE SUPPLIER
12 AND SUBSEQUENTLY DESIRES TO RETURN TO THE LOCAL DISTRIBUTION
13 COMPANY FOR GENERATION SERVICE, THE LOCAL DISTRIBUTION
14 COMPANY SHALL TREAT THAT CUSTOMER EXACTLY AS IT WOULD ANY NEW
15 APPLICANT FOR ENERGY SERVICE.

16 § 2808. COMPETITIVE TRANSITION CHARGE.

17 (A) GENERAL RULE.--TO PROVIDE EACH ELECTRIC UTILITY WITH AN
18 OPPORTUNITY TO RECOVER ITS TRANSITION OR STRANDED COSTS
19 FOLLOWING THE COMMISSION'S DETERMINATION UNDER SUBSECTION (C),
20 EVERY CUSTOMER ACCESSING THE TRANSMISSION OR DISTRIBUTION
21 NETWORK SHALL PAY A COMPETITIVE TRANSITION CHARGE TO THE
22 ELECTRIC DISTRIBUTION COMPANY IN WHOSE CERTIFICATED TERRITORY
23 THAT CUSTOMER IS LOCATED. THE COSTS TO BE RECOVERED SHALL BE
24 ALLOCATED TO CUSTOMER CLASSES IN A MANNER THAT DOES NOT SHIFT
25 INTER-CLASS OR INTRA-CLASS COSTS AND MAINTAINS CONSISTENCY WITH
26 THE ALLOCATION METHODOLOGY FOR UTILITY PRODUCTION PLANT ACCEPTED
27 BY THE COMMISSION IN THE ELECTRIC UTILITY'S MOST RECENT BASE
28 RATE PROCEEDING. IF A CUSTOMER INSTALLS ON-SITE GENERATION WHICH
29 OPERATES IN PARALLEL WITH OTHER GENERATION ON THE PUBLIC
30 UTILITY'S SYSTEM AND WHICH SIGNIFICANTLY REDUCES THE CUSTOMER'S

1 PURCHASES OF ELECTRICITY THROUGH THE TRANSMISSION AND
2 DISTRIBUTION NETWORK, THE CUSTOMER'S FULLY ALLOCATED SHARE OF
3 TRANSITION OR STRANDED COSTS SHALL BE RECOVERED FROM THE
4 CUSTOMER THROUGH A COMPETITIVE TRANSITION CHARGE. THE RECOVERY
5 OF TRANSITION OR STRANDED COSTS ASSOCIATED WITH EXISTING
6 GENERATING FACILITIES IS CONTINGENT ON CONTINUED OPERATION AT
7 REASONABLE AVAILABILITY LEVELS OF THE GENERATION FACILITIES FOR
8 WHICH RECOVERY HAS BEEN APPROVED, EXCEPT WHEN THE GENERATION
9 FACILITY IS UNECONOMIC ON A PRODUCTION COST BASIS BECAUSE OF THE
10 TRANSITION TO A COMPETITIVE MARKET.

11 (B) PERIOD FOR COLLECTING COMPETITIVE TRANSITION CHARGE.--
12 THE COMPETITIVE TRANSITION CHARGE SHALL BE INCLUDED ON BILLS TO
13 CUSTOMERS FOR A PERIOD NOT TO EXCEED NINE YEARS FROM THE
14 EFFECTIVE DATE OF THIS CHAPTER UNLESS AN ALTERNATIVE PAYMENT
15 METHODOLOGY IS MUTUALLY AGREED UPON BY THE CUSTOMER AND THE
16 UTILITY OR UNLESS THE COMMISSION, IN ITS DISCRETION AND FOR GOOD
17 CAUSE SHOWN, ORDERS AN ALTERNATIVE PAYMENT PERIOD. IN
18 ESTABLISHING THE LENGTH OF THE PERIOD FOR COLLECTION OF THE
19 COMPETITIVE TRANSITION CHARGE, THE COMMISSION SHALL CONSIDER THE
20 EFFECT ON THE ABILITY OF THE COMMONWEALTH TO COMPETE IN
21 ATTRACTING INDUSTRY AND JOBS, ON THE FINANCIAL HEALTH OF
22 ELECTRIC UTILITIES AND OTHER RELEVANT FACTORS.

23 (C) DETERMINATION OF COMPETITIVE TRANSITION CHARGE.--IN
24 DETERMINING THE LEVEL OF TRANSITION OR STRANDED COSTS THAT AN
25 ELECTRIC UTILITY MAY RECOVER THROUGH THE COMPETITIVE TRANSITION
26 CHARGE, THE COMMISSION SHALL APPLY THE FOLLOWING PRINCIPLES:

27 (1) THE COMMISSION SHALL ALLOW RECOVERY OF REGULATORY
28 ASSETS AND OTHER DEFERRED CHARGES TYPICALLY RECOVERABLE UNDER
29 CURRENT REGULATORY PRACTICE, THE UNFUNDED PORTION OF THE
30 UTILITY'S PROJECTED NUCLEAR GENERATING PLANT DECOMMISSIONING

1 COSTS AND COST OBLIGATIONS UNDER CONTRACTS WITH NONUTILITY
2 GENERATING PROJECTS THAT HAVE RECEIVED A COMMISSION ORDER.
3 NOTHING IN THIS CHAPTER SHALL BE CONSTRUED AS REQUIRING AN
4 ELECTRIC UTILITY OR A NONUTILITY GENERATING PROJECT TO ENTER
5 INTO AN ARRANGEMENT TO BUYDOWN, BUYOUT AND TERMINATE OR
6 OTHERWISE RESTRUCTURE A CONTRACT OR AS AUTHORIZING THE
7 COMMISSION TO REQUIRE A UTILITY TO PURSUE SUCH AN ARRANGEMENT
8 WITH A NONUTILITY GENERATING PROJECT.

9 (2) THE COMMISSION SHALL ALLOW RECOVERY OF AN ELECTRIC
10 UTILITY'S PRUDENTLY INCURRED COSTS RELATED TO CANCELLATION,
11 BUYOUT, BUYDOWN OR RENEGOTIATION OF NONUTILITY GENERATING
12 PROJECTS CONSISTENT WITH SECTION 527 (RELATING TO
13 COGENERATION RULES AND REGULATIONS).

14 (3) THE COMMISSION SHALL DETERMINE THE LEVEL OF OTHER
15 GENERATION-RELATED TRANSITION OR STRANDED COSTS THAT MAY BE
16 RECOVERED THROUGH THE COMPETITIVE TRANSITION CHARGE.

17 (4) THE COMMISSION SHALL CONSIDER THE EXTENT TO WHICH
18 THE ELECTRIC UTILITY HAS UNDERTAKEN EFFORTS TO MITIGATE
19 GENERATION-RELATED TRANSITION OR STRANDED COSTS BY
20 APPROPRIATE MEANS IN A MANNER THAT IS REASONABLE UNDER ALL OF
21 THE CIRCUMSTANCES, INCLUDING CONSIDERATION OF WHETHER
22 MITIGATION HAS BEEN COMMENSURATE WITH THE MAGNITUDE OF THE
23 ELECTRIC UTILITY'S GENERATION-RELATED TRANSITION OR STRANDED
24 COSTS. DURING THE TRANSITION PERIOD, ELECTRIC UTILITIES SHALL
25 HAVE THE DUTY TO MITIGATE GENERATION RELATED TRANSITION OR
26 STRANDED COSTS TO THE EXTENT PRACTICABLE. EFFORTS MAY INCLUDE
27 THE FOLLOWING:

28 (I) ACCELERATION OF DEPRECIATION AND AMORTIZATION OF
29 EXISTING RATE BASE GENERATION ASSETS.

30 (II) MINIMIZATION OF NEW CAPITAL SPENDING FOR

1 EXISTING RATE BASE GENERATION ASSETS.

2 (III) REALLOCATION OF DEPRECIATION RESERVES TO
3 EXISTING RATE BASE GENERATION ASSETS.

4 (IV) REDUCTION OF BOOK ASSETS BY APPLICATION OF NEW
5 PROCEEDS OF ANY SALE OF IDLE OR UNDER-UTILIZED EXISTING
6 RATE BASE GENERATION ASSETS.

7 (V) MAXIMIZATION OF MARKET REVENUES FROM EXISTING
8 RATE BASE GENERATION ASSETS.

9 (VI) ISSUANCE OF SECURITIZED DEBT PURSUANT TO THE
10 PROVISIONS OF SECTION 2812 (RELATING TO APPROVAL OF
11 TRANSITION BONDS).

12 (5) OF EQUAL IMPORTANCE TO THE MITIGATION EFFORTS UNDER
13 PARAGRAPH (4)(I) THROUGH (VI), THE COMMISSION SHALL CONSIDER
14 EFFORTS UNDERTAKEN OVER TIME, PRIOR TO THE ENACTMENT OF THIS
15 CHAPTER, TO REDUCE OR MODERATE CUSTOMER RATE LEVELS WHILE
16 MAINTAINING SAFE AND EFFICIENT OPERATIONS.

17 (D) COMMISSION REVIEW.--AS A COMPONENT OF ITS RESTRUCTURING
18 PLAN, EACH ELECTRIC UTILITY SHALL FILE WITH THE COMMISSION A
19 RECOVERY PLAN, INCLUDING A PROPOSED COMPETITIVE TRANSITION
20 CHARGE AND SUPPORTING DOCUMENTATION. IN EVALUATING A RECOVERY
21 PLAN AND ANY PROPOSED COMPETITIVE TRANSITION CHARGE, THE
22 COMMISSION SHALL SCHEDULE OPEN EVIDENTIARY HEARINGS WITH PROPER
23 NOTICE AND OPPORTUNITY FOR ALL PARTIES TO CROSS-EXAMINE
24 WITNESSES AS NECESSARY.

25 (E) USE OF TRANSITION BONDS.--AFTER THE EFFECTIVE DATE OF
26 THIS CHAPTER, A UTILITY MAY APPLY TO THE COMMISSION FOR A
27 QUALIFIED RATE ORDER, UNDER SECTION 2812, FOR SOME OR ALL OF ITS
28 TRANSITION OR STRANDED COSTS.

29 (1) IN EVALUATING A UTILITY APPLICATION UNDER THIS
30 SUBSECTION, THE COMMISSION SHALL SCHEDULE HEARINGS, AS

1 NECESSARY.

2 (2) IF THE COMMISSION ISSUES A QUALIFIED RATE ORDER
3 UNDER SECTION 2812 AND IF THE TRANSITION BONDS APPROVED BY
4 THAT ORDER ARE SUCCESSFULLY ISSUED, THEN:

5 (I) THE UTILITY SHALL IMPOSE AND COLLECT, THROUGH
6 ITS CUSTOMER BILLS, THE INTANGIBLE TRANSITION CHARGES
7 APPROVED BY THAT QUALIFIED RATE ORDER; AND

8 (II) SIMULTANEOUSLY, EITHER THE UTILITY'S RATES FOR
9 ELECTRIC SERVICE OR THE UTILITY'S COMPETITIVE TRANSITION
10 CHARGES SHALL BE REDUCED BY AN AMOUNT EQUAL TO THE
11 REVENUE REQUIREMENT OF THE TRANSITION OR STRANDED COSTS
12 FOR WHICH TRANSITION BONDS HAVE BEEN SUCCESSFULLY ISSUED.

13 (F) ANNUAL REVENUE.--CONSISTENT WITH SECTION 1307(E)
14 (RELATING TO SLIDING SCALE OF RATES; ADJUSTMENTS), THE
15 COMMISSION SHALL ESTABLISH PROCEDURES FOR THE ANNUAL REVIEW OF
16 THE COMPETITIVE TRANSITION CHARGE. THE REVIEW SHALL RECONCILE
17 THE ANNUAL REVENUES RECEIVED FROM THE CHARGE WITH THE ANNUAL
18 AMORTIZATION OF TRANSITION OR STRANDED COSTS APPROVED BY THE
19 COMMISSION UNDER THIS SECTION. THE COMMISSION SHALL ADJUST THE
20 COMPETITIVE TRANSITION CHARGE BASED UPON UNDERRECOVERY OR
21 OVERRECOVERY OF THE ANNUAL AMORTIZATION AMOUNT.

22 § 2809. REQUIREMENTS FOR ELECTRIC GENERATION SUPPLIERS.

23 (A) LICENSE REQUIREMENT.--NO PERSON OR CORPORATION,
24 INCLUDING MUNICIPAL CORPORATIONS WHICH CHOOSE TO PROVIDE SERVICE
25 OUTSIDE THEIR MUNICIPAL LIMITS EXCEPT TO THE EXTENT PROVIDED
26 PRIOR TO THE EFFECTIVE DATE OF THIS CHAPTER, BROKERS AND
27 MARKETERS, AGGREGATORS AND OTHER ENTITIES, SHALL ENGAGE IN THE
28 BUSINESS OF AN ELECTRIC GENERATION SUPPLIER IN THIS COMMONWEALTH
29 UNLESS THE PERSON OR CORPORATION HOLDS A LICENSE ISSUED BY THE
30 COMMISSION. CONSISTENT WITH 15 PA.C.S. CH. 74 (RELATING TO

1 GENERATION CHOICE FOR CUSTOMERS OF ELECTRIC COOPERATIVES),
2 ELECTRIC COOPERATIVE CORPORATIONS MUST POSSESS A CERTIFICATE FOR
3 SERVICE TO SUPPLY GENERATION SERVICES BEYOND THEIR TERRITORIAL
4 LIMITS.

5 (B) LICENSE APPLICATION AND ISSUANCE.--AN APPLICATION FOR AN
6 ELECTRIC GENERATION SUPPLIER LICENSE MUST BE MADE TO THE
7 COMMISSION IN WRITING, BE VERIFIED BY OATH OR AFFIRMATION AND BE
8 IN SUCH FORM AND CONTAIN SUCH INFORMATION AS THE COMMISSION MAY,
9 BY ITS REGULATIONS, REQUIRE. A LICENSE SHALL BE ISSUED TO ANY
10 QUALIFIED APPLICANT, AUTHORIZING THE WHOLE OR ANY PART OF THE
11 SERVICE COVERED BY THE APPLICATION, IF IT IS FOUND THAT THE
12 APPLICANT IS FIT, WILLING AND ABLE TO PERFORM PROPERLY THE
13 SERVICE PROPOSED AND TO CONFORM TO THE PROVISIONS OF THIS TITLE
14 AND THE LAWFUL ORDERS AND REGULATIONS OF THE COMMISSION UNDER
15 THIS TITLE, INCLUDING THE COMMISSION'S REGULATIONS REGARDING
16 STANDARDS AND BILLING PRACTICES, AND THAT THE PROPOSED SERVICE,
17 TO THE EXTENT AUTHORIZED BY THE LICENSE, WILL BE CONSISTENT WITH
18 THE PUBLIC INTEREST AND THE POLICY DECLARED IN THIS CHAPTER,
19 OTHERWISE, SUCH APPLICATION SHALL BE DENIED.

20 (C) FINANCIAL RESPONSIBILITY.--

21 (1) IN ORDER TO ENSURE THE SAFETY AND RELIABILITY OF THE
22 GENERATION OF ELECTRICITY IN THIS COMMONWEALTH, NO ENERGY
23 SUPPLIER LICENSE SHALL BE ISSUED OR REMAIN IN FORCE UNLESS
24 THE HOLDER COMPLIES WITH ALL OF THE FOLLOWING:

25 (I) FURNISHES A BOND OR OTHER SECURITY APPROVED BY
26 THE COMMISSION, IN FORM AND AMOUNT TO ENSURE THE
27 FINANCIAL RESPONSIBILITY OF THE ELECTRIC GENERATION
28 SUPPLIER AND THE SUPPLY OF ELECTRICITY AT RETAIL IN
29 ACCORDANCE WITH CONTRACTS, AGREEMENTS OR ARRANGEMENTS.

30 (II) CERTIFIES TO THE COMMISSION THAT IT WILL PAY

1 AND, IN SUBSEQUENT YEARS, HAS PAID, THE FULL AMOUNT OF
2 TAXES IMPOSED BY ARTICLES II AND XI OF THE ACT OF MARCH
3 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF
4 1971 AND ANY TAX IMPOSED BY THIS CHAPTER.

5 (III) PROVIDES THE COMMISSION WITH THE ADDRESS OF
6 THE PARTICIPANT'S PRINCIPAL OFFICE IN THIS COMMONWEALTH
7 OR THE ADDRESS OF THE PARTICIPANT'S REGISTERED AGENT IN
8 THIS COMMONWEALTH, THE LATTER BEING THE ADDRESS AT WHICH
9 THE PARTICIPANT MAY BE SERVED PROCESS.

10 (IV) AGREES THAT IT SHALL BE SUBJECT TO ALL TAXES
11 IMPOSED BY THE TAX REFORM CODE OF 1971 AND ANY TAX
12 IMPOSED BY THIS CHAPTER.

13 FAILURE OF AN ELECTRICITY SUPPLIER TO PAY A TAX REFERRED TO
14 IN THIS PARAGRAPH OR TO OTHERWISE COMPLY WITH THE PROVISIONS
15 OF THIS PARAGRAPH SHALL BE CAUSE FOR THE COMMISSION TO REVOKE
16 THE LICENSE OF THE ELECTRICITY SUPPLIER.

17 (2) IF AN ELECTRICITY SUPPLIER, OTHER THAN AN ELECTRIC
18 DISTRIBUTION COMPANY, DOES NOT PAY THE TAX IMPOSED UPON GROSS
19 RECEIPTS UNDER SECTION 1101 OF THE TAX REFORM CODE OF 1971 OR
20 THIS CHAPTER, THE ELECTRIC DISTRIBUTION COMPANY TO WHOSE
21 RETAIL CUSTOMER THE ELECTRICITY SUPPLIER PROVIDED GENERATION
22 SERVICE SHALL REMIT THE UNPAID TAX, AS A TAX ON THE USE OF
23 ELECTRICITY IN THIS COMMONWEALTH, TO THE DEPARTMENT OF
24 REVENUE AND MAY COLLECT OR SEEK REIMBURSEMENT OF THE TAX SO
25 PAID FROM THE ELECTRICITY PROVIDER OR ANY OTHER APPROPRIATE
26 PARTY THAT USED THE ELECTRICITY IN THIS COMMONWEALTH. THE
27 DEPARTMENT SHALL COLLECT AND ENFORCE THE USE TAX HEREIN
28 PROVIDED UNDER SECTION 1102 OF THE TAX REFORM CODE OF 1971.
29 FAILURE OF THE ELECTRIC DISTRIBUTION COMPANY TO PAY THE
30 AMOUNT WITHIN 30 DAYS AFTER NOTICE PROVIDED BY THE DEPARTMENT

1 SHALL CAUSE INTEREST TO BE IMPOSED ON THE ELECTRIC
2 DISTRIBUTION COMPANY IN ACCORDANCE WITH ARTICLE XI OF THE TAX
3 REFORM CODE OF 1971. INTEREST SHALL BE CALCULATED FROM THE
4 31ST DAY AFTER THE DEPARTMENT GIVES THE NOTICE REQUIRED IN
5 THIS PARAGRAPH. AN ELECTRIC DISTRIBUTION COMPANY OR OTHER
6 APPROPRIATE PERSON MAY CHALLENGE THE IMPOSITION OF THE TAX
7 AND INTEREST BY FILING A PETITION WITH THE DEPARTMENT NOT
8 LATER THAN 30 DAYS AFTER THE DATE ON WHICH THE TAX BECAME
9 DUE.

10 (D) TRANSFERABILITY OF LICENSES.--NO LICENSE ISSUED UNDER
11 THIS CHAPTER MAY BE TRANSFERRED WITHOUT PRIOR COMMISSION
12 APPROVAL.

13 (E) FORM OF REGULATION OF ELECTRIC GENERATION SUPPLIERS.--
14 THE COMMISSION MAY FORBEAR FROM APPLYING REQUIREMENTS OF THIS
15 PART WHICH IT DETERMINES ARE UNNECESSARY DUE TO COMPETITION
16 AMONG ELECTRIC GENERATION SUPPLIERS. IN REGULATING THE SERVICE
17 OF ELECTRIC GENERATION SUPPLIERS, THE COMMISSION SHALL IMPOSE
18 REQUIREMENTS NECESSARY TO ENSURE THAT THE PRESENT QUALITY OF
19 SERVICE PROVIDED BY ELECTRIC UTILITIES DOES NOT DETERIORATE,
20 INCLUDING ASSURING THAT ADEQUATE RESERVE MARGINS OF ELECTRIC
21 SUPPLY ARE MAINTAINED AND ASSURING THAT 56 PA. CODE CH. 56
22 (RELATING TO STANDARDS AND BILLING PRACTICES FOR RESIDENTIAL
23 SERVICE), ARE MAINTAINED.

24 (F) AVAILABILITY OF THE SERVICES OF BROKERS AND MARKETERS OR
25 AGGREGATORS.--PRIOR TO APPROVING THE LICENSURE OF ANY BROKER AND
26 MARKETER OR AGGREGATOR, THE COMMISSION SHALL SET FORTH STANDARDS
27 TO ENSURE THAT ALL RETAIL CUSTOMER CLASSES MAY CHOOSE TO
28 PURCHASE ELECTRICITY THROUGH A BROKER AND MARKETER OR
29 AGGREGATOR. THE COMMISSION SHALL ALSO ENSURE THAT BROKERS,
30 MARKETERS AND AGGREGATORS COMPLY WITH 52 PA. CODE CH. 56.

1 § 2810. REVENUE NEUTRAL RECONCILIATION.

2 (A) GENERAL INTENT OF REVENUE NEUTRAL RECONCILIATION.--IT IS
3 THE INTENTION OF THE GENERAL ASSEMBLY THAT THE RESTRUCTURING OF
4 THE ELECTRIC INDUSTRY BE ACCOMPLISHED IN A MANNER THAT ALLOWS
5 PENNSYLVANIA TO ENJOY THE BENEFITS OF COMPETITION, PROMOTES THE
6 COMPETITIVENESS OF PENNSYLVANIA'S ELECTRIC UTILITIES AND
7 MAINTAINS REVENUE NEUTRALITY TO THE COMMONWEALTH. THIS SECTION
8 IS NOT INTENDED TO CAUSE A SHIFT IN PROPORTIONAL TAX OBLIGATIONS
9 AMONG CUSTOMER CLASSES OR INDIVIDUAL ELECTRIC DISTRIBUTION
10 COMPANIES. IT IS THE INTENTION OF THE GENERAL ASSEMBLY TO
11 ESTABLISH THIS REVENUE REPLACEMENT AT A LEVEL NECESSARY TO
12 RECOUP LOSSES THAT MAY RESULT FROM THE RESTRUCTURING OF THE
13 ELECTRIC INDUSTRY AND THE TRANSITION THERETO.

14 (B) IMPOSITION.--

15 (1) FOR TAX PERIODS BEGINNING ON OR AFTER JANUARY 1,
16 1999, A TAX AT THE RATE PROVIDED IN SUBSECTION (C) IS IMPOSED
17 UPON THE GROSS RECEIPTS OF ELECTRIC DISTRIBUTION COMPANIES
18 AND ELECTRIC GENERATION SUPPLIERS.

19 (2) A TAX AT THE RATE PROVIDED IN SUBSECTION (C) IS
20 IMPOSED UPON THE GROSS RECEIPTS OF ANY MUNICIPALITY OWNED OR
21 OPERATED PUBLIC UTILITY OR OF ANY PUBLIC UTILITY SERVICE
22 FURNISHED BY ANY MUNICIPALITY. GROSS RECEIPTS SHALL BE EXEMPT
23 FROM THE TAX TO THE EXTENT THAT GROSS RECEIPTS ARE DERIVED
24 FROM SALES OF ELECTRIC ENERGY INSIDE THE LIMITS OF THE
25 MUNICIPALITY OWNING OR OPERATING THE PUBLIC UTILITY OR
26 FURNISHING THE PUBLIC UTILITY SERVICE.

27 (3) A TAX AT THE RATE PROVIDED IN SUBSECTION (C) IS
28 IMPOSED UPON THE GROSS RECEIPTS DERIVED FROM ANY ELECTRIC
29 COOPERATIVE OWNED OR OPERATED PUBLIC UTILITY OR FROM ANY
30 PUBLIC UTILITY SERVICE FURNISHED BY ANY ELECTRIC COOPERATIVE.

1 GROSS RECEIPTS SHALL BE EXEMPT FROM THE TAX TO THE EXTENT
2 THAT GROSS RECEIPTS ARE DERIVED FROM SALES FOR RESALE OR
3 SALES OF ELECTRIC ENERGY WITHIN THE LIMITS OF ITS SERVICE
4 TERRITORY AS SET FORTH IN 15 PA.C.S. § 7406 (RELATING TO
5 COMPETITION BY ELECTRIC COOPERATIVES).

6 (C) RATE.--

7 (1) BY DECEMBER 1, 1998, AND EACH OCTOBER 1 THEREAFTER
8 UNTIL AND INCLUDING OCTOBER 1, 2002, THE SECRETARY OF REVENUE
9 SHALL PUBLISH THE RATE OF TAX AS PROVIDED IN PARAGRAPH (2) IN
10 THE FORM OF A NOTICE IN THE PENNSYLVANIA BULLETIN AND THE
11 RATE SHALL APPLY TO THE TAX IMPOSED BY SUBSECTION (B) FOR THE
12 PERIOD BEGINNING THE NEXT JANUARY 1. THE TAX RATE PUBLISHED
13 ON OCTOBER 1, 2002, SHALL CONTINUE IN FORCE WITHOUT FURTHER
14 ADJUSTMENT. IF THE COMMISSION DETERMINES UNDER SECTION
15 2806(C) (RELATING TO IMPLEMENTATION, PILOT PROGRAMS AND
16 PERFORMANCE-BASED RATES) TO EXTEND THE TRANSITION PERIOD BY
17 MORE THAN SIX MONTHS, THE REQUIREMENT FOR AN ANNUAL
18 ADJUSTMENT OF THE TAX RATE SHALL BE EXTENDED BY ONE
19 ADDITIONAL YEAR. THE SECRETARY SHALL ALSO CERTIFY THE RATE
20 CALCULATED TO THE MAJORITY AND MINORITY CHAIRS OF THE
21 APPROPRIATIONS COMMITTEE OF THE SENATE AND THE APPROPRIATIONS
22 COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND DETAIL THE
23 CALCULATIONS OF THE RATE.

24 (2) THE SECRETARY SHALL CALCULATE THE RATE FOR THE
25 PERIODS BEGINNING ON AND AFTER JANUARY 1, 1999, IN THE MANNER
26 SET FORTH IN THIS PARAGRAPH:

27 (I) MULTIPLY THE 1995-1996 FISCAL TAX REVENUE BASE
28 BY A FRACTION, THE NUMERATOR OF WHICH IS THE TOTAL
29 KILOWATT HOURS OF ELECTRICITY DISTRIBUTED FOR ULTIMATE
30 CONSUMPTION IN PENNSYLVANIA IN THE PRECEDING CALENDAR

1 YEAR AS CERTIFIED BY THE COMMISSION AND THE DENOMINATOR
2 OF WHICH IS THE TOTAL KILOWATT HOURS OF ELECTRICITY
3 DISTRIBUTED FOR ULTIMATE CONSUMPTION IN PENNSYLVANIA IN
4 THE CALENDAR YEAR 1995 AS CERTIFIED BY THE COMMISSION.

5 (II) FROM THE PRODUCT DERIVED UNDER SUBPARAGRAPH
6 (I), SUBTRACT THE TOTAL CASH PAYMENTS MADE TO THE
7 DEPARTMENT DURING THE COMMONWEALTH'S PRECEDING FISCAL
8 YEAR ON ACCOUNT OF AFFECTED TAXES ACTUALLY PAID BY EACH
9 ELECTRIC DISTRIBUTION COMPANY AND ELECTRIC GENERATION
10 SUPPLIER AND BY ANY OTHER ENTITY, INCLUDING A SUCCESSOR,
11 WHOSE AFFECTED TAXES ARE CONTAINED IN THE 1995-1996
12 FISCAL TAX REVENUE BASE.

13 (III) DIVIDE THE DIFFERENCE DERIVED UNDER
14 SUBPARAGRAPH (II) BY THE TOTAL GROSS RECEIPTS IN THE
15 PRECEDING CALENDAR YEAR AS CERTIFIED BY THE COMMISSION TO
16 DETERMINE THE TAX RATE. THE TAX RATE UNDER THIS
17 SUBPARAGRAPH SHALL BE A DECIMAL ROUNDED TO THREE PLACES.

18 (3) ON AUGUST 1, 2000, AUGUST 1, 2001, AND AUGUST 1,
19 2002, THE DEPARTMENT SHALL DELIVER A REPORT TO THE GENERAL
20 ASSEMBLY AND THE GOVERNOR THAT SHALL DESCRIBE THE DYNAMIC
21 ECONOMIC EFFECT UPON THE AFFECTED TAXES DUE TO ELECTRIC
22 UTILITY RESTRUCTURING. IT IS THE PURPOSE OF THIS REPORT TO
23 PROVIDE THE GENERAL ASSEMBLY AND THE GOVERNOR WITH
24 INFORMATION TO DETERMINE WHETHER IT IS APPROPRIATE TO
25 CONSIDER MODIFYING THE CALCULATION DESCRIBED IN PARAGRAPH (2)
26 TO REFLECT ADDITIONAL TAX REVENUES, IF ANY, RESULTING FROM
27 THE DYNAMIC ECONOMIC EFFECTS UPON THE AFFECTED TAXES.

28 (4) IF THE EFFECTIVE RATE FOR ANY AFFECTED TAX IS
29 DIFFERENT FROM THE EFFECTIVE RATE FOR SUCH AFFECTED TAX IN
30 THE 1995-1996 FISCAL TAX REVENUE BASE, AN ADJUSTMENT SHALL BE

1 MADE TO THE COMPUTATION OF THE RATE OF TAX UNDER PARAGRAPH
2 (2) BY MULTIPLYING THAT PORTION OF THE 1995-1996 FISCAL TAX
3 REVENUE BASE ATTRIBUTABLE TO THE AFFECTED TAX BY A FRACTION,
4 THE NUMERATOR OF WHICH IS THE EFFECTIVE RATE OF THE AFFECTED
5 TAX FOR THE PRECEDING FISCAL YEAR AND THE DENOMINATOR OF
6 WHICH IS THE EFFECTIVE RATE OF TAX OF THE AFFECTED TAX IN THE
7 BASE FISCAL YEAR.

8 (5) FOR NEGATIVE RATES:

9 (I) IF THE RATE OF TAX CALCULATED FOR A TAX YEAR
10 PRIOR TO THE TAX YEAR BEGINNING JANUARY 1, 2004, OR
11 JANUARY 1, 2005, IN THE EVENT OF AN EXTENSION BY MORE
12 THAN SIX MONTHS BY THE COMMISSION AS PROVIDED IN SECTION
13 2806(C) IS NEGATIVE, A CREDIT EQUAL TO THE NEGATIVE TAX
14 RATE FOR SUCH TAX YEAR MULTIPLIED BY THE TAXABLE GROSS
15 RECEIPTS FOR THAT TAX YEAR SHALL BE ALLOWED AGAINST THE
16 TAXPAYER'S LIABILITY FOR ANY TAX FOR THAT TAX YEAR
17 IMPOSED UNDER ARTICLE XI OF THE ACT OF MARCH 4, 1971
18 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971.

19 (II) IF THE RATE OF TAX CALCULATED AS THE FINAL
20 ADJUSTMENT IS NEGATIVE FOR THE TAX PERIOD BEGINNING
21 JANUARY 1, 2003, OR JANUARY 1, 2004, IN THE EVENT OF AN
22 EXTENSION BY MORE THAN SIX MONTHS BY THE COMMISSION AS
23 PROVIDED IN SECTION 2806(C), THE RATE OF TAX IMPOSED BY
24 SECTION 1101(B) OF ARTICLE XI OF THE TAX REFORM CODE OF
25 1971 FOR THE TAX YEARS BEGINNING JANUARY 1, 2004, AND
26 THEREAFTER, OR JANUARY 1, 2005, AND THEREAFTER IN THE
27 EVENT OF AN EXTENSION BY MORE THAN SIX MONTHS, SHALL BE
28 ADJUSTED AND SET AS FOLLOWS: THE TAX RATE EXPRESSED AS A
29 DECIMAL ROUNDED TO THREE POSITIONS SHALL BE SUBTRACTED
30 FROM .044 OR THE CURRENT RATE IMPOSED UNDER SECTION

1 1101(B) OF THE TAX REFORM CODE OF 1971 TO DETERMINE THE
2 ADJUSTED TAX RATE. THE ADJUSTED TAX RATE SHALL BE
3 PUBLISHED IN THE PENNSYLVANIA BULLETIN.

4 (6) INFORMATION TO BE PROVIDED TO THE DEPARTMENT OR THE
5 COMMISSION SHALL BE AS FOLLOWS:

6 (I) TO ENSURE THE IDENTIFICATION OF CASH PAYMENTS
7 FOR PURPOSES OF SUBSECTION (D) THE COMMISSION SHALL
8 REQUIRE ANY LICENSEE, ELECTRIC DISTRIBUTION COMPANY,
9 ELECTRIC GENERATION SUPPLIER, OR OTHER PERSON AFFECTED TO
10 DISCLOSE ON ITS LICENSE APPLICATION, RENEWAL OR TRANSFER
11 ITS STATE TAX ACCOUNT OR SIMILAR NUMBER RELATIVE TO ANY
12 OF THE TAXES SPECIFIED.

13 (II) THE COMMISSION SHALL REPORT AND CERTIFY TO THE
14 SECRETARY OF THE DEPARTMENT BY AUGUST 1, 1998, AND EACH
15 AUGUST 1 THEREAFTER THE TOTAL AMOUNT OF ELECTRICITY
16 DISTRIBUTED FOR ULTIMATE CONSUMPTION IN THIS COMMONWEALTH
17 DURING THE PREVIOUS TWO CALENDAR YEARS AND THE TOTAL
18 GROSS RECEIPTS FOR THE PAST YEAR.

19 (III) AS A CONDITION OF LICENSURE, THE COMMISSION
20 SHALL REQUIRE EACH ELECTRIC DISTRIBUTION COMPANY AND
21 ELECTRIC GENERATION SUPPLIER TO REPORT THEIR ANNUAL GROSS
22 RECEIPTS IN THIS COMMONWEALTH.

23 (IV) FOR PURPOSES OF ENFORCING SECTIONS 2806 AND
24 2809 (RELATING TO REQUIREMENTS FOR ELECTRIC GENERATION
25 SUPPLIERS), AS THEY RELATE TO THE PAYMENT OF STATE TAXES,
26 AN APPLICANT FOR THE GRANT, RENEWAL OR TRANSFER OF A
27 LICENSE ISSUED UNDER THIS TITLE SHALL, BY FILING AN
28 APPLICATION WITH THE COMMISSION, WAIVE CONFIDENTIALITY
29 WITH RESPECT TO STATE TAX INFORMATION REGARDING THE
30 APPLICANT IN THE POSSESSION OF THE DEPARTMENT, REGARDLESS

1 OF THE SOURCE OF THE INFORMATION, AND SHALL CONSENT TO
2 THE DEPARTMENT PROVIDING THAT INFORMATION TO THE
3 COMMISSION.

4 (7) BEGINNING JUNE 15, 1999, AND EACH YEAR THEREAFTER,
5 AN AMOUNT EQUAL TO 0.18% OF TOTAL UTILITIES GROSS RECEIPTS
6 SHALL BE DEPOSITED INTO THE PUBLIC TRANSPORTATION ASSISTANCE
7 FUND AS PROVIDED IN ARTICLE XXIII OF THE TAX REFORM CODE OF
8 1971.

9 (D) PAYMENT OF TAX AND REPORTS.--THE TAX IMPOSED UNDER
10 SUBSECTION (B) SHALL BE PAID WITHIN THE TIME PRESCRIBED BY LAW.
11 FOR THE PURPOSE OF ASCERTAINING THE AMOUNT OF THE TAX, THE
12 TREASURER OR OTHER APPROPRIATE OFFICER OF THE TAXPAYER SHALL
13 TRANSMIT TO THE DEPARTMENT BY MARCH 15 AN ANNUAL REPORT, AND
14 UNDER OATH OR AFFIRMATION, OF THE AMOUNT OF GROSS RECEIPTS
15 RECEIVED BY THE TAXPAYER DURING THE PRIOR CALENDAR YEAR. THE
16 TREASURER OR OTHER APPROPRIATE OFFICER OF THE TAXPAYER LIABLE TO
17 REPORT OR PAY TAXES IMPOSED UNDER SUBSECTION (B), EXCEPT
18 MUNICIPALITIES AND COOPERATIVES, SHALL TRANSMIT TO THE
19 DEPARTMENT BY MARCH 15, A TENTATIVE REPORT FOR THE PRIOR
20 CALENDAR YEAR. THE TENTATIVE REPORT SHALL SET FORTH ALL OF THE
21 FOLLOWING:

22 (I) THE AMOUNT OF GROSS RECEIPTS RECEIVED IN THE
23 PERIOD OF 12 MONTHS NEXT PRECEDING AND REPORTED IN THE
24 ANNUAL REPORT.

25 (II) THE GROSS RECEIPTS RECEIVED IN THE FIRST THREE
26 MONTHS OF THE CURRENT CALENDAR YEAR.

27 (III) OTHER INFORMATION AS THE DEPARTMENT MAY
28 REQUIRE.

29 (E) TAX COMPUTATION.--UPON THE DATE ITS TENTATIVE REPORT IS
30 REQUIRED TO BE MADE, THE TAXPAYER MAKING A TENTATIVE REPORT

1 SHALL TRANSMIT THE REPORT TO THE DEPARTMENT ACCOUNT OF THE
2 TAX DUE FOR THE CURRENT CALENDAR YEAR AND COMPUTE AND MAKE
3 PAYMENT OF THE TENTATIVE TAX WITH THE REPORT UNDER SECTION 3003
4 OF THE TAX REFORM CODE OF 1971.

5 (F) TIME TO FILE REPORTS.--THE TIME FOR FILING ANNUAL
6 REPORTS MAY BE EXTENDED, ESTIMATED SETTLEMENTS MAY BE MADE BY
7 THE DEPARTMENT IF REPORTS ARE NOT FILED, AND THE PENALTIES FOR
8 FAILING TO FILE REPORTS AND PAY THE TAXES IMPOSED UNDER
9 SUBSECTION (B) SHALL BE AS PRESCRIBED, BY THE LAWS DEFINING THE
10 POWERS AND DUTIES OF THE DEPARTMENT. IF THE WORKS OF A TAXPAYER
11 ARE OPERATED BY ANOTHER TAXPAYER, THE TAXES IMPOSED UNDER
12 SUBSECTION (B) SHALL BE APPORTIONED BETWEEN THE TAXPAYERS IN
13 ACCORDANCE WITH THE TERMS OF THEIR RESPECTIVE LEASES OR
14 AGREEMENTS. FOR THE PAYMENT OF THE APPORTIONED TAXES THE
15 COMMONWEALTH SHALL FIRST LOOK TO THE TAXPAYER OPERATING THE
16 WORKS. UPON PAYMENT BY THAT TAXPAYER, NO OTHER TAXPAYER SHALL BE
17 HELD LIABLE FOR ANY TAX IMPOSED UNDER SUBSECTION (B).

18 (G) TIMELY MAILING TREATED AS TIMELY FILING AND PAYMENT.--
19 NOTWITHSTANDING THE PROVISIONS OF ANY STATE TAX LAW TO THE
20 CONTRARY, WHENEVER PAYMENT OF ALL OR ANY PORTION OF A STATE TAX
21 IS REQUIRED BY LAW TO BE RECEIVED BY THE DEPARTMENT OR OTHER
22 AGENCY OF THE COMMONWEALTH BY A DAY CERTAIN, THE TAXPAYER SHALL
23 BE DEEMED TO HAVE COMPLIED WITH THAT LAW IF THE LETTER
24 TRANSMITTING PAYMENT OF THE TAX WHICH HAS BEEN RECEIVED BY THE
25 DEPARTMENT IS POSTMARKED BY THE UNITED STATES POSTAL SERVICE ON
26 OR PRIOR TO THE FINAL DAY ON WHICH THE PAYMENT IS TO BE
27 RECEIVED.

28 (H) PROCEDURE, ENFORCEMENT AND PENALTIES.--PARTS III, IV, VI
29 AND VII OF ARTICLE IV AND ARTICLE XXX OF THE TAX REFORM CODE OF
30 1971 SHALL APPLY TO THIS SECTION IN SO FAR AS THEY ARE

1 CONSISTENT WITH THIS SECTION AND APPLICABLE TO THE TAX IMPOSED
2 UNDER SUBSECTION (B). NOTWITHSTANDING THE PROVISIONS OF SECTION
3 403(D) OF THE TAX REFORM CODE OF 1971, IF THE OFFICERS OF ANY
4 CORPORATION SUBJECT TO TAX UNDER THIS CHAPTER NEGLECT OR REFUSE
5 TO MAKE A REPORT AS REQUIRED IN THIS CHAPTER OR KNOWINGLY MAKE A
6 FALSE REPORT, THE DEPARTMENT SHALL ADD TO THE TAX DETERMINED TO
7 BE DUE A PENALTY OF 5% OF THE AMOUNT OF TAX DUE FOR EACH MONTH
8 OR FRACTION OF A MONTH UNTIL THE PENALTY HAS REACHED 25% AND,
9 THEREAFTER, A PENALTY OF 1% OF THE AMOUNT OF TAX DUE FOR EACH
10 MONTH OR FRACTION OF A MONTH. PENALTIES ADDED TO THE TAX SHALL
11 NOT BEAR INTEREST.

12 (I) ELECTRIC LIGHT, WATERPOWER AND HYDROELECTRIC
13 UTILITIES.--THE TERMS "ELECTRIC LIGHT COMPANY," "WATERPOWER
14 COMPANY" AND "HYDROELECTRIC COMPANY," AS USED IN SECTION 1101(B)
15 OF THE TAX REFORM CODE OF 1971, SHALL BE DEEMED TO INCLUDE
16 ELECTRIC DISTRIBUTION COMPANIES AND ELECTRIC GENERATION
17 SUPPLIERS.

18 (J) SALES OF ELECTRIC ENERGY.--RETAIL SALES OF ELECTRIC
19 GENERATION, TRANSMISSION, DISTRIBUTION OR SUPPLY OF ELECTRIC
20 ENERGY, DISPATCHING SERVICES, CUSTOMER SERVICES, COMPETITIVE
21 TRANSITION CHARGES, INTANGIBLE TRANSITION CHARGES, AND UNIVERSAL
22 SERVICE AND ENERGY CONSERVATION CHARGES AND SUCH OTHER RETAIL
23 SALES IN THIS COMMONWEALTH THE RECEIPTS OF WHICH, IF BUNDLED,
24 WOULD HAVE BEEN DEEMED TO BE SALES OF ELECTRIC ENERGY PRIOR TO
25 THE EFFECTIVE DATE OF THIS CHAPTER SHALL BE DEEMED SALES OF
26 ELECTRIC ENERGY FOR PURPOSES OF SECTION 1101 OF THE TAX REFORM
27 CODE OF 1971. THE PHRASES "DOING BUSINESS IN THIS COMMONWEALTH"
28 AND "ENGAGED IN ELECTRIC LIGHT AND POWER BUSINESS, WATERPOWER
29 BUSINESS AND HYDROELECTRIC BUSINESS IN THIS COMMONWEALTH," AS
30 SUCH TERMS ARE USED IN SECTION 1101(B) OF THE TAX REFORM CODE OF

1 1971 AND IN THIS CHAPTER, SHALL BE CONSTRUED TO INCLUDE THE
2 DIRECT OR INDIRECT ENGAGING IN, TRANSACTING OR CONDUCTING OF,
3 ACTIVITY IN THIS COMMONWEALTH FOR THE PURPOSE OF ESTABLISHING OR
4 MAINTAINING A MARKET FOR THE SALES OF ELECTRIC ENERGY AND
5 INCLUDE OBTAINING A LICENSE OR CERTIFICATION FROM THE COMMISSION
6 TO SUPPLY ELECTRIC ENERGY. RETAIL SALES OF GENERATION SHALL BE
7 DEEMED TO OCCUR AT THE METER OF THE RETAIL CONSUMER.

8 (K) ELECTRIC COOPERATIVES.--SECTION 1101(B) OF THE TAX
9 REFORM CODE OF 1971 SHALL APPLY TO ELECTRIC COOPERATIVES AND
10 IMPOSE A TAX UPON THE GROSS RECEIPTS DERIVED FROM ANY ELECTRIC
11 COOPERATIVE OWNED OR OPERATED PUBLIC UTILITY OR FROM ANY PUBLIC
12 UTILITY SERVICE FURNISHED BY ANY ELECTRIC COOPERATIVE. GROSS
13 RECEIPTS SHALL BE EXEMPT FROM THE TAX TO THE EXTENT THAT THE
14 GROSS RECEIPTS ARE DERIVED FROM SALES FOR RESALE OR SALES OF
15 ELECTRIC ENERGY WITHIN THE LIMITS OF ITS SERVICE TERRITORY AS
16 SET FORTH IN 15 PA.C.S. § 7406.

17 (L) PROVISIONS TO BE CONSTRUED WITH UTILITIES GROSS RECEIPTS
18 TAX.--SUBSECTIONS (I), (J), AND (K) SHALL BE CONSTRUED IN
19 CONJUNCTION WITH ARTICLE XI OF THE TAX REFORM CODE OF 1971 AND
20 SHALL BE EFFECTIVE FOR TAX YEARS BEGINNING JANUARY 1, 1997, AND
21 THEREAFTER.

22 (M) INDEMNIFICATION.--THE ELECTRIC DISTRIBUTION UTILITY
23 COMPANY'S TARIFF SHALL PROVIDE THAT, IF AN ELECTRIC DISTRIBUTION
24 COMPANY BECOMES LIABLE, UNDER SECTIONS 2806(G) AND 2809(C), FOR
25 STATE TAXES NOT PAID BY AN ELECTRIC GENERATION SUPPLIER, THAT
26 ELECTRIC GENERATION SUPPLIER SHALL INDEMNIFY THE ELECTRIC
27 DISTRIBUTION COMPANY FOR THE AMOUNT OF THE LIABILITY SO IMPOSED
28 UPON THE ELECTRIC DISTRIBUTION UTILITY.

29 (N) DEFINITIONS.--AS USED IN THIS SECTION THE FOLLOWING
30 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS

1 SUBSECTION:

2 "AFFECTED TAXES." THE TAXES IMPOSED UNDER ARTICLES II, IV,
3 VI, XI AND SECTION 2301(F) OF THE TAX REFORM CODE OF 1971.

4 "BASE FISCAL YEAR." THE YEAR BEGINNING ON JULY 1, 1995, AND
5 ENDING ON JUNE 30, 1996.

6 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

7 "EFFECTIVE RATE." THE TAX RATE APPLICABLE DURING THE FISCAL
8 YEAR OR, IF MORE THAN ONE RATE IS APPLICABLE, THE AVERAGE OF THE
9 RATES THAT WERE IN EFFECT FOR EACH MONTH OF THE FISCAL YEAR.

10 "FISCAL YEAR." A YEAR BEGINNING ON JULY 1 AND ENDING ON THE
11 SUBSEQUENT JUNE 30.

12 "GROSS RECEIPTS." THE GROSS RECEIPTS FROM THE RETAIL SALES
13 OF ELECTRIC ENERGY AS DEFINED IN SECTION 1101(B) OF THE TAX
14 REFORM CODE OF 1971.

15 "1995-1996 FISCAL TAX REVENUE BASE." THE RECEIPTS FROM
16 AFFECTED TAXES FROM THE FISCAL YEAR 1995-1996, SUCH AMOUNT BEING
17 \$984,141,837.

18 "PORTION OF THE 1995-1996 FISCAL TAX REVENUE BASE
19 ATTRIBUTABLE TO THE AFFECTED TAX. THE FOLLOWING AMOUNTS FOR THE
20 TAX INDICATED:

21	TAX	AMOUNT
22	CORPORATE NET INCOME TAX	\$181,628,433
23	CAPITAL STOCK-FRANCHISE TAX	\$117,495,605
24	SALES AND USE TAX	\$187,401,632
25	PUBLIC UTILITY REALTY TAX	\$ 43,883,573
26	UTILITIES GROSS RECEIPTS TAX	\$453,732,594

27 "TOTAL UTILITIES GROSS RECEIPTS." THE TOTAL GROSS RECEIPTS
28 FOR A CALENDAR YEAR FOR ALL ELECTRIC DISTRIBUTION COMPANIES AND
29 ELECTRIC GENERATION SUPPLIERS WHICH ARE DERIVED FROM THE SALES
30 OF ELECTRIC ENERGY AND REQUIRED TO BE REPORTED TO THE COMMISSION

1 UNDER SUBSECTION (C)(6)(III).

2 § 2811. MARKET POWER REMEDIATION.

3 (A) MONITORING COMPETITIVE CONDITIONS.--THE COMMISSION SHALL
4 MONITOR THE MARKET FOR THE SUPPLY AND DISTRIBUTION OF
5 ELECTRICITY TO RETAIL CUSTOMERS AND TAKE STEPS AS SET FORTH IN
6 THIS SECTION TO PREVENT ANTICOMPETITIVE OR DISCRIMINATORY
7 CONDUCT AND THE UNLAWFUL EXERCISE OF MARKET POWER.

8 (B) INITIATION OF INVESTIGATIONS.--UPON COMPLAINT OR UPON
9 ITS OWN MOTION, FOR GOOD CAUSE SHOWN, THE COMMISSION SHALL
10 CONDUCT AN INVESTIGATION OF THE IMPACT ON THE PROPER FUNCTIONING
11 OF A FULLY COMPETITIVE RETAIL ELECTRICITY MARKET, INCLUDING THE
12 EFFECT OF MERGERS, CONSOLIDATIONS, ACQUISITION OR DISPOSITION OF
13 ASSETS OR SECURITIES OF ELECTRICITY SUPPLIERS, TRANSMISSION
14 CONGESTION AND ANTICOMPETITIVE OR DISCRIMINATORY CONDUCT
15 AFFECTING THE RETAIL DISTRIBUTION OF ELECTRICITY.

16 (C) CONDUCT OF INVESTIGATIONS.--

17 (1) THE COMMISSION MAY REQUIRE AN ELECTRICITY SUPPLIER
18 TO PROVIDE INFORMATION, INCLUDING DOCUMENTS AND TESTIMONY,
19 IN ACCORDANCE WITH THE COMMISSION'S REGULATIONS REGARDING THE
20 DISCOVERY OF INFORMATION FROM ANY ELECTRICITY SUPPLIER.

21 (2) CONFIDENTIAL, PROPRIETARY OR TRADE SECRET
22 INFORMATION PROVIDED UNDER THIS SUBSECTION SHALL NOT BE
23 DISCLOSED TO ANY PERSON NOT DIRECTLY EMPLOYED OR RETAINED BY
24 THE COMMISSION TO CONDUCT THE INVESTIGATION WITHOUT THE
25 CONSENT OF THE PARTY PROVIDING THE INFORMATION.

26 (3) NOTWITHSTANDING THE PROHIBITION ON DISCLOSURE OF
27 INFORMATION IN PARAGRAPH (2), THE COMMISSION SHALL DISCLOSE
28 INFORMATION OBTAINED UNDER THIS SUBSECTION TO THE OFFICE OF
29 CONSUMER ADVOCATE AND THE OFFICE OF SMALL BUSINESS ADVOCATE
30 UNDER AN APPROPRIATE CONFIDENTIALITY AGREEMENT. THE

1 COMMISSION MAY DISCLOSE THE INFORMATION TO APPROPRIATE
2 FEDERAL OR STATE LAW ENFORCEMENT OFFICIALS IF IT DETERMINES
3 THAT THE DISCLOSURE OF THE INFORMATION IS NECESSARY TO
4 PREVENT OR RESTRAIN A VIOLATION OF FEDERAL OR STATE LAW AND
5 IT PROVIDES THE PARTY THAT PROVIDED THE INFORMATION WITH
6 REASONABLE NOTICE AND OPPORTUNITY TO PREVENT OR LIMIT
7 DISCLOSURE.

8 (D) REFERRALS AND INTERVENTION.--IF, AS A RESULT OF AN
9 INVESTIGATION CONDUCTED UNDER THIS SECTION, THE COMMISSION HAS
10 REASON TO BELIEVE THAT ANTICOMPETITIVE OR DISCRIMINATORY
11 CONDUCT, INCLUDING THE UNLAWFUL EXERCISE OF MARKET POWER IS
12 PREVENTING THE RETAIL ELECTRICITY CUSTOMERS IN THIS COMMONWEALTH
13 FROM OBTAINING THE BENEFITS OF A PROPERLY FUNCTIONING AND
14 WORKABLE COMPETITIVE RETAIL ELECTRICITY MARKET, THE COMMISSION,
15 PURSUANT TO ITS REGULATIONS, SHALL:

16 (1) REFER ITS FINDINGS TO THE ATTORNEY GENERAL, THE
17 UNITED STATES DEPARTMENT OF JUSTICE, THE SECURITIES AND
18 EXCHANGE COMMISSION OR THE FEDERAL ENERGY REGULATORY
19 COMMISSION.

20 (2) SUBJECT TO SUBSECTION (C)(3), DISCLOSE ANY
21 INFORMATION IT HAS OBTAINED IN THE COURSE OF ITS
22 INVESTIGATION TO THE AGENCY OR AGENCIES TO WHICH IT HAS MADE
23 A REFERRAL UNDER PARAGRAPH (1).

24 (3) INTERVENE, AS PROVIDED AND PERMITTED BY LAW OR
25 REGULATION, IN ANY PROCEEDINGS INITIATED AS A RESULT OF A
26 REFERRAL MADE UNDER PARAGRAPH (1).

27 (E) APPROVAL OF PROPOSED MERGERS, CONSOLIDATIONS,
28 ACQUISITIONS, OR DISPOSITIONS.--

29 (1) IN THE EXERCISE OF AUTHORITY THE COMMISSION
30 OTHERWISE MAY HAVE TO APPROVE THE MERGERS OR CONSOLIDATIONS

1 BY ELECTRIC UTILITIES OR ELECTRICITY SUPPLIERS, OR THE
2 ACQUISITION OR DISPOSITION OF ASSETS OR SECURITIES OF OTHER
3 PUBLIC UTILITIES OR ELECTRICITY SUPPLIERS, THE COMMISSION
4 SHALL CONSIDER WHETHER THE PROPOSED MERGER, CONSOLIDATION,
5 ACQUISITION OR DISPOSITION IS LIKELY TO RESULT IN
6 ANTICOMPETITIVE OR DISCRIMINATORY CONDUCT, INCLUDING THE
7 UNLAWFUL EXERCISE OF MARKET POWER, WHICH WILL PREVENT RETAIL
8 ELECTRICITY CUSTOMERS IN THIS COMMONWEALTH FROM OBTAINING THE
9 BENEFITS OF A PROPERLY FUNCTIONING AND WORKABLE COMPETITIVE
10 RETAIL ELECTRICITY MARKET.

11 (2) UPON REQUEST FOR APPROVAL, THE COMMISSION SHALL
12 PROVIDE NOTICE AND AN OPPORTUNITY FOR OPEN, PUBLIC
13 EVIDENTIARY HEARINGS. IF THE COMMISSION FINDS, AFTER HEARING,
14 THAT A PROPOSED MERGER, CONSOLIDATION, ACQUISITION OR
15 DISPOSITION IS LIKELY TO RESULT IN ANTICOMPETITIVE OR
16 DISCRIMINATORY CONDUCT, INCLUDING THE UNLAWFUL EXERCISE OF
17 MARKET POWER, WHICH WILL PREVENT RETAIL ELECTRICITY CUSTOMERS
18 IN THIS COMMONWEALTH FROM OBTAINING THE BENEFITS OF A
19 PROPERLY FUNCTIONING AND WORKABLE COMPETITIVE RETAIL
20 ELECTRICITY MARKET, THE COMMISSION SHALL NOT APPROVE SUCH
21 PROPOSED MERGER, CONSOLIDATION, ACQUISITION OR DISPOSITION,
22 EXCEPT UPON SUCH TERMS AND CONDITIONS AS IT FINDS NECESSARY
23 TO PRESERVE THE BENEFITS OF A PROPERLY FUNCTIONING AND
24 WORKABLE COMPETITIVE RETAIL ELECTRICITY MARKET.

25 (F) PRESERVATION OF RIGHTS.--NOTHING IN THIS SECTION SHALL
26 RESTRICT THE RIGHT OF ANY PARTY TO PURSUE ANY OTHER REMEDY
27 AVAILABLE TO IT UNDER THIS PART.

28 § 2812. APPROVAL OF TRANSITION BONDS.

29 (A) QUALIFIED RATE ORDERS.--NOTWITHSTANDING ANY OTHER
30 PROVISION OF LAW, THE COMMISSION IS AUTHORIZED TO ISSUE

1 QUALIFIED RATE ORDERS IN ACCORDANCE WITH THE PROVISIONS OF THIS
2 SUBSECTION, TO FACILITATE THE RECOVERY OR FINANCING OF QUALIFIED
3 TRANSITION EXPENSES OF AN ELECTRIC UTILITY OR ASSIGNEE.

4 (1) A QUALIFIED RATE ORDER MAY BE ADOPTED BY THE
5 COMMISSION ONLY UPON THE APPLICATION OF AN ELECTRIC UTILITY
6 AND SHALL BECOME EFFECTIVE IN ACCORDANCE WITH ITS TERMS.
7 AFTER THE ISSUANCE OF A QUALIFIED RATE ORDER, THE ELECTRIC
8 UTILITY RETAINS SOLE DISCRETION REGARDING WHETHER TO ASSIGN,
9 SELL OR OTHERWISE TRANSFER INTANGIBLE TRANSITION PROPERTY OR
10 TO CAUSE THE TRANSITION BONDS TO BE ISSUED, INCLUDING THE
11 RIGHT TO DEFER OR POSTPONE SUCH ASSIGNMENT, SALE, TRANSFER OR
12 ISSUANCE.

13 (2) AFTER THE EFFECTIVE DATE OF THIS CHAPTER, AN
14 ELECTRIC UTILITY MAY FILE AN APPLICATION FOR A QUALIFIED RATE
15 ORDER PURSUANT TO THE FOLLOWING PROCEDURES:

16 (I) EACH APPLICATION FOR A QUALIFIED RATE ORDER
17 SHALL CONTAIN A COMPLETE ACCOUNTING OF THE UTILITY'S
18 TRANSITION OR STRANDED COSTS, DETAILED INFORMATION
19 REGARDING THE UTILITY'S PROPOSAL FOR THE SALE OF
20 INTANGIBLE TRANSITION PROPERTY OR THE ISSUANCE OF
21 TRANSITION BONDS AND INFORMATION REGARDING THE ELECTRIC
22 UTILITY'S PLANNED USE OF THE PROCEEDS OF THE SALE OR
23 ISSUANCE. AFTER THE UTILITY HAS FILED ITS RESTRUCTURING
24 PLAN UNDER SECTION 2806 (RELATING TO IMPLEMENTATION,
25 PILOT PROGRAMS AND PERFORMANCE-BASED RATES), THE UTILITY
26 MAY INCORPORATE BY REFERENCE THE INFORMATION IN THE
27 RESTRUCTURING PLAN IN PROVIDING THE INFORMATION.

28 (II) AN ELECTRIC UTILITY MAY FILE AN APPLICATION FOR
29 A QUALIFIED RATE ORDER CONCURRENTLY WITH, PRIOR TO,
30 DURING OR FOLLOWING THE FILING OF ITS RESTRUCTURING PLAN

1 UNDER SECTION 2806. IF AN ELECTRIC UTILITY REQUESTS
2 EXPEDITED REVIEW UNDER SUBSECTION (B)(1)(I) OR (II), IT
3 SHALL DESIGNATE IN ITS APPLICATION THE PORTION OF ITS
4 TOTAL CLAIMED TRANSITION OR STRANDED COSTS FOR WHICH IT
5 REQUESTS SUCH EXPEDITED REVIEW.

6 (III) AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD,
7 THE COMMISSION MAY ISSUE A FINAL QUALIFIED RATE ORDER FOR
8 ALL OR A PORTION OF THE AMOUNT OF TRANSITION OR STRANDED
9 COSTS THAT IT FINDS WOULD BE JUST AND REASONABLE FOR THE
10 UTILITY TO RECOVER FROM RATEPAYERS UNDER SECTIONS 2804
11 (RELATING TO STANDARDS) AND 2808 (RELATING TO COMPETITIVE
12 TRANSITION CHARGE). THE COMMISSION SHALL ISSUE A FINAL
13 QUALIFIED RATE ORDER ONLY FOR THE AMOUNTS FOR WHICH IT
14 FINDS SUCH ISSUANCE TO BE IN THE PUBLIC INTEREST. THE
15 COMMISSION SHALL COMPLETE ITS REVIEW OF THE APPLICATION
16 AND ISSUE ITS FINAL DETERMINATION BY THE LATER OF NINE
17 MONTHS FROM THE FILING, UNLESS THE ELECTRIC UTILITY
18 REQUESTS EXPEDITED TREATMENT UNDER SUBSECTION (B), OR 15
19 DAYS FOLLOWING THE FILING OF THE ELECTRIC UTILITY'S
20 RESTRUCTURING PLAN UNDER SECTION 2806.

21 (B) EXPEDITED REVIEW PROCEDURES.--

22 (1) THE COMMISSION SHALL PROVIDE FOR EXPEDITED REVIEW OF
23 APPLICATIONS FOR QUALIFIED RATE ORDERS UPON REQUEST OF THE
24 ELECTRIC UTILITY PURSUANT TO THE FOLLOWING PROCEDURES:

25 (I) IF THE UTILITY ELECTS TO FILE AN APPLICATION
26 PRIOR TO THE FILING OF ITS RESTRUCTURING PLAN AND
27 REQUESTS EXPEDITED REVIEW, THE COMMISSION, AFTER NOTICE
28 AND AN OPPORTUNITY TO BE HEARD, MAY ISSUE A FINAL
29 QUALIFIED RATE ORDER APPROVING THE ISSUANCE OF TRANSITION
30 BONDS FOR A PORTION OF THE UTILITY'S TRANSITION OR

1 STRANDED COSTS THAT THE COMMISSION FINDS WOULD BE JUST
2 AND REASONABLE TO RECOVER FROM RATEPAYERS UNDER SECTIONS
3 2804 AND 2808. THE COMMISSION SHALL CONSIDER ONLY THE
4 PORTION OF THE TRANSITION OR STRANDED COSTS FOR WHICH THE
5 UTILITY REQUESTS APPROVAL TO ISSUE TRANSITION BONDS.
6 CONSIDERATION OF ALL REMAINING AMOUNTS AND AMOUNTS NOT
7 RESOLVED BY THE COMMISSION SHALL BE DEFERRED FOR
8 CONSIDERATION IN THE ELECTRIC UTILITY'S RESTRUCTURING
9 PLAN PROCEEDING UNDER SECTION 2806. THE COMMISSION SHALL
10 COMPLETE ITS REVIEW OF THE APPLICATION AND ISSUE ITS
11 FINAL DETERMINATION WITHIN 120 DAYS AFTER THE REQUEST FOR
12 EXPEDITED REVIEW, BUT, IN NO EVENT, EARLIER THAN 15 DAYS
13 AFTER THE UTILITY HAS FILED ITS RESTRUCTURING PLAN UNDER
14 SECTION 2806.

15 (II) IF THE ELECTRIC UTILITY FILES AN APPLICATION
16 FOR A QUALIFIED RATE ORDER CONCURRENTLY WITH ITS
17 RESTRUCTURING PLAN OR DURING THE COURSE OF THE
18 RESTRUCTURING PLAN PROCEEDING, THE ELECTRIC UTILITY MAY
19 REQUEST, AND THE COMMISSION MAY ALLOW, AN ACCELERATED
20 DETERMINATION OF THE APPLICATION. AFTER NOTICE AND AN
21 OPPORTUNITY TO BE HEARD, THE COMMISSION MAY ISSUE A FINAL
22 QUALIFIED RATE ORDER APPROVING THE ISSUANCE OF TRANSITION
23 BONDS FOR A PORTION OF THE UTILITY'S STRANDED OR
24 TRANSITION COSTS THAT THE COMMISSION FINDS WOULD BE JUST
25 AND REASONABLE TO RECOVER FROM RATEPAYERS UNDER SECTIONS
26 2804 AND 2808. THE COMMISSION SHALL CONSIDER ONLY THE
27 PORTION OF THE UTILITY'S TRANSITION OR STRANDED COSTS FOR
28 WHICH THE UTILITY SEEKS EXPEDITED REVIEW. CONSIDERATION
29 OF ALL REMAINING AMOUNTS AND AMOUNTS NOT RESOLVED BY THE
30 COMMISSION SHALL BE DEFERRED FOR CONSIDERATION IN A FINAL

1 ORDER REGARDING THE UTILITY'S RESTRUCTURING PLAN UNDER
2 SECTION 2806. THE COMMISSION SHALL COMPLETE ITS REVIEW OF
3 THE APPLICATION AND ISSUE ITS FINAL DETERMINATION WITHIN
4 120 DAYS AFTER THE REQUEST FOR EXPEDITED REVIEW.

5 (III) IF THE ELECTRIC UTILITY FILES AN APPLICATION
6 FOR A QUALIFIED RATE ORDER AFTER THE COMMISSION ENTERS A
7 FINAL ORDER REGARDING THE UTILITY'S RESTRUCTURING PLAN,
8 AND REQUESTS EXPEDITED TREATMENT, THE COMMISSION SHALL
9 COMPLETE ITS REVIEW AND ISSUE ITS FINAL DETERMINATION
10 WITHIN 120 DAYS OF THE REQUEST FOR EXPEDITED REVIEW.

11 (2) THE QUALIFIED RATE ORDER SHALL REQUIRE THAT THE
12 PROCEEDS FROM THE ASSIGNMENT, SALE OR TRANSFER OR OTHER
13 FINANCING OF INTANGIBLE TRANSITION PROPERTY SHALL BE USED
14 PRINCIPALLY TO REDUCE THE ELECTRIC UTILITY'S TRANSITION OR
15 STRANDED COSTS AND TO REDUCE THE RELATED CAPITALIZATION,
16 PURSUANT TO A PLAN SUBMITTED BY THE ELECTRIC UTILITY IN ITS
17 APPLICATION FOR A QUALIFIED RATE ORDER AND APPROVED BY THE
18 COMMISSION.

19 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
20 COMMISSION HAS THE POWER TO SPECIFY THAT ALL OR A PORTION OF
21 A QUALIFIED RATE ORDER SHALL BE IRREVOCABLE. TO THE EXTENT SO
22 SPECIFIED, NEITHER THE ORDER NOR THE INTANGIBLE TRANSITION
23 CHARGES AUTHORIZED TO BE IMPOSED AND COLLECTED UNDER THE
24 ORDER SHALL BE SUBJECT TO REDUCTION, POSTPONEMENT, IMPAIRMENT
25 OR TERMINATION BY ANY SUBSEQUENT ACTION OF THE COMMISSION.
26 NOTHING IN THIS PARAGRAPH IS INTENDED TO SUPERSEDE THE RIGHT
27 OF ANY PARTY TO JUDICIAL REVIEW OF THE QUALIFIED RATE ORDER.

28 (5) THE COMMISSION SHALL PROVIDE IN ANY QUALIFIED RATE
29 ORDER FOR A PROCEDURE FOR THE EXPEDITIOUS APPROVAL BY THE
30 COMMISSION OF PERIODIC ADJUSTMENTS TO THE INTANGIBLE

1 TRANSITION CHARGES THAT ARE THE SUBJECT OF THE PERTINENT
2 QUALIFIED RATE ORDER. SUCH ADJUSTMENTS SHALL ENSURE THE
3 RECOVERY OF REVENUES SUFFICIENT TO PROVIDE FOR THE PAYMENT OF
4 PRINCIPAL, INTEREST, ACQUISITION OR REDEMPTION PREMIUM, AND
5 FOR OTHER FEES, COSTS AND CHARGES IN RESPECT OF TRANSITION
6 BONDS APPROVED BY THE COMMISSION AS PART OF OR IN CONJUNCTION
7 WITH A QUALIFIED RATE ORDER. THE COMMISSION SHALL DETERMINE
8 WHETHER THE ADJUSTMENTS ARE REQUIRED ON EACH ANNIVERSARY OF
9 THE ISSUANCE OF THE QUALIFIED RATE ORDER AND AT THE
10 ADDITIONAL INTERVALS AS MAY BE PROVIDED FOR IN THE QUALIFIED
11 RATE ORDER. THE ADJUSTMENTS, IF REQUIRED, SHALL BE APPROVED
12 WITHIN 90 DAYS OF EACH ANNIVERSARY OF THE ISSUANCE OF THE
13 QUALIFIED RATE ORDER OR OF EACH ADDITIONAL INTERVAL PROVIDED
14 FOR IN THE QUALIFIED RATE ORDER.

15 (6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ON SUCH
16 CONDITIONS AS THE COMMISSION MAY APPROVE, ALL OR PORTIONS OF
17 THE INTEREST OF AN ELECTRIC UTILITY IN INTANGIBLE TRANSITION
18 PROPERTY MAY BE ASSIGNED, SOLD OR TRANSFERRED TO AN ASSIGNEE
19 AND MAY BE PLEDGED OR ASSIGNED AS SECURITY BY AN ELECTRIC
20 UTILITY OR ASSIGNEE TO OR FOR THE BENEFIT OF A FINANCING
21 PARTY. TO THE EXTENT THAT AN INTEREST IS ASSIGNED, SOLD OR
22 TRANSFERRED OR IS PLEDGED OR ASSIGNED AS SECURITY, THE
23 COMMISSION SHALL AUTHORIZE THE ELECTRIC UTILITY TO CONTRACT
24 WITH THE ASSIGNEE OR FINANCING PARTY THAT THE ELECTRIC
25 UTILITY WILL CONTINUE TO OPERATE ITS SYSTEM TO PROVIDE
26 SERVICE TO ITS CUSTOMERS, WILL IMPOSE AND COLLECT THE
27 APPLICABLE INTANGIBLE TRANSITION CHARGES FOR THE BENEFIT AND
28 ACCOUNT OF THE ASSIGNEE OR FINANCING PARTY, AND WILL ACCOUNT
29 FOR AND REMIT THE APPLICABLE INTANGIBLE TRANSITION CHARGE TO
30 OR FOR THE ACCOUNT OF THE ASSIGNEE OR FINANCING PARTY. IF THE

1 QUALIFIED RATE ORDER SO PROVIDES, THE OBLIGATIONS OF THE
2 ELECTRIC UTILITY:

3 (I) SHALL BE BINDING UPON THE ELECTRIC UTILITY, ITS
4 SUCCESSORS AND ASSIGNS; AND

5 (II) SHALL BE REQUIRED BY THE COMMISSION TO BE
6 UNDERTAKEN AND PERFORMED BY THE ELECTRIC UTILITY AND ANY
7 OTHER ENTITY WHICH PROVIDES ELECTRIC SERVICE TO A PERSON
8 THAT WAS A CUSTOMER OF AN ELECTRIC UTILITY LOCATED WITHIN
9 THE CERTIFICATED TERRITORY OF THE ELECTRIC UTILITY ON THE
10 EFFECTIVE DATE OF THIS CHAPTER OR THAT BECAME A CUSTOMER
11 OF ELECTRIC SERVICES WITHIN SUCH TERRITORY AFTER THE
12 EFFECTIVE DATE OF THIS CHAPTER AND IS STILL LOCATED
13 WITHIN SUCH TERRITORY, AS A CONDITION TO THE PROVISION OF
14 SERVICE TO SUCH CUSTOMER BY SUCH ELECTRIC UTILITY OR
15 OTHER ENTITY, UNLESS THE CUSTOMER HAS PAID A TERMINATION
16 CHARGE IN THE MANNER AND ON THE BASIS SPECIFIED IN THE
17 QUALIFIED RATE ORDER.

18 (7) THE IRREVOCABLE STATUS OF ANY PORTION OF A QUALIFIED
19 RATE ORDER UNDER PARAGRAPH (4) SHALL LAPSE AND TERMINATE TO
20 THE EXTENT THAT AN ASSIGNMENT, SALE OR TRANSFER OF THE
21 INTANGIBLE TRANSITION PROPERTY RESULTING FROM THE RATE ORDER
22 OR THE ISSUANCE OF THE RELATED TRANSITION BONDS IS NOT
23 EFFECTED WITHIN THE PERIOD SPECIFIED IN THE QUALIFIED RATE
24 ORDER.

25 (8) THE EFFECT OF ANY SUBSEQUENT REFINANCING OF
26 TRANSITION BONDS UPON THE RATES AUTHORIZED IN A QUALIFIED
27 RATE ORDER SHALL BE AS PROVIDED IN SUCH ORDER.

28 (9) IN ITS QUALIFIED RATE ORDER, THE COMMISSION SHALL
29 AFFORD FLEXIBILITY IN ESTABLISHING THE TERMS AND CONDITIONS
30 OF THE TRANSITION BONDS, INCLUDING REPAYMENT SCHEDULES,

1 INTEREST RATES AND OTHER FINANCING COSTS. THE ELECTRIC
2 UTILITY SHALL FILE THE FINAL TERMS OF ISSUANCE WITH THE
3 COMMISSION.

4 (C) INTANGIBLE TRANSITION PROPERTY.--

5 (1) ANY RIGHT THAT AN ELECTRIC UTILITY HAS IN THE
6 INTANGIBLE TRANSITION PROPERTY PRIOR TO ITS SALE OR TRANSFER
7 OR ANY OTHER RIGHT CREATED UNDER THIS SECTION OR CREATED IN
8 THE QUALIFIED RATE ORDER AND ASSIGNABLE UNDER THIS SECTION OR
9 ASSIGNABLE PURSUANT TO A QUALIFIED RATE ORDER SHALL BE ONLY A
10 CONTRACT RIGHT.

11 (2) THE COMMONWEALTH PLEDGES TO AND AGREES WITH THE
12 HOLDERS OF ANY TRANSITION BONDS ISSUED UNDER THIS SECTION AND
13 WITH ANY ASSIGNEE OR FINANCING PARTY WHO MAY ENTER INTO
14 CONTRACTS WITH AN ELECTRIC UTILITY UNDER THIS SECTION THAT
15 THE COMMONWEALTH WILL NOT LIMIT, OR ALTER OR IN ANY WAY
16 IMPAIR OR REDUCE THE VALUE OF INTANGIBLE TRANSITION PROPERTY
17 OR INTANGIBLE TRANSITION CHARGES APPROVED BY A QUALIFIED RATE
18 ORDER UNTIL THE TRANSITION BONDS AND INTEREST ON THE
19 TRANSITION BONDS ARE FULLY PAID AND DISCHARGED OR THE
20 CONTRACTS ARE FULLY PERFORMED ON THE PART OF THE ELECTRIC
21 UTILITY. SUBJECT TO OTHER REQUIREMENTS OF LAW, NOTHING IN
22 THIS PARAGRAPH SHALL PRECLUDE LIMITATION OR ALTERATION IF
23 ADEQUATE COMPENSATION IS MADE BY LAW FOR THE FULL PROTECTION
24 OF THE INTANGIBLE TRANSITION CHARGES COLLECTED PURSUANT TO A
25 QUALIFIED RATE ORDER AND OF THE HOLDER OF THIS TRANSITION
26 BOND AND ANY ASSIGNEE OR FINANCING PARTY ENTERING INTO
27 CONTRACT WITH THE ELECTRIC UTILITY.

28 (D) SECURITY INTERESTS IN INTANGIBLE TRANSITION PROPERTY.--

29 (1) NEITHER INTANGIBLE TRANSITION PROPERTY NOR ANY
30 RIGHT, TITLE OR INTEREST OF A UTILITY OR ASSIGNEE DESCRIBED

1 IN PARAGRAPH (1) OF THE DEFINITION OF "INTANGIBLE TRANSITION
2 PROPERTY" IN SUBSECTION (G), WHETHER BEFORE OR AFTER THE
3 ISSUANCE OF THE QUALIFIED RATE ORDER, SHALL CONSTITUTE "AN
4 ACCOUNT" OR "GENERAL INTANGIBLES" UNDER 13 PA.C.S. § 9106
5 (RELATING TO DEFINITIONS); NOR SHALL ANY SUCH RIGHT, TITLE OR
6 INTEREST PERTAINING TO A QUALIFIED RATE ORDER, INCLUDING THE
7 ASSOCIATED INTANGIBLE TRANSITION PROPERTY AND ANY REVENUES,
8 COLLECTIONS, CLAIMS, PAYMENTS, MONEY OR PROCEEDS OF OR
9 ARISING FROM INTANGIBLE TRANSITION CHARGES PURSUANT TO SUCH
10 ORDER, BE DEEMED PROCEEDS OF ANY RIGHT OR INTEREST OTHER THAN
11 IN THE ORDER AND THE INTANGIBLE TRANSITION PROPERTY ARISING
12 FROM THE ORDER.

13 (2) THE GRANTING, PERFECTION AND ENFORCEMENT OF SECURITY
14 INTERESTS IN INTANGIBLE TRANSITION PROPERTY TO SECURE
15 TRANSITION BONDS IS GOVERNED BY THIS SECTION RATHER THAN BY
16 TITLE 13 (RELATING TO COMMERCIAL CODE).

17 (3) A VALID AND ENFORCEABLE SECURITY INTEREST IN
18 INTANGIBLE TRANSITION PROPERTY SHALL ATTACH AND BE PERFECTED
19 ONLY BY MEANS OF A SEPARATE FILING WITH THE COMMISSION, UNDER
20 REGULATIONS THE COMMISSION PRESCRIBES. FOR THIS PURPOSE:

21 (I) IF THE TRANSITION BONDS ARE ISSUED TO FINANCE
22 ANY QUALIFIED TRANSITION EXPENSES, AS SPECIFIED IN THE
23 APPLICABLE QUALIFIED RATE ORDER, THE LIEN OF THE BONDS
24 SHALL ATTACH AUTOMATICALLY TO THE INTANGIBLE TRANSITION
25 PROPERTY RELATING TO THE EXPENSES FROM THE TIME OF
26 ISSUANCE OF THE BONDS.

27 (II) THE LIEN UNDER SUBPARAGRAPH (I) SHALL BE DEEMED
28 A VALID AND ENFORCEABLE SECURITY INTEREST IN THE
29 INTANGIBLE TRANSITION PROPERTY SECURING THE QUALIFIED
30 TRANSITION BONDS AND SHALL BE CONTINUOUSLY PERFECTED IF,

1 BEFORE THE DATE OF ISSUANCE SPECIFIED IN SUBPARAGRAPH (I)
2 OR WITHIN NO MORE THAN TEN DAYS AFTER THE DATE, A FILING
3 HAS BEEN MADE BY OR ON BEHALF OF THE FINANCING PARTY TO
4 PROTECT THAT SECURITY INTEREST IN ACCORDANCE WITH THE
5 PROCEDURES PRESCRIBED BY THE COMMISSION UNDER THIS
6 SUBSECTION. ANY FILING IN RESPECT TO SUCH TRANSITION
7 BONDS SHALL TAKE PRECEDENCE OVER ANY OTHER FILING.

8 (III) THE LIEN UNDER SUBPARAGRAPH (I) IS ENFORCEABLE
9 AGAINST THE ASSIGNEE AND ALL THIRD PARTIES, INCLUDING
10 JUDICIAL LIEN CREDITORS, SUBJECT ONLY TO THE RIGHTS OF
11 ANY THIRD PARTIES HOLDING SECURITY INTERESTS IN THE
12 INTANGIBLE TRANSITION PROPERTY PREVIOUSLY PERFECTED IN
13 THE MANNER DESCRIBED IN THIS SUBSECTION IF VALUE HAS BEEN
14 GIVEN BY THE PURCHASERS OF TRANSITION BONDS. A PERFECTED
15 LIEN IN INTANGIBLE TRANSITION PROPERTY IS A CONTINUOUSLY
16 PERFECTED SECURITY INTEREST IN ALL REVENUES AND PROCEEDS
17 ARISING WITH RESPECT TO THE ASSOCIATED INTANGIBLE
18 TRANSITION PROPERTY, WHETHER OR NOT REVENUES HAVE
19 ACCRUED. INTANGIBLE TRANSITION PROPERTY CONSTITUTES
20 PROPERTY FOR THE PURPOSES OF CONTRACTS SECURING
21 TRANSITION BONDS, WHETHER OR NOT THE RELATED REVENUES
22 HAVE ACCRUED. THE LIEN CREATED UNDER THIS PARAGRAPH IS
23 PERFECTED AND RANKS PRIOR TO ANY OTHER LIEN, INCLUDING
24 ANY JUDICIAL LIEN, WHICH SUBSEQUENTLY ATTACHES TO THE
25 INTANGIBLE TRANSITION PROPERTY; TO THE INTANGIBLE
26 TRANSITION CHARGES; AND TO THE QUALIFIED RATE ORDER AND
27 ANY RIGHTS CREATED BY THE ORDER OR ANY PROCEEDS OF THE
28 ORDER. THE RELATIVE PRIORITY OF A LIEN CREATED UNDER THIS
29 PARAGRAPH IS NOT DEFEATED OR ADVERSELY AFFECTED BY
30 CHANGES TO THE QUALIFIED RATE ORDER OR TO THE INTANGIBLE

1 TRANSITION CHARGES PAYABLE BY ANY CUSTOMER.

2 (IV) THE RELATIVE PRIORITY OF A LIEN CREATED UNDER
3 THIS PARAGRAPH IS NOT DEFEATED OR ADVERSELY AFFECTED BY
4 THE COMMINGLING OF REVENUES ARISING WITH RESPECT TO
5 INTANGIBLE TRANSITION PROPERTY WITH FUNDS OF THE ELECTRIC
6 UTILITY OR OTHER FUNDS OF THE ASSIGNEE.

7 (V) IF AN EVENT OF DEFAULT OCCURS UNDER APPROVED
8 TRANSITION BONDS, THE HOLDERS OF TRANSITION BONDS OR
9 THEIR AUTHORIZED REPRESENTATIVES, AS SECURED PARTIES, MAY
10 FORECLOSE OR OTHERWISE ENFORCE THE LIEN IN THE INTANGIBLE
11 TRANSITION PROPERTY SECURING THE TRANSITION BONDS,
12 SUBJECT TO THE RIGHTS OF ANY THIRD PARTIES HOLDING PRIOR
13 SECURITY INTERESTS IN THE INTANGIBLE TRANSITION PROPERTY
14 PERFECTED IN THE MANNER PROVIDED IN THIS SUBSECTION. UPON
15 APPLICATION BY THE HOLDERS OR THEIR REPRESENTATIVES,
16 WITHOUT LIMITING THEIR OTHER REMEDIES, THE COMMISSION
17 SHALL ORDER THE SEQUESTRATION AND PAYMENT TO THE HOLDERS
18 OR THEIR REPRESENTATIVES OF REVENUES ARISING WITH RESPECT
19 TO THE INTANGIBLE TRANSITION PROPERTY PLEDGED TO THE
20 HOLDERS. AN ORDER UNDER THIS SUBPARAGRAPH SHALL REMAIN IN
21 FULL FORCE AND EFFECT NOTWITHSTANDING ANY BANKRUPTCY,
22 REORGANIZATION, OR OTHER INSOLVENCY PROCEEDINGS WITH
23 RESPECT TO THE ELECTRIC UTILITY OR ASSIGNEE.

24 (4) THE COMMISSION SHALL ESTABLISH AND MAINTAIN A
25 SEPARATE SYSTEM OF RECORDS TO REFLECT THE DATE AND TIME OF
26 RECEIPT OF ALL FILINGS MADE UNDER THIS SUBSECTION AND MAY
27 PROVIDE THAT TRANSFERS OF INTANGIBLE TRANSITION PROPERTY TO
28 AN ASSIGNEE BE FILED IN ACCORDANCE WITH THE SAME SYSTEM.

29 (E) TRUE SALE.--A TRANSFER OF INTANGIBLE TRANSITION PROPERTY
30 BY AN ELECTRIC UTILITY TO AN ASSIGNEE WHICH THE PARTIES HAVE IN

1 THE GOVERNING DOCUMENTATION EXPRESSLY STATED TO BE A SALE OR
2 OTHER ABSOLUTE TRANSFER, IN A TRANSACTION APPROVED IN A
3 QUALIFIED RATE ORDER, SHALL BE TREATED AS AN ABSOLUTE TRANSFER
4 OF ALL OF THE TRANSFEROR'S RIGHT, TITLE AND INTEREST, AS IN A
5 TRUE SALE, AND NOT AS A PLEDGE OR OTHER FINANCING, OF THE
6 INTANGIBLE TRANSITION PROPERTY, OTHER THAN FOR FEDERAL AND STATE
7 INCOME AND FRANCHISE TAX PURPOSES. GRANTING TO HOLDERS OF
8 TRANSITION BONDS A PREFERRED RIGHT TO THE INTANGIBLE TRANSITION
9 PROPERTY OR THE PROVISION BY THE ELECTRIC UTILITY OF ANY CREDIT
10 ENHANCEMENT WITH RESPECT TO TRANSITION BONDS SHALL NOT IMPAIR OR
11 NEGATE THE CHARACTERIZATION OF ANY TRANSFER AS A TRUE SALE,
12 OTHER THAN FOR FEDERAL AND STATE INCOME AND FRANCHISE TAX
13 PURPOSES. A TRANSFER OF INTANGIBLE TRANSITION PROPERTY SHALL BE
14 DEEMED PERFECTED AS AGAINST THIRD PERSONS, INCLUDING ANY
15 JUDICIAL LIEN CREDITORS, WHEN ALL OF THE FOLLOWING HAVE TAKEN
16 PLACE:

17 (1) THE COMMISSION HAS ISSUED THE QUALIFIED RATE ORDER
18 CREATING INTANGIBLE TRANSITION PROPERTY.

19 (2) A SALE OR TRANSFER OF THE INTANGIBLE TRANSITION
20 PROPERTY IN WRITING HAS BEEN EXECUTED AND DELIVERED TO THE
21 ASSIGNEE.

22 (F) ACTIONS WITH RESPECT TO INTANGIBLE TRANSITION CHARGES.--

23 (1) NOTHING IN THIS CHAPTER SHALL ENTITLE ANY PERSON TO
24 BRING AN ACTION AGAINST A RETAIL ELECTRIC CUSTOMER FOR
25 NONPAYMENT OF INTANGIBLE TRANSITION CHARGES, OTHER THAN THE
26 ELECTRIC UTILITY, ITS SUCCESSOR OR ANY OTHER ENTITY WHICH
27 PROVIDES ELECTRIC SERVICE TO A PERSON THAT WAS A CUSTOMER OF
28 AN ELECTRIC UTILITY LOCATED WITHIN THE CERTIFICATED TERRITORY
29 OF THE ELECTRIC UTILITY ON THE EFFECTIVE DATE OF THIS CHAPTER
30 OR THAT BECAME A CUSTOMER OF ELECTRIC SERVICES WITHIN SUCH

1 TERRITORY AFTER THE EFFECTIVE DATE OF THIS CHAPTER AND IS
2 STILL LOCATED WITHIN SUCH TERRITORY.

3 (2) THE COMMISSION HAS EXCLUSIVE JURISDICTION OVER ANY
4 DISPUTE ARISING OUT OF THE OBLIGATIONS, TO IMPOSE AND COLLECT
5 INTANGIBLE TRANSITION CHARGES, OF AN ELECTRIC UTILITY, ITS
6 SUCCESSOR OR ANY OTHER ENTITY WHICH PROVIDES ELECTRIC SERVICE
7 TO A PERSON THAT WAS A CUSTOMER OF AN ELECTRIC UTILITY
8 LOCATED WITHIN THE CERTIFICATED TERRITORY OF THE ELECTRIC
9 UTILITY ON THE EFFECTIVE DATE OF THIS CHAPTER OR THAT BECAME
10 A CUSTOMER OF ELECTRIC SERVICES WITHIN SUCH TERRITORY AFTER
11 THE EFFECTIVE DATE OF THIS CHAPTER AND IS STILL LOCATED
12 WITHIN SUCH TERRITORY.

13 (G) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
14 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
15 SUBSECTION:

16 "ASSIGNEE." AN ENTITY, INCLUDING A CORPORATION, PUBLIC
17 AUTHORITY, TRUST OR FINANCING VEHICLE, TO WHICH AN ELECTRIC
18 UTILITY ASSIGNS, SELLS OR TRANSFERS OTHER THAN AS SECURITY ALL
19 OR A PORTION OF ITS INTEREST IN OR RIGHT TO INTANGIBLE
20 TRANSITION PROPERTY. THE TERM INCLUDES AN ENTITY, INCLUDING A
21 CORPORATION, PUBLIC AUTHORITY, TRUST OR FINANCING VEHICLE TO
22 WHICH A DIRECT ASSIGNEE OF AN ELECTRIC UTILITY MAY ASSIGN, SELL
23 OR TRANSFER OTHER THAN AS SECURITY ITS INTEREST IN OR RIGHT TO
24 INTANGIBLE TRANSITION PROPERTY.

25 "FINANCING PARTY." A HOLDER OF TRANSITION BONDS, INCLUDING
26 TRUSTEES, COLLATERAL AGENTS AND OTHER ENTITIES ACTING FOR THE
27 BENEFIT OF SUCH A HOLDER.

28 "INTANGIBLE TRANSITION CHARGES." THE AMOUNTS AUTHORIZED TO
29 BE IMPOSED ON ALL CUSTOMER BILLS AND COLLECTED, THROUGH A NON-
30 BYPASSABLE MECHANISM BY THE ELECTRIC UTILITY OR ITS SUCCESSOR OR

1 BY ANY OTHER ENTITY WHICH PROVIDES ELECTRIC SERVICE TO A PERSON
2 THAT WAS A CUSTOMER OF AN ELECTRIC UTILITY LOCATED WITHIN THE
3 CERTIFICATED TERRITORY OF THE ELECTRIC UTILITY ON THE EFFECTIVE
4 DATE OF THIS CHAPTER OR THAT, AFTER THIS EFFECTIVE DATE OF THIS
5 CHAPTER, BECAME A CUSTOMER OF ELECTRIC SERVICES WITHIN SUCH
6 TERRITORY, AND IS STILL LOCATED WITHIN SUCH TERRITORY, TO
7 RECOVER QUALIFIED TRANSITION EXPENSES PURSUANT TO A QUALIFIED
8 RATE ORDER. THE AMOUNTS SHALL BE ALLOCATED TO CUSTOMER CLASSES
9 IN A MANNER THAT DOES NOT SHIFT INTER-CLASS OR INTRA-CLASS COSTS
10 AND MAINTAINS CONSISTENCY WITH THE ALLOCATION METHODOLOGY FOR
11 UTILITY PRODUCTION PLANT ACCEPTED BY THE COMMISSION IN THE
12 ELECTRIC UTILITY'S MOST RECENT BASE RATE PROCEEDING.

13 "INTANGIBLE TRANSITION PROPERTY."

14 (1) THE PROPERTY RIGHT CREATED UNDER THIS SECTION
15 REPRESENTING THE IRREVOCABLE RIGHT OF THE ELECTRIC UTILITY OR
16 AN ASSIGNEE TO RECEIVE THROUGH INTANGIBLE TRANSITION CHARGES
17 AMOUNTS SUFFICIENT TO RECOVER ALL OF ITS QUALIFIED TRANSITION
18 EXPENSES. THE TERM INCLUDES ALL RIGHT, TITLE AND INTEREST OF
19 THE ELECTRIC UTILITY OR ASSIGNEE IN THE QUALIFIED RATE ORDER
20 AND IN ALL REVENUES, COLLECTIONS, CLAIMS, PAYMENTS, MONEY OR
21 PROCEEDS OF OR ARISING FROM INTANGIBLE TRANSITION CHARGES
22 PURSUANT TO THE ORDER, TO THE EXTENT THAT, IN ACCORDANCE WITH
23 THIS CHAPTER, THE ORDER AND THE RATES AND OTHER CHARGES
24 AUTHORIZED UNDER THE ORDER ARE DECLARED TO BE IRREVOCABLE.

25 (2) INTANGIBLE TRANSITION PROPERTY SHALL ARISE AND EXIST
26 ONLY WHEN, AS, AND TO THE EXTENT THAT, AN ELECTRIC UTILITY OR
27 ASSIGNEE HAS QUALIFIED TRANSITION EXPENSES FOR WHICH
28 INTANGIBLE TRANSITION CHARGES ARE AUTHORIZED IN A QUALIFIED
29 RATE ORDER THAT HAS BECOME EFFECTIVE IN ACCORDANCE WITH
30 SUBSECTION (A) AND SHALL THEREAFTER CONTINUOUSLY EXIST TO THE

1 EXTENT PROVIDED IN THE ORDER.

2 "QUALIFIED RATE ORDER." AN ORDER OF THE COMMISSION ADOPTED
3 IN ACCORDANCE WITH THIS SECTION, AUTHORIZING THE IMPOSITION AND
4 COLLECTION OF INTANGIBLE TRANSITION CHARGES.

5 "QUALIFIED TRANSITION EXPENSES." THE TRANSITION OR STRANDED
6 COSTS OF AN ELECTRIC UTILITY APPROVED BY THE COMMISSION FOR
7 RECOVERY UNDER SECTIONS 2804 (RELATING TO STANDARDS FOR
8 RESTRUCTURING OF ELECTRIC INDUSTRY) AND 2808 (RELATING TO
9 COMPETITIVE TRANSITION CHARGE), THROUGH THE ISSUANCE OF
10 TRANSITION BONDS; THE COSTS OF RETIRING EXISTING DEBT OR EQUITY
11 CAPITAL OF THE ELECTRIC UTILITY OR ITS HOLDING COMPANY PARENT,
12 INCLUDING ACCRUED INTEREST AND ACQUISITION OR REDEMPTION
13 PREMIUM, COSTS OF DEFEASANCE, AND OTHER RELATED FEES, COSTS AND
14 CHARGES RELATING TO, THROUGH THE ISSUANCE OF TRANSITION BONDS OR
15 THE ASSIGNMENT, SALE OR OTHER TRANSFER OF INTANGIBLE TRANSITION
16 PROPERTY; AND THE COSTS INCURRED TO ISSUE, SERVICE OR REFINANCE
17 THE TRANSITION BONDS, INCLUDING ACCRUED INTEREST AND ACQUISITION
18 OR REDEMPTION PREMIUM, AND OTHER RELATED FEES, COSTS AND
19 CHARGES, OR TO ASSIGN, SELL OR OTHERWISE TRANSFER INTANGIBLE
20 TRANSITION PROPERTY.

21 "TRANSITION BONDS." BONDS, DEBENTURES, NOTES, CERTIFICATES
22 OF PARTICIPATION OR OF BENEFICIAL INTEREST OR OTHER EVIDENCES OF
23 INDEBTEDNESS OR OWNERSHIP WHICH:

24 (1) ARE ISSUED BY OR ON BEHALF OF THE ELECTRIC UTILITY
25 OR ASSIGNEE PURSUANT TO A QUALIFIED RATE ORDER;

26 (2) ARE SECURED BY OR PAYABLE FROM INTANGIBLE TRANSITION
27 PROPERTY; AND

28 (3) REACH FINAL MATURITY IN NO LONGER THAN TEN YEARS.

29 SECTION 5. THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY
30 PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR

1 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT
2 OTHER PROVISIONS OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN
3 EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.
4 SECTION 6. THIS ACT SHALL TAKE EFFECT JANUARY 1, 1997.

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held April 24, 1997

Commissioners Present:

John M. Quain, Chairman, Statement attached

John Hanger, Statement attached

David W. Rolka

Robert K. Bloom, Concurring in result - Statement attached

Tentative Order Re: Guidelines for
Universal Service And Energy Conservation
Programs Made Pursuant to 66 Pa. C.S. §2803
§2802(17), 2804(8) and 2804(9).

Docket No. 97 M-00960890
F0010
RECEIVED
97 JUL -2 PM 3:48
PA.P.U.C.
PROTHONOTARY'S OFFICE

TENTATIVE ORDER

BY THE COMMISSION:

On December 3, 1996, Governor Tom Ridge signed into law the *Electricity Generation Customer Choice and Competition Act* (Act). The Act revised the Public Utility Code. 66 Pa. C.S. §§101, et seq., by inter alia, adding Chapter 28, relating to restructuring of the electric utility industry. The Pennsylvania Public Utility Commission (Commission) is the agency charged with implementing the Act.

The Act is clear in its intent that utilities are to continue, at a minimum, the protections, policies and services that now assist customers who are low-income to afford electric service. Section 2802(9) requires that electric service is essential to the health and well-being of residents, to public safety and to orderly economic development; and electric service should be available to all customers on reasonable terms and conditions. Section 2803 defines universal service and energy conservation policies, as including customer assistance programs; termination of service protection and policies and services that help low-income customers to reduce or manage energy consumption in a cost-effective manner,

such as low-income usage reduction programs, application of renewable resources and consumer education.

The Act states that certain public purpose costs, including programs for low-income assistance, energy conservation and others, have been implemented and supported by public utilities' bundled rates. Section 2802(17) requires that the public purpose is to be promoted by continuing universal service and energy conservation policies, protections and services; and full recovery of such costs is to be permitted through a non-bypassable rate mechanism. Section 2804(8) requires that the Commission establish for each electric utility an appropriate cost recovery mechanism which is designed to fully recover the electric utility's universal service and energy conservation costs over the life of these programs. Section 2804(9) requires the Commission to ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each electric distribution territory. These policies, activities and services shall be funded in each electric distribution territory by non-bypassable competitively neutral cost recovery mechanisms that fully recover the costs of universal service and energy conservation services.

In keeping with these provisions, the Commission is proposing guidelines for universal service and energy conservation. It is our view that the subject matter of these Guidelines require consistent policy determinations to be applied across the local distribution service territories. The Guidelines reflect a determination by the Commission upon evaluating presently known information provided by numerous interested parties in a rapidly evolving industry. The Guidelines are intended to assist the parties in the preparation, litigation and resolution of the Restructuring Filings of each utility by setting forth the Commission's current views regarding how those issues should be addressed in the restructuring proceedings. It is our intention that the Guidelines will enable the parties to more efficiently focus on the relevant factual determinations necessary to comply with the Act.

The sole intent of this tentative order is to propose guidelines for universal service and energy conservation programs and to request written comments from the electric utilities and other interested parties on these guidelines. The Commission will use the comments to this tentative order to develop guidelines for universal service and energy conservation programs that will be issued in a final order. Because the Customer Assistance Program (CAP) Policy Statement and the guidelines for universal service and conservation programs have common elements and are related, the Commission finds it appropriate that the CAP Policy Statement should be revised to be consistent with the guidelines for universal service and energy conservation programs. The Commission wants the revisions to the CAP

Policy Statement and the guidelines for universal service and energy conservation programs to be completed at about the same time. Therefore, the Commission requests parties to comment to our proposed revisions to the CAP Policy Statement that are related to the universal service and energy conservation guidelines as part of this tentative order. The Commission intends to use the comments to this tentative order when revising the CAP Policy Statement.

I. BACKGROUND

At docket M-00960890, Folder 0003, the Commission established a universal service and conservation work group (Work Group) to provide the Commission with recommendations on universal service and conservation matters relating to electric restructuring. Over a six week period, seventy different parties participated in five work group meetings. A subcommittee to discuss issues regarding termination of service met once, and a subcommittee to determine who is responsible for providing and administering universal service also met once. On April 1, 1997, the Work Group submitted a report to the Commission. Additionally, two alternative position reports were submitted to the Commission from the Work Group.

The Work Group reached consensus on limited items for seven principles: universal service and conservation program as a component of restructuring; eligibility for universal service; the components of universal service; CAP eligibility; funding; administration; and reporting requirements. The Work Group also identified a list of outstanding issues and positions relating to universal service and energy conservation. This tentative order incorporates the principles and issues agreed upon by the Work Group.

II. PROPOSED GUIDELINES FOR UNIVERSAL SERVICE AND CONSERVATION PROGRAMS.

In order to establish guidelines for universal service and conservation programs, the Commission proposes the following guidelines be followed when developing, expanding or maintaining universal service and conservation programs. We request public comment and response to the following:

A. Universal service and conservation programs as components of restructuring.

The Commission shall require each affected electric distribution company to submit a comprehensive and multi-year Universal Service and Conservation Program as part of its Restructuring Filing.

B. Eligibility guidelines.

In general, these programs shall be available to electric customers whose household income is at or below 150% of federal poverty guidelines and who meet other non-income criteria. Up to ten percent of the universal service budget may be applied to customers with special needs who are between 150 percent and 200 percent of the federal poverty guidelines.

C. Universal Service Components.

1. Universal service components. Universal service programs should include, but not be limited to, the following programs, protections and policies:

- a) Chapter 56 credit, collection and termination protections. These services shall include a Provider of Last Resort for customers who do not choose an alternative generation provider or whose generation provider refuses to grant service or cancels service based on nonpayment or other reasons. These services shall also include procedures for the distribution company and alternative generation supplier to coordinate dispute, termination and payment arrangement procedures to assure that universal service participants receive the required protections in Chapter 56.
- b) A low income usage reduction program (such as LIURP);
- c) A payment assistance program (such as CAP);
- d) A CARES program, or its equivalent, that meets the Commission's minimum guidelines contained in the

Commission's Secretarial Letter of November 30, 1992;

- e) Administration of a hardship fund. The Commission strongly encourages generation suppliers to implement or join an existing hardship fund;
 - f) Plain language guidelines covered under 52 PA Code, §69.251. Any written information from distribution companies and generation suppliers to residential consumers should be written in plain language; and
 - g) All Secretarial letters relating to collection activity that were issued since June 1985. (See Attachment 1.)
2. **Renewable technologies.** Universal service programs may include cost effective investments in renewable technologies that will help low-income customers to reduce or manage energy consumption.
3. **Eligibility criteria.** Eligibility criteria for the individual universal service components should include the following:
- a) *Chapter 56 regulations* establish standards for all residential electric customers, therefore all low-income customers who participate in universal service programs are covered.
 - b) *Low-Income Usage Reduction Program (LIURP)* regulations at 52 PA Code, §58.2 define a low income customer as a residential customer with household income at or below 150% of the Federal poverty guidelines. Section 58.10 defines priority of program services. This section outlines the following order of priority for receipt of LIURP services:
 - 1. Eligible customers with the largest usage and greatest opportunities for bill reductions relative to the cost of providing program services shall receive services first. Additional criteria for usage level and bill reduction are also defined.
 - 2. Among customers with the same standing under number 1, those customers with the greatest arrearages shall receive services first.

3. Among customers with the same standing under number 2, those households with the lowest incomes shall receive services first.
 4. A utility may spend up to 10% of its annual program budget on eligible special needs customers.
- c) *Customer Assistance Program (CAP) eligibility.* A CAP applicant must meet the following eligibility criteria:
1. Status as a ratepayer or new applicant is verified.
 2. Household income is verified at or below 150% of the Federal poverty guidelines.
 3. The CAP applicant is payment troubled.¹ When determining if a CAP applicant is payment troubled, a utility should select one of the following definitions of payment troubled. Payment troubled is defined as a household who meets one of the following criteria:
 - a) A household whose housing and utility costs exceed 45% of the household's total income;
 - b) A household who has \$100 or less disposable income after subtracting all household expenses from all household income;
 - c) A household who has an arrearage. The utility may define the amount of the arrearage; or
 - d) A household who has received a termination notice or who has failed to maintain one payment arrangement.
- d) *Customer Assistance and Referral Evaluation Services (CARES) eligibility.* Each utility may define eligibility for a CARES program. Generally, CARES eligibility may be targeted to special needs customers. Special needs customers include those who have experienced a family crisis such as loss of income, divorce or major illness.

¹ In order for the universal service and conservation guidelines to be consistent with the CAP Policy Statement, revisions to 52 Pa. Code Chapter 69 will be required. Specifically, revision to the CAP eligibility criteria at §69.265(4)(iii) will be required.

- e) *Hardship fund eligibility.* Hardship funds are typically targeted to customers whose household income is verified at or below 150% of the poverty level.
- f) *Plain language policy statement.* The plain language policy statement establishes guidelines for communications with all residential customers, therefore all low-income customers who participate in universal service programs should receive plain language communication.
- g) *Secretarial letters related to collection activity.* The Secretarial letters established policies for all residential customers, therefore all low-income customers who participate in universal service programs are covered by the policies addressed in the Commission's Secretarial Letters.

4. ***Consumer and energy education and outreach activities.*** A distribution company's universal service and conservation plans should include an education plan that targets low-income customers. The education plan should educate low-income customers about the following:

- a) What options are available for low-income customers regarding choosing a generation supplier? How low-income customers can effectively consider these options in choosing a generation supplier.
- b) How choice can work in conjunction with universal service and conservation programs and that exercising choice does not preclude participation in universal service and conservation programs or the provisions of Chapter 56 protections.

Consumer education efforts for low-income and universal service customers should strongly consider the following education and outreach activities:

- a) Use multi-language approaches, when appropriate;
- b) Use educational methods and messages (such as local radio, free local newspapers, and local community

outreach) that are targeted specially to low-income customers.

- c) Use existing opportunities to educate low-income customers about choice, for example, when a customer receives budget counseling as part of CAP or energy education as part of LIURP.
- d) Target choice education efforts to secondary education students who may assist households to understand and pay utility bills.

5. **Revisions to LIURP.** The Commission is currently in the process of revising the LIURP regulations. Any provisions of universal service that deal with LIURP should be consistent with the LIURP final regulations.

6. **Revisions to the CAP Policy Statement.** In order for the universal service and conservation guidelines to be consistent with the CAP Policy Statement, revisions to 52 Pa. 52. Code Chapter 69 will be required. The Commission's CAP Policy Statement became effective July 2, 1992. The experiences learned from CAP pilots and the results of evaluations show that some revisions to the policy statement are appropriate. In addition to the revisions to program design regarding the scope of pilots, program funding, payment plans, and eligibility that are discussed elsewhere in this order, the Commission plans substantive revisions to the following sections: control features, default provisions, and coordination of LIHEAP benefits.

Control features. The Commission is amending this section to eliminate conservation incentives. The Commission included conservation incentives to limit program costs due to increases in consumption. Evaluators consistently found that CAP participants did not increase energy consumption after enrolling in CAP. Evaluators also had difficulty quantifying benefits directly related to conservation incentives. However, they found the incentive did slightly increase the cost of the CAP. The conservation incentive has been complex and burdensome to administer. The incentive is confusing to CAP participants who see a reduction in one month's bill. Because many utilities' payment plans are tied to usage, participants who conserve will see a reduction in their bill.

The Commission has added a control feature that disallows a CAP participant from subscribing to optional services that would cause an increase in monthly billing and do not contribute to bill reduction. This addition is consistent with the provisions for participants of telephone universal service programs. Telephone universal service participants may not subscribe to telephone optional services such as call waiting and call forwarding.

The Commission is changing the term *billing deficiency limit* to *maximum CAP credits*. The term *billing deficiency* suggests that payments are not made. Participation in CAP requires that a customer make regular, monthly payments for the full CAP amount billed. The term *CAP credits* is more accurate in describing the difference between the amount that would have been billed at the standard residential rate and the amount billed at the CAP rate.

Default provisions. The Commission believes that the consequences for nonpayment should be loss of service; therefore, we recommended that participants who do not make payments should be returned to the regular collection cycle.

The Commission is deleting the provision that failure to apply for LIHEAP and designate a LIHEAP grant to the CAP-sponsoring utility should result in dismissal. Because of the changes in to LIHEAP eligibility and funding, CAP participants have difficulty meeting this provision.

Coordination of LIHEAP benefits. The Commission is adding a section to allow the utility flexibility to deal with a participant who fails to apply for a LIHEAP grant. When the Commission approved the CAP Policy Statement, a CAP participant was eligible to receive two LIHEAP benefits in the form of cash and crisis grants. Changes to LIHEAP eligibility restrict CAP participants from receiving LIHEAP crisis benefits. Because of the difficulty a CAP participant has in obtaining LIHEAP benefits, we do not believe that utilities should automatically impose penalties on a CAP participant who does not designate a LIHEAP grant to the

CAP sponsoring-utility. However, we do believe that utilities should strongly encourage participants to apply for LIHEAP benefits. This change allows utilities the option of imposing a penalty on a CAP participant who is eligible for LIHEAP benefits but who fails to apply for those benefits.

D. Cap Enrollment.

1. **Expansion of CAPs.** 66 Pa. C.S. §2802(9) finds that electric service is essential to the health and well-being of residents, to public safety and to orderly economic development; and electric service should be available to all customers on reasonable terms and conditions. 66 Pa. C.S. § 2804(9) requires the Commission shall ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each electric distribution territory.

Universal service should include a Customer Assistance Program that that is available to and is designed to enroll the eligible population of low income customers who are likely to participate within the distribution company's service territory within three years.² Whether or not an eligible customer is likely to participate is partially a function of adequate public education efforts, which are an integral part of developing effective universal service policies.

For the following reasons, the Commission believes that between 289,660 - 361,830 households statewide may be eligible for universal service programs. The 1990 Census Data shows that 2,170,979 persons in Pennsylvania have incomes below 150% of the poverty level. Assuming a three-person household, we can estimate that 723,660 households are below 150% of the poverty level. The Commission's Investigation of Uncollectible Balances, at Docket No. I-900002, found that 40% of the Commonwealth's low-income households are payment troubled.

² In order for the universal service and conservation guidelines to be consistent with the CAP Policy Statement, revisions to 52 Pa. 52. Code Chapter 69 will be required. Specifically, revision to the scope of pilot CAPs at 52 Pa. §69.264 will be required.

All consumers who are eligible for government benefits or programs do not choose, for a variety of reasons, to apply for these benefits. For example, a 1989 report issued by the U.S. General Accounting Office found that nationwide only about *one-half of those eligible for food stamp benefits choose to participate in that program.* One of the major reasons mentioned for non-participation by those eligible was a belief that the benefit was not necessary. The state of California currently offers two programs to its low income residents: rate assistance and energy efficiency services. On average, 58% of eligible customers participated in the rate discount program and on average, 56% of eligible customers participated in the weatherization programs. The California model bases eligibility on income only. The Commission's model bases eligibility on income, usage and need. Therefore, fewer households will be eligible for services using the Commonwealth model.

Based on the Census data information and the history that all households who are eligible for benefits will not apply, the Commission projects that between 40%-50% of eligible households (289,660 - 361,830 households) could apply for *universal service affordable payment programs.* Presently, approximately 44,000 households are enrolled in electric utility CAPs.

In order to meet the obligations of the Act, utilities may need to enhance CAPs beyond the pilot stage. Utilities should devise a universal service plan which identifies the targeted population within its distribution territory; sets forth a time line for implementing a CAP which is available to meet the *needs of low-income customers within three years and sets forth the proposed expenditures to meet the needs of the targeted population.* One potential approach is to identify a percentage of the low-income population that would be set as the floor level for designing a permanent CAP, and we invite comments on whether such a threshold level should be established, and if so, at what level.

To fund enhanced CAPs, utilities may need to trade collection expenses with CAP costs. If a utility trades CAP costs with

write-offs and operational expenses associated with low-income customers, adequate funding may be available. If low-income customers are served under CAP, the collection costs associated with low-income customers are traded for CAP costs.

2. **CAP Payment Amounts.** *Payment plan proposal.*³ Generally, CAP payments for total electric and natural gas home energy should not exceed 17% of the CAP participant's annual income. The minimum payment should not be less than the guidelines at §69.265(3)(v)(A) and (B). Payment plans should be based on one or a combination of the following:

(i) *Percentage of income payment plan.*

- (A) Generally, maximum payments for electric nonheating service should be within the following ranges:
- household income between 0-50% of poverty at 2%-5% of income.
 - household income between 51-100% of poverty at 4%-6% of income.
 - household income between 101-150% of poverty at 6%-7% of income.
- (B) Generally, maximum payments for electric heating (generally all electric service) should not exceed the following guidelines:
- household income between 0-50% of poverty at 7%-13% of income.
 - household income between 51-100% of poverty at 11%-16% of income.
 - household income between 101-150% of poverty at 15%-17% of income.

³ In order for the universal service and conservation guidelines to be consistent with the CAP Policy Statement, revisions to 52 Pa. 52. Code Chapter 69 will be required. Specifically, revisions to the payment plan proposal at §69.265(2) will be required.

- (ii) *Percentage of bill payment plan.* The participant's household payment contribution for total electric and natural gas home energy under a percentage of bill plan is determined using the variables of family size and income and the household's annual energy usage. A participant's annual payment is calculated as a percentage of income payment and converted to a percentage of the annual bill. When a utility determines subsequent CAP payment amounts, a participant will continue to pay the same percentage of the total bill even if annual usage has changed.
- (iii) *Rate discount.* The participant's energy usage is billed at a reduced rate that is a fraction of percentage of the normal rate.
- (iv) *Minimum monthly payment.* The participant's household payment contribution is calculated by taking the participant's estimated monthly budget billing amount and subtracting the maximum, monthly CAP credit, previously called billing deficiency (\$46 month for non-electric heat and \$116 month for electric heat).
- (v) *Annualized, average payment.* The participant's household payment contribution is calculated by determining the total amount the participant paid over the last 12 months and dividing by 12 months to determine a monthly budget.
- (vi) *An alternative payment formula.* An alternative payment formula must be reviewed by the Bureau of Consumer Services and approved by the Commission.

E. Expenditures.

1. A distribution company's level of expenditures should reflect at least 0.2% of revenues for LIURP and 0.5% of jurisdictional revenues for CAP. The expenditures for universal service and energy conservation programs must be examined in conjunction with the costs of distribution rates, and competitive and intangible transition charges. The total amount of dollars

available under the rate cap should be adjusted to meet all the requirements of the Act.

- a) LIURP expenditures should reflect at least 0.2% unless the utility demonstrates through a needs assessment that a different funding level is necessary.
- b) Because of the level of need, a distribution company who currently spends more than the proposed guidelines for its CAP, shall, at a minimum, maintain the current level of expenditures.

2. In order to appropriately fund and expand CAPs, a distribution company should establish the baseline for funding its universal service programs by identifying the number of low-income households who may be eligible for programs and by identifying all expenditures that are used to address the problems of low income and payment-troubled customers. This revenue may include, in part: write-off of uncollectible expenses; costs associated with collections, termination and reconnection; costs associated with CAP, CARES and LIURP programs; and the administration of hardship funds. A utility may need to shift funds from write-offs and collection operation expenses to CAPs or LIURP.

F. Funding Of Universal Service And Conservation Programs.

1. The cost of a distribution company's Universal Service Program should be allocated among the classes of the distribution company's ratepayers consistent with the sound rate design principles and in accordance with the Act's prohibitions against the interclass and intraclass cost transfer and the Act's rate cap. The allocation of universal service program costs will be performed during each utility's upcoming restructuring proceeding.

2. The electric distribution company will assess the nonbypassable, competitively neutral cost recovery mechanism that funds universal service and energy conservation policies, activities and services.
3. Funding should be utility service territory-specific rather than statewide.
4. All customer classes should share in providing funding of universal service consistent with sound rate design principles and in accordance with the Act's prohibitions against the interclass and intraclass cost transfer and the Act's rate cap.
5. Within the rate caps, universal service program funding must be adequate to ensure meaningful and strong programs.

G. Administration.

1. **Program administration.** During the transition period, the Commission urges a moderate approach to administration of universal service programs. Initially, we recognize each distribution company administers its universal service programs. The Commission encourages utilities to use the resources of community-based organizations. A statewide administration of LIURP and CAP may be desirable in the future and should be retained as an option for further exploration and discussion.

In the future, the Commission could select an alternate administrator or service provider for one or more universal service components in that service territory.

2. **Administration of program benefits.** The universal service funding mechanism should be collected by the distribution company for both the distribution and generation parts of the bill, as a non-bypassable charge, paid by all customers. Universal service and

LIHEAP benefits should be assigned to the distribution company.

Another potential approach establishes that the distribution company will collect the revenue to administer the universal service and energy conservation programs. The distribution company will disburse payment assistance benefits on a pro rata basis to each portion of the generation, distribution and transmission part of the bill. We invite comments on the approach of disbursing payment assistance benefits on a pro rata base.

3. **Approval of universal service and conservation plan.** The Commission shall approve, modify or reject each distribution company's universal service and conservation plan.

H. Reporting Requirements.

1. Each company should gather information and analyze it on an annual basis and report to the Commission on its progress in achieving universal service within its service territory. The company should include in its report recommendations on how to close any identified gaps in providing electric service to its low-income customers.

Annual reports should include, but not be limited, the following information:

- a) Utilities shall report all criteria used by the company to categorize customers as low-income. Utilities shall report the annual collection operating costs associated with handling low-income customer accounts, including administrative expenses associated with termination activity: 10-day termination notice, personal contact, 48-hour notice, actual termination of service, post termination and restorations; negotiating payment arrangements requests; budget counseling; handling informal and formal complaints; securing and maintaining deposits; tracking delinquent accounts;

collection agencies' expenses; litigation expenses; dunning expenses, and winter survey expenses.

- b) Utilities shall report the dollar amount of the company's gross residential write-offs for the reporting year, the portion related to low-income customers or an estimate of the portion related to the low-income customers.
 - c) Utilities shall report how many residential service customers were served in the reporting year, the number of residential customers known to be low-income customers, and total estimated low-income customers, and the company's definition of a low-income customer. Utilities shall also report how many residential customers are payment troubled customers, and how the company defines "payment troubled"? How many low-income customers are known to be payment troubled customers, and what is the estimate of the total number of low-income, payment troubled customers?
 - d) Utilities shall report a definition of a residential account in arrears, the total number of residential accounts in arrears in the reporting year, the number of those accounts that were low-income customers, dollars in arrears owed by identified low-income customers, and the total number of dollars in arrears (identified and estimated).
 - e) Utilities shall report annually to the Commission the number of customers who are potentially eligible for CAP. Utilities shall report the number of customers enrolled in CAP.
 - f) Utilities shall report annually the number of customers still in need of LIURP services and the cost to serve all customers who need LIURP services.
2. The Bureau of Consumer Services will report to the Commission biannually on the status of each

company's universal service and conservation programs.

3. The Commission will determine if the utility meets the goals of universal service.
4. LIURP and CAP evaluations. Five 5 years after a distribution company's restructuring filing is approved, the company should submit an impact evaluation of its CAP and LIURP programs. After the initial impact evaluation, the distribution company should submit an impact evaluation of its CAP and LIURP programs every five years. The impact evaluation should focus on the degree to which the program achieves the continuation of utility service to program participants at reasonable cost levels. The evaluation should be conducted by an independent third-party.

Three years after a distribution company's restructuring filing is approved, the company should conduct a one-time process evaluation of its CAP. The process evaluation should focus on whether CAP expansion has met the level of need, whether it conforms to the program design guidelines and should assess the degree to which the program operates efficiently.

I. Advisory Panels.

A utility shall create and maintain a universal service program advisory panel to provide consultation and advice to the utility regarding the scope, design and administration of its universal service programs.

A utility may use an existing customer advisory panel to satisfy this guideline when the membership of the panel can reasonably be expected to provide effective consultation and advice regarding universal service programs.

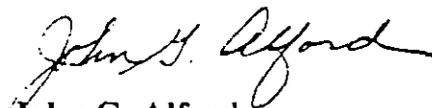
We have issued the preceding guidelines to encourage public comments. We urge that comments be filed as soon as possible. Note that reply comments will not be permitted; **THEREFORE,**

IT IS ORDERED:

1. That the guidelines for a universal service and conservation program as set forth in this Tentative Order are hereby issued to the public for comment.
2. That a comment period ending at the close of business on May 14, 1997 is hereby established.
3. That written comments, an original and 15 copies, shall be submitted to: Office of Prothonotary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265. Comments should specifically reference the above-captioned Commission docket number.
4. That a copy of this Tentative Order and any accompanying statements of the Commissioners be served upon all jurisdictional electric companies, the Office of Consumer Advocate, the Office of Small Business Advocate, other parties who participated in the Commission's electric competition investigation at Docket No. I-00940032, the Electric Competition Legislative Stakeholders, and the Universal Service and Conservation Work Group.
5. That the contact persons for this matter are Janice K. Hummel, Bureau of Consumer Services (technical), (717) 783-9088 and Kathryn G. Sophy, Law Bureau (legal), (717) 782-8840.

6. That a final Opinion and Order shall be issued subsequent to the receipt and evaluation of any comments filed in accordance with this tentative order.

BY THE COMMISSION,


John G. Alford,
Secretary

(SEAL)

ORDER ADOPTED: April 24, 1997

ORDER ENTERED: APR 25 1997

Attachment 1
Secretarial Letters Relating to Collections

<i>Secretarial Letter</i>	<i>Content of Secretarial Letter</i>	<i>Guidelines established by Secretarial Letter</i>
<i>Heat Wave Procedures</i> 3/17/94	Recommends guidelines for electric utilities to assist in protecting the public's health and safety during periods of extreme heat and humidity.	Guidelines: Use existing resources to educate the public about the dangers of intense hot weather, remind customers of existing protections to pay high bills, refrain from terminating service to "at risk" population during heat wavers, be lenient in requirements to reconnect service during heat waves when the household includes an "at risk" member. "At risk" includes those age 60 and over, those seriously ill and those taking certain medications.
<i>Budget Counseling</i> 11/30/93	Recommends guidelines for budget counseling	Guidelines: make budget counseling a significant component of customer support programs for customers who are payment troubled, reserve traditional budget counseling for payment troubled customers with an ability to pay; make nontraditional budget counseling available for those who are low income which includes the completion of a budget worksheet and supportive guidance to persuade customers to make selected changes to reduce certain expenses.
<i>Winter Termination Procedures</i> 2/12/93	Lists requirements for utilities when requesting permission to terminate residential service between December 1 and March 31.	Requirements: <ul style="list-style-type: none"> utility report 2 year history of contacts 12 month payment history information validating customer's positive ability to pay support for following criteria: <ul style="list-style-type: none"> Income above 150% of poverty No children under 12 No occupants over 60 No occupants with physical or mental disabilities No occupant with serious illness No landlord/tenant relationship

<i>Secretarial Letter</i>	<i>Content of Secretarial Letter</i>	<i>Guidelines established by Secretarial Letter</i>
<i>LIHEAP Outreach Plans</i> 11/30/92	Urges companies to actively pursue LIHEAP benefits for their customers.	
<i>Budget Counseling</i> 5/31/85	Endorses the use of budget counseling for customers with some ability to pay and a willingness to have their financial affairs managed by a credit counseling agency.	Guidelines: services should not be provided by company employees who perform billing, credit or collections responsibilities; companies should pay any fee CBO's charge for the services; companies must insure budget counseling agencies are productive and legitimate and be able to demonstrate this to the Commission.
<i>Hardship Fund</i> No Date	Encourages support of a hardship or fuel fund in the company's service territory.	Use matching credits from stockholders' contributions to multiply the value of customer and employee contributions, provide a dollar check-off feature for customer contributions, actively seek donations from the community and corporate neighbors.
<i>Hardship Fund</i> 11/30/92	Recommends guidelines for utility hardship funds.	Guidelines: Continue to support and expand company hardship fund programs; advocate for increase in shareholder contributions through matching provisions or outright grants, offer the "dollar check-off provision" to solicit contributions, join with a highly visible charitable organization, seek donations from community and corporate neighbors, and increase visibility through fund raising and use of mass media.
<i>Tracking & Referral</i> 2/20/86	Proposes guidelines to prevent potential payment problems and to ameliorate actual problems by improving the ability to pay of all eligible customers. Purpose is to insure customers receive the benefits of the assistance and support programs for which they qualify.	Identification of Services: <ul style="list-style-type: none"> a) private and public agencies b) LIHEAP and CRISIS c) conservation d) credit counseling e) specialized sources such as nutritional and home management services Company Programs: <ul style="list-style-type: none"> a) home energy audits b) conservation programs c) budget billing

<i>Secretarial Letter</i>	<i>Content of Secretarial Letter</i>	<i>Guidelines established by Secretarial Letter</i>
		<p>Linking Services: Companies take leading role in creating system coordinating services</p> <ul style="list-style-type: none"> a) nature of service b) eligibility requirements c) application process <p>Identification of Customers:</p> <ul style="list-style-type: none"> a) application process b) complaints and inquiries c) service trouble reports d) direct appeals to customers e) receipt of LIHEAP, various income sources, medical assistance <p>Effective Referrals:</p> <ul style="list-style-type: none"> a) system within company b) updated frequently c) company staff training d) referrals from other organizations to utility <p>Tracking:</p> <ul style="list-style-type: none"> a) maintain records to ID potentially payment troubled customers
<i>Service Limiters</i> 2/20/85	Recognizes the use of service limiters as an acceptable practice.	
<i>Monthly Meter Reading</i> 6/20/85	Encourages companies to study the feasibility of reading meters monthly.	
<i>Monthly Collections</i> 6/20/85	Recognizes monthly collections as most effective approach to pursuing nonpayment. Also recognizes some alternate approaches to monthly collections can achieve some ends as monthly collections.	
<i>Credit Screening</i> 6/20/85	Recognizes adequate residential credit screening for identifying payment-troubled customers and for deterring fraudulent applications for service.	

<i>Secretarial Letter</i>	<i>Content of Secretarial Letter</i>	<i>Guidelines established by Secretarial Letter</i>
<i>"Soft Core" Dunning</i> 6/20/85	Recognizes the usefulness of reminder notices and similar nonthreatening reminders as a first step in collections.	
<i>Deposits from exiting residential Customers</i> 6/20/85	Urges companies to carefully scrutinize customers to insure the demand for a deposit will not exacerbate the potential for serious payment problems.	
<i>Budget Billing Plus</i> 6/20/85	Advises companies the Commission endorses using plans that set a flat monthly payment for delinquent customers.	
<i>Special Payment Reminders</i> 6/20/85	Endorses use of nonthreatening telephone contacts to remind customers that payment will soon be due and to pick up on the recent development of any special problems which could prevent timely payment.	
<i>Waive Late Payment Charges</i> 5/31/85	Urges companies to consider waiving residential late payment charges for customers with a limited ability to pay for utility service.	
<i>Customer CARES</i> 5/31/85	Suggests the establishment of a customer "CARES" program.	
<i>Customer CARES</i> 11/30/92	Recommended guidelines to improve the impact of CARES programs. Also urged the 3 utilities that didn't have CARES to set a program up and respond to BCS how it will implement CARES or an alternative program.	Guidelines: Communicate status annually to BCS; expand eligibility to include not only senior citizens but also special needs low income customers; include staff training in communication skills, staff training regarding CARES program design; home visitation (at least one) and preparation of energy audit for most recipients; intensive tracking and referral services for CARES participants, maintenance of confidential case files; expansion and maintenance of customer services network; include social services background in job description of a CARES representative.

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105

GUIDELINES FOR UNIVERSAL SERVICE
AND ENERGY CONSERVATION PROGRAMS

PUBLIC MEETING-
APRIL 24, 1997
APR-97-BCS-4*
DOCKET NO. M-00960890 F 0010

STATEMENT OF CHAIRMAN JOHN M. QUAIN

Before the Commission is a Tentative Order concerning guidelines for utility universal service and energy conservation programs. The guidelines address the components of universal service and requests comments on related priorities.

I recognize that there is a significant number of customers who may be eligible to take advantage of any program. I also note, however, that there is a limit to the available dollars that can be expended in support of universal service. Moreover, given the imposition of the "rate cap" at 66 Pa. C.S. §2804, an increase in funding can only occur as a result of efficiencies realized from remaining company operations. Consequently, each company's restructuring filing should isolate the expenditures associated with such activities. Further, it should identify the "trade-offs" that must be made if a universal service program expansion is proposed.

4-24-97

DATE


JOHN M. QUAIN, CHAIRMAN

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania

GUIDELINES FOR UNIVERSAL
SERVICE AND ENERGY
CONSERVATION PROGRAMS

PUBLIC MEETING-
APRIL 24, 1997
APR-97-BCS-4*
DOCKET NO. M-00960890 F0010

STATEMENT OF COMMISSIONER JOHN HANGER

Chapter 28 requires the Commission to ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each electric distribution territory. I welcome comments on the Tentative Guidelines proposed today so that the Commission may adopt Final Guidelines that assist the parties efficiently to develop proposals for consideration in the restructuring proceedings.

In particular, I encourage comments on how CAP benefits or other grants such as LIHEAP should be applied to customer accounts. Should they be applied to generation to encourage competitive suppliers to serve low income customers? Should they be applied only to the regulated portion of the bill? Is the answer different if the cost of the programs is collected through one or all portions of the bill?

The Tentative Guidelines assume that distribution utilities' plans may include competition education as well as usage reduction or bill payment education. In general, the Commission's consideration of education has attempted to separate education from marketing efforts and the Commission has not thus far indicated the source of payment for education about competitive generation. Should the utility be the provider of education on competition or should it provided independently? Should it be funded out of universal service funds?

In addition, I encourage comments on including competitive forces in the provision of universal service and energy conservation programs based on the approach used by the California Public Utilities Commission. (Decision 97-02-014, February 5, 1997).

The following outline of how such a system might be used in Pennsylvania is provided to stimulate discussion and for comments in this Docket and is not intended as a specific recommendation. In distributing this proposal, I assume based on existing practice that some utilities may prefer not to administer universal service and conservation programs, and that other providers believe they can provide better services at a lower cost. Note that the central idea in the proposal is to allow competition in the provision of universal service and conservation programs. The administrative changes are an important departure as well, especially if the host utility wants to provide the services directly. Comments should consider variations from the basic

proposal and whether it is desirable to permit or encourage such developments at this time.

The basic approach is to establish a statewide administrative structure to contract for and oversee universal service and energy conservation programs within each utility service territory. Perhaps PUC mandated consumer education programs could be included as well. A Governing Board might be composed of 5 policy/expert representatives and 2 BCS employees appointed by Commission. The BCS members would function as staff, including program administration and evaluation. The Governing Board would have general administrative control over Universal Service/Conservation and Education programs within the parameters of PUC Orders/regulations and supervision.

The Governing Board would request proposals for the provision of services in each service territory and select one or more winning bids based on price, quality, community familiarity, etc. Bidders might include the host or other utilities, community-based organizations, energy service companies, or joint proposals. The collector of universal service funds from ratepayers would be directed to disburse funds directly to the provider or credit the consumer account as appropriate.

In addition, separate Advisory Councils in each service territory would assist the Governing Board, since needs, spending levels and program details will differ somewhat by service territory. The Advisory Councils might include 7 community representatives appointed by the PUC or the Governing Board. The Advisory Councils would assist the Governing Board to implement the programs consistent with the circumstances affecting the programs in each service territory.

April 23, 1997
DATED


JOHN HANGER, COMMISSIONER

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

GUIDELINES FOR UNIVERSAL SERVICE
AND ENERGY CONSERVATION PROGRAMS

PUBLIC MEETING
APRIL 24, 1997
APR-97-BCS-4*
DOCKET NO: M-00960890 FOC

STATEMENT OF COMMISSIONER ROBERT K. BLOOM

Before the Commission for consideration is a proposed Tentative Order prepared by staff which requests public comment on proposed Guidelines for universal service and energy conservation programs. This Order was prepared in response to the work product of the universal service and conservation work group. While the work group was successful in reaching consensus on several items of discussion, many critical issues remain unresolved. The Guidelines are designed in response to requirements within the Electricity Generation Customer Choice and Competition Act ("Act") which address the disposition of existing public purpose and energy conservation programs. Specifically, the Act at §2802.10 states that "The Commonwealth must, at a minimum, continue the protections, policies and services that now assist customers who are low-income to afford electric service." Furthermore, at §2802.17, the Act states that "The public purpose is to be promoted by continuing universal service and energy conservation policies, protections and services; and full recovery of such costs is to be permitted through a nonbypassable rate mechanism."

I strongly encourage all interested parties to comment on the proposed Guidelines. Several of the conclusions within this Tentative Order are a significant cause of concern and I would specifically request that parties comment on these concerns. First, will the mere issuance of "guidelines" suffice to enable the Commission to carry out its responsibilities under the Act in regard to universal electric service in a competitive generation market? Guidelines are simply guidelines and do not carry the force of law as regulations do. While the issuance of guidelines is administratively preferable given the time constraints established by the Commission, the resulting guidelines may lack the legal basis needed to enforce standards which the distribution companies must follow. Moreover, guidelines by their nature are subject to a greater degree of interpretation than are regulations, with the potential adverse result being inconsistent application.

Secondly, the proposed guideline concerning expansion of CAP programs which could potentially prescribe that a certain percentage of eligible customers should be enrolled within a designated time frame appears to be incompatible to a competitive electric industry. Should the Commission set such an artificial regulatory requirement as we transition to a competitive market or should the percentage of enrollment be determined by the competitive environment? Additionally, would it not be prudent for

the Commission to review the independent CAP evaluations being developed before prescribing that these programs be expanded? Furthermore, considering the rate cap limitations within the Act, how will the distribution companies be able to fund expansion of these programs without violating the rate cap? I have similar concerns with the proposed Guideline which prescribes the minimum percentage of revenues that a distribution company should expend on the LIURP program.

4-24-97

DATE


ROBERT K. BLOOM, COMMISSIONER

Policies to Protect the Rights of Vulnerable Customers in the Restructuring of the Electric Utility Industry

September 23, 1995

Whereas, many states and the Federal Energy Regulatory Commission are considering proposals to restructure the electric utility industry that could change how electricity services are priced and provided; and

Whereas, electricity is necessary to maintain health and safety for fixed-income and low-income customers in this modern era, that as a group these households use the least amount of electricity but pay the highest percentage of their income for this need; and

Whereas, fixed- and low-income households with children, older persons, disabled people and minority customers are the most likely to be exposed to the toxic and environmental effects of electricity generation and transmission; and

Whereas, customers on fixed- and low-incomes face unique market barriers to obtaining energy efficiency services through the open market, are the least likely to be in a position to exercise meaningful customer choice in any restructured electricity market, and the most likely to be captive customers; and

Whereas, the National Association of Regulatory Utility Commissioners Executive Committee unanimously passed a resolution on July 27, 1995, on the impact of electric industry restructuring on low-income residential customers, and set forth broad policy recommendations to protect low-income customers from the adverse impacts of said restructuring; and

Whereas, to carry out the goal of protecting low-income households, the specific policies articulated below must be implemented; and

Whereas, restructuring of the electric utility industry suggests a radical change in public policy that redistributes benefits and costs; now therefore be it hereby

Resolved that if restructuring shifts responsibility for paying costs onto captive customers, the revenues needed should be collected only with state legislative approval; and be it further

Resolved that in their deliberations over the restructuring of the electric industry, state and federal regulators are urged to adopt the following policies, at a minimum, necessary to protect residential customers on fixed- and low-incomes:

1) Affordable Access

Any alternative structure must include all of the following:

- A. Maintain the obligation of utilities and/or other providers to serve as the provider of last resort for vulnerable customers, such as fixed- and low-income consumers;
- B. Enable fixed- and low-income customers to obtain electricity essential to health and safety;
- C. Require utilities and/or other providers to provide affordable service to low- or fixed-income customers;
- D. Provide comprehensive energy conservation and efficiency grant programs. These must improve the efficiency of energy services for fixed- and low-income customers, address indoor air quality, and make optimum use of the existing network of low-income weatherization providers;
- E. Provide affordable deposit and deferred payment policies; and
- F. Prevent mandatory use of service limiters, prepayment cards, or other forms of degraded service.

2) Fair Billing and Collection Procedures

Any alternative industry structure must ensure freedom from abusive and unfair collection procedures and from unfair disconnect practices. It must:

- A. Provide adequate notice of proposed termination of services;
- B. Provide reasonable payment arrangement options for current and deferred bills;
- C. Provide access to customer service representatives who are knowledgeable in the areas of customer assistance, bill assistance, different rate and weatherization programs, energy education, and payment options;
- D. Prohibit disconnections that threaten the health and safety of vulnerable customers;
- E. Maintain the right to appeal an unfair utility action to an impartial regulator.

3) Participation in Setting Public Policy

Low- and fixed-income customers must be able to participate in collaborative or any other form of decision-making relative to electric industry restructuring issues, with funding for full participation.

4) Environmental Justice

Historically, low income and minority communities have been disproportionately harmed by local generation and transmission siting. Any alternative industry structure must avoid adverse environmental and safety impacts on low-income and minority communities.

5) Long Term Perspective

Any alternative industry structure must provide a balanced portfolio of energy resources that are affordable, sustainable, reliable, environmentally and societally responsible, and economically efficient. Such an alternative industry structure must prevent environmental degradation and maximize employment. Long-term goals must not be sacrificed for a short-term perspective which may reduce rates for some customers while increasing bills for fixed- and low-income customers and exposing them to unacceptable environmental risks.

6) Fair Allocation of Costs and Benefits

A. The costs resulting from past decisions in the electric industry, especially those that built load for industrial customers' demand, must not be borne by the low-income customer.

1. Stranded investments must be borne by providers, industrials, and investors through non-bypassable charges.

2. Stranded cost must be borne by utilities now through rate reductions for all customers without waiting for final resolution of the restructuring issue.

B. All customers, including fixed- and low-income customers, must share in the benefits of a restructured electric industry. Restructuring must not go forward unless bills go down for everyone.

T. R. Dahl

**Pennsylvania Power & Light Company
Response to Interrogatories
of the Commission on Economic Opportunity, Set I
Dated May 19, 1997
Docket No. R-00973954**

Q.41. Approximately how many of those customers mentioned in response to Question (30) are baseload only customers?

A.41. Approximately 120,700 low-income customers are non-electric heat residential customers.

RECEIVED
97 JUL -2 PM 3:48
P.A.P.U.C.
PROTHONOTARY'S OFFICE

- Q. Identify all criteria used by the company to categorize customers as low income customers. State the collection costs for the base year 1996 associated with handling low income customer accounts including administrative expenses associated with termination activity (10-day termination notice, personal contact, 48-hour notice, actual termination of service, post-termination and restoration costs), negotiating payment arrangement requests, budget counseling, handling formal and informal complaints, securing and maintaining deposits, tracking delinquent accounts, collection agency expenses, litigation expenses, dunning expenses and winter survey expenses.
- A. Customers with annual household incomes at or below 150 percent of the federal poverty level are considered low income for the purpose of negotiating payment plans. The 1997 income levels by family size for 150 percent of poverty are shown below:

<u>Family Size</u>	<u>Household Income</u>
1	\$11,835
2	15,915
3	19,995
4	24,075
5	28,155
6	32,235
Each additional person	4,080

RECEIVED
 97 JUL -2 PM 3:48
 P.A.P.U.C.
 PROTHONOTARY'S OFFICE

PP&L estimated collection costs for calendar year 1996 are shown below:

Revenue Collection Department	
- Payroll costs	\$3,238,555
- Collection agency/attorney fees	1,215,975
- Other costs (including chargebacks)	1,642,554
Facilities Costs (estimated)	
- Office space	164,230
- Telephone Equipment	24,000

EXHIBIT _____ MK-10

PP&L's Office of General Counsel	
- Internal support for collection activities	450,000
- External legal counsel	350,000
Meter Reading & Service	
- Costs to process 70,000 work orders	<u>875,000</u>
Total Estimated Annual Collection Costs	\$7,960,314

PP&L requires very few residential customers to pay a security deposit. As a result, the costs of securing and maintaining security deposits are not tracked. The Company's annual postage costs for sending dunning letters was \$1,104,564 in 1996.

T. R. Dahl

Pennsylvania Power & Light Company
Response to Interrogatories
of the Commission on Economic Opportunity, Set I
Dated May 19, 1997
Docket No. R-00973954

- Q.54. In direct testimony and in response to Commission filing guidelines (i.e. Statement 16 and RP-P1, P2, P3, P5, P6, P7, P8, P9, P10, and P11), PP&L states that it is spending between \$900.00 and \$1,000.00 per customer for OnTrack? Please provide all data upon which these estimates are based. Further, please provide a detailed breakdown of what these funds are used for, i.e., amounts for program administration, monthly cash assistance, arrearage reduction, etc.
- A.54. See Attachment 1.

Attachment 1

CUSTOMER NAME	CUSTOMER NUMBER	ONTRACK BUDGET AMOUNT	CUSTOMER PAYMENT	ACTUAL CAS BILLS	ONTRACK REVENUE SHORTFALL	ONTRACK ARREARAGE FORGIVENESS	LINEAR RECEIVED	CRISIS RECEIVED	OVER HELP	NET REVENUE SHORTFALL	ONTRACK ALERT
LEHIGH		10,433.00	-139,533.07	370,271.32	251,906.67	160,637.60	-14,309.00	0.00	-19,216.90	310,703.37	67
NORTHEAST		14,559.00	-172,022.25	393,206.92	223,542.67	95,130.56	-16,120.00	0.00	-1,020.00	301,525.23	69
SUSQUEHANNA		9,539.00	-119,152.00	303,301.75	195,002.87	87,150.02	-12,070.00	0.00	-2,528.88	267,556.81	40
MARSHBURG		13,045.00	-170,044.36	414,217.75	252,502.45	94,396.17	-5,395.00	0.00	0.00	341,505.62	37
LANCASTER		11,245.00	-113,390.77	282,003.35	171,763.17	57,056.55	-2,705.00	0.00	0.00	226,008.82	23
COMPANY TOTAL		59,821.00	-715,601.25	770,002.06	94,790.63	434,170.90	-50,730.00	0.00	-22,765.78	455,401.75	204

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Tentative Order Regarding Guidelines :
 for Universal Service and Energy :
 Conservation Programs Made : Docket No. M-00960890F0010
 Pursuant to 66 Pa.C.S. §§ 2803, :
 2802(17), 2804(8) and 2804(9) :

COMMENTS OF
 PENNSYLVANIA POWER & LIGHT COMPANY

RECEIVED
 97 JUL -2 PM 3:48
 PA.P.U.C.
 PROTHONOTARY'S OFFICE

A. Introduction

On December 3, 1996, Governor Tom Ridge signed into law the Electricity Generation Customer Choice and Competition Act (the "Act"). The Act restructures the electric industry in Pennsylvania to provide customers choice of their electricity generator. 66 Pa.C.S. § 2801 et seq.

One intent of the Act is for utilities to continue the protections, policies and services that currently assist customers with low incomes to be able to afford electric service. The Act also states that public purpose costs, including programs for low-income assistance, energy conservation and others have been implemented and supported by public utilities' bundled rates.

On April 25, 1997, the Pennsylvania Public Utility Commission ("PUC" or the "Commission") entered the above-captioned tentative order. The Commission stated that it is proposing guidelines for universal service and energy conservation programs. In addition, the Commission indicated that the guidelines are intended to assist parties in preparing, litigating and resolving the restructuring filings of each utility by making available the Commission's views on how these issues should be addressed in the restructuring proceedings. The tentative order proposes guidelines for universal service and energy conservation programs and requests written comments from electric utilities and other interested parties on those guidelines.

Pennsylvania Power & Light Company ("PP&L") appreciates this opportunity to provide comments on the tentative order regarding Universal Service and Energy Conservation Programs. PP&L was an early advocate of increased competition in the electric utility industry. The Company also recognized the need to address concerns of payment-troubled, low-income customers. In the early deliberations about increased competition, PP&L developed a set of key principles to help frame the discussion. One of the principles was to continue providing cost-effective programs and services for low-income customers.

PP&L generally supports most of the provisions contained in the Tentative Order. However, there are areas in which the Company disagrees with the recommended scope of certain provisions regarding participation levels and program expenditures. PP&L's specific comments and concerns in those particular areas are set forth below.

B. Specific Comments

II. Proposed Guidelines for Universal Service
and Conservation Programs

C. Universal Service Components.

1. Universal Service Components. Universal Service programs should include, but not be limited to the following programs, protections and policies:

- a) Chapter 56 credit, collection and termination protections. These services shall include a Provider of Last Resort for customers who do not choose an alternative generation provider or whose generation provider refuses to grant service or cancels service based on non-payment or other reasons. These services shall also include procedures for the distribution company and alternative generation supplier to coordinate dispute, termination and payment arrangement procedures to assure that universal service participants receive the required protections in Chapter 56.
- b) A low income usage reduction program (such as LIURP);
- c) A payment assistance program (such as CAP);
- d) A CARES program, or its equivalent, that meets the Commission's minimum guidelines contained in the Commission's Secretarial Letter of November 30, 1992;

- e) Administration of a hardship fund. The Commission strongly encourages generation suppliers to implement or join an existing hardship fund:
- f) Plain language guidelines covered under 52 Pa. Code, § 69.251. Any written information from distribution companies and generation suppliers to residential consumers should be written in plain language.

1 (a)-(f) Response

The Company agrees that universal service components should include the programs and protections proposed in items a through f. However, PP&L disagrees with the inclusion of the Secretarial Letters. These letters were developed outside of the normal rulemaking process and were not subject to regulatory review. PP&L is concerned that including the Secretarial Letters in the Final Order issued in this proceeding may give them more impact and authority than was originally intended.

- 6. Revisions to the CAP Policy Statement. In order for the universal service and conservation guidelines to be consistent with the CAP Policy Statement, revisions to 52 Pa. Code Chapter 69 will be required. The Commission's CAP Policy Statement became effective July 2, 1992. The experiences learned from CAP pilots and the results of evaluations show that some revisions to the policy statement are appropriate. In addition to the revisions to program design regarding the scope of pilots, program funding, payment plans, and

eligibility that are discussed elsewhere in this order, the Commission plans substantive revisions to the following sections: control features, default provisions and coordination of LIHEAP benefits.

Control features. The Commission is amending this section to eliminate conservation incentives. The Commission included conservation incentives to limit program costs due to increases in consumption. Evaluators consistently found that CAP participants did not increase energy consumption after enrolling in CAP. Evaluators also had difficulty quantifying benefits directly related to conservation incentives. However, they found the incentive did slightly increase the cost of the CAP. The conservation incentive has been complex and burdensome to administer. The incentive is confusing to CAP participants who see a reduction in one month's bill. Because many utilities' payment plans are tied to usage, participants who conserve will see a reduction in their bill.

The Commission has added a control feature that disallows a CAP participant from subscribing to optional services that would cause an increase in monthly billing and do not contribute to bill reduction. This addition is consistent with the provisions for participants of telephone universal service programs. Telephone universal service participants may not subscribe to telephone optional services such as call waiting and call forwarding.

The Commission is changing the term *billing deficiency limit to maximum CAP credits*. The term *billing deficiency* suggests that payments are not made.

Participation in CAP requires that a customer make regular, monthly payments for the full CAP amount billed. The term CAP credits is more accurate in describing the difference between the amount that would have been billed at the standard residential rate and the amount billed at the CAP rate.

Default provisions. The Commission believes that the consequences for non-payment should be loss of service; therefore, we recommended that participants who do not make payments should be returned to the regular collection cycle.

The Commission is deleting the provision that failure to apply for LIHEAP and designate a LIHEAP grant to the CAP-sponsoring utility should result in dismissal. Because of the changes in LIHEAP eligibility and funding, CAP participants have difficulty meeting this provision.

Coordination of LIHEAP benefits. The Commission is adding a section to allow the utility flexibility to deal with a participant who fails to apply for a LIHEAP grant. When the Commission approved the CAP Policy Statement, a CAP participant was eligible to receive two LIHEAP benefits in the form of cash and crisis grants. Changes to LIHEAP eligibility restrict CAP participants from receiving LIHEAP crisis benefits. Because of the difficulty a CAP participant has in obtaining LIHEAP benefits, we do not believe that utilities should automatically impose penalties on a CAP participant who does not designate a LIHEAP grant to the CAP-sponsoring utility. However, we do believe that utilities should strongly encourage participants to apply for LIHEAP benefits.

This change allows utilities the option of imposing a penalty on a CAP participant who is eligible for LIHEAP benefits but who fails to apply for those benefits.

6. Response

PP&L supports the Commission's proposed amendment to eliminate the conservation incentives for CAPs. Preliminary evaluations of the Company's CAP (known as the OnTrack Payment Program) have shown that energy usage has remained mostly level for OnTrack participants. In addition, monitoring the conservation incentive was a burdensome, manual process. Some fairly sophisticated computer programming would be required to automate the process.

The Company agrees with the Commission's proposed revisions regarding exclusion of CAP participants from subscribing to optional services; changing the term billing deficiency limit to maximum CAP credits; returning defaulted CAP customers to the regular collection cycle; and deleting the provision for linking LIHEAP grants and continued participation in CAP. In other forums, involving utilities and representatives from the PUC's Bureau of Consumer Services (BCS), PP&L has suggested eliminating the LIHEAP requirement.

The reduction in funding for LIHEAP, coupled with a lowering of the income guidelines to 110 percent of the federal poverty level, made it difficult and inequitable to adhere to the requirement. It was ironic that customers with the lowest incomes (at or below 110 percent of poverty) and least ability to pay had to meet a

higher standard to remain in CAP. PP&L also supports the Commission's recommendation that utilities strongly encourage CAP participants to apply for LIHEAP benefits.

D. CAP Enrollment

1. Expansion of CAPs. 66 Pa.C.S. § 2802(9) finds that electric service is essential to the health and well-being of residents, to public safety and to orderly economic development; and electric service should be available to all customers on reasonable terms and conditions. 66 Pa.C.S. § 2804(9) requires the Commission shall ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each electric distribution territory. Universal service should include a Customer Assistance Program that this is available to and is designed to enroll the eligible population of low income customers who are likely to participate within the distribution company's service territory within three years.¹ Whether or not an eligible customer is likely to participate is partially a function of adequate public education efforts, which are an integral part of developing effective universal service policies.

¹ In order for the universal service and conservation guidelines to be consistent with the CAP Policy Statement, revisions to 52 Pa. 52. Code Chapter 69 will be required. Specifically, revision to the scope of pilot CAPs at 52 Pa. § 69.264 will be required.

For the following reasons, the Commission believes that between 289,660 - 361,830 households statewide may be eligible for universal service programs. The 1990 Census Data shows that 2,170,979 persons in Pennsylvania have incomes below 150% of the poverty level. Assuming a three-person household, we can estimate that 723,660 households are below 150% of the poverty level. The Commission's Investigation of Uncollectible Balances, at Docket No. I-900002, found that 40% of the Commonwealth's low-income households are payment troubled.

All consumers who are eligible for government benefits or programs do not choose, for a variety of reasons, to apply for these benefits. For example, a 1989 report issued by the U.S. General Accounting Office found that nationwide only about one-half of those eligible for food stamp benefits choose to participate in that program. One of the major reasons mentioned for non-participation by those eligible was a belief that the benefit was not necessary. The state of California currently offers two programs to its low-income residents: rate assistance and energy efficiency services. On average, 58% of eligible customers participated in the rate discount program and on average, 56% of eligible customers participated in the weatherization programs. The California model bases eligibility on income only. The Commission's model

bases eligibility on income, usage and need. Therefore, fewer households will be eligible for services using the Commonwealth model. Based on the Census data information and the history that all households who are eligible for benefits will not apply, the Commission projects that between 40%-50% of eligible households (289,660 - 361,830 households) could apply for universal service affordable payment programs. Presently, approximately 44,000 households are enrolled in electric utility CAPs.

In order to meet the obligations of the Act, utilities may need to enhance CAPs beyond the pilot stage. Utilities should devise a universal service plan which identifies the targeted population within its distribution territory; sets forth a time line for implementing a CAP which is available to meet the needs of low-income customers within three years and sets forth the proposed expenditures to meet the needs of the targeted population. One potential approach is to identify a percentage of the low-income population that would be set as the floor level for designing a permanent CAP, and we invite comments on whether such a threshold level should be established, and if so, at what level.

To fund enhanced CAPs, utilities may need to trade collection expenses with CAP costs. If a utility trades CAP costs with write-offs and operational expenses associated with low-income customers, adequate funding may be available. If low-income customers are

served under CAP, the collection costs associated with low-income customers are traded for CAP costs.

1. Response

PP&L agrees with the Commission's observation that "... utilities may need to enhance CAPs beyond the pilot stage." The Company has suggested expanding its OnTrack program from approximately 2,000 participants to 10,000 participants by 2001. However, PP&L is greatly concerned about a dramatic expansion of CAPs. The Commission's estimate regarding the number of potentially eligible households is not disputed. In fact, 1990 U. S. Census results for the Company's service territory reveal that approximately 177,000 households are at or below 150 percent of the federal poverty level.

Most of these low-income households (around 70 percent) pay their electric bills and are not in arrears with the Company. From PP&L's perspective, it appears counterintuitive to encourage customers who have been paying the full amount of their electric bills to stop doing so. If the Commission's intention is to address a larger social equity issue (e.g., senior citizens who pay utility bills in lieu of buying food or medicine), it would be more appropriate to address this problem through legislation.

PP&L believes that CAPs should be used in conjunction with collection activities, which was the original purpose of the PUC's Policy Statement on CAPs. There are low-income customers who cannot pay the full amount of their electric bills for a variety of reasons. The Company's OnTrack program offers a viable alternative

to termination of service. A study conducted by PP&L showed that an estimated 75 percent of terminations involved customers with annual incomes at or below 150 percent of the federal poverty level.

A significant expansion of CAPs also raises important questions about effective implementation and costs. If, as suggested by the Commission in the Tentative Order, 40 to 50 percent of eligible customers would enroll in CAPs, PP&L could expect 71,000 to 89,000 customers to join its OnTrack program. From the Company's perspective, it would be unrealistic to effectively identify, interview, and enroll tens of thousands of customers in a three-year period. PP&L's OnTrack process requires extensive personal interviews with each applicant at a community-based organization to determine eligibility, to establish a payment plan, and to make referrals to other programs and services. It would be administratively impractical to enroll and manage a large number of low-income customers.

In addition, the estimated annual costs would be prohibitive and would exceed PP&L's rate cap. Assuming that 40 to 50 percent of eligible customers could be enrolled, the estimated annual costs for OnTrack would range from \$53 million to \$67 million. The estimated costs would probably be higher because some customers would enter the program with overdue balances that would be forgiven.

PP&L believes that it is not appropriate to establish a statewide percentage of the low-income population that would be set as the floor level for permanent CAPs. It would be difficult to establish a minimum level because of the differences in utilities' circumstances (e.g., number of low-income customers, delivery of

CAP services, implementation costs, rate caps). However, it may be appropriate for individual companies to establish minimum levels based on their objectives and goals for CAPs or CAP equivalents.

The Company has proposed a comprehensive plan for meeting its universal service obligation. This obligation must be balanced against the limitations set by the Competition Act. It is unreasonable to expect that electric utilities will have the resources available to expand CAPs to the level suggested by the Commission.

2. CAP Payment Amounts. Payment plan proposal.² Generally, CAP payments for total electric and natural gas home energy should not exceed 17% of the CAP participant's annual income. The minimum payment should not be less than the guidelines at § 69.265(3)(v)(A) and (B). Payment plans should be based on one or a combination of the following:

(i) *Percentage of income payment plan.*

(A) Generally, maximum payments for electric nonheating service should be within the following ranges:

- household income between 0-50% of poverty at 2%-5% of income.

² In order for the universal service and conservation guidelines to be consistent with the CAP Policy Statement, revisions to 52 Pa. 52. Code Chapter 69 will be required. Specifically, revisions to the payment plan proposal at § 69.265(2) will be required.

- household income between 51-100% of poverty at 4%-6% of income.
 - household income between 101-150% of poverty at 6%-7% of income.
- (B) Generally, maximum payments for electric heating (generally all electric service) should not exceed the following guidelines:
- household income between 0-50% of poverty at 7%-13% of income.
 - household income between 51-100% of poverty at 11%-16% of income.
 - household income between 101-150% of poverty at 15%-17% of income.
- (ii) *Percentage of bill payment plan.* The participant's household payment contribution for total electric and natural gas home energy under a percentage of bill plan is determined using the variables of family size and income and the household's annual energy usage. A participant's annual payment is calculated as a percentage of income payment and converted to a percentage of the annual bill. When a utility determines subsequent CAP payment amounts, a participant will continue to pay the same percentage of the total bill even if annual usage has changed.

- (iii) *Rate discount.* The participant's energy usage is billed at a reduced rate that is a fraction of percentage of the normal rate.
- (iv) *Minimum monthly payment.* The participant's household payment contribution is calculated by taking the participant's estimated monthly budget billing amount and subtracting the maximum, monthly CAP credit, previously called billing deficiency (\$46 month for non-electric heat and \$116 month for electric heat).
- (v) *Annualized, average payment.* The participant's household payment contribution is calculated by determining the total amount the participant paid over the last 12 months and dividing by 12 months to determine a monthly budget.

2. Response

PP&L supports the proposed flexibility for using a combination of approaches to establish payment plans. The payment formula for OnTrack, which uses budget billing, percent of income, and percent of bill, has proven particularly effective during the Company's pilot phase.

E. Expenditures.

- 1. A distribution company's level of expenditures should reflect at least 0.2% of revenues for LIURP and 0.5% of jurisdictional revenues for CAP. The expenditures for universal service and energy conservation

programs must be examined in conjunction with the costs of distribution rates, and competitive and intangible transition charges. The total amount of dollars available under the rate cap should be adjusted to meet all the requirements of the Act.

- a) LIURP expenditures should reflect at least 0.2% unless the utility demonstrates through a needs assessment that a different funding level is necessary
 - b) Because of the level of need, a distribution company who currently spends more than the proposed guidelines for its CAP shall, at a minimum, maintain the current level of expenditures.
2. In order to appropriately fund and expand CAPs, a distribution company should establish a baseline for funding its universal service programs by identifying the number of low-income households who may be eligible for programs and by identifying all expenditures that are used to address the problems of low income and payment-troubled customers. This revenue may include, in part: write-off of uncollectible expenses; costs associated with collections, termination and reconnection; costs associated with CAP, CARES and LIURP programs; and the administration of hardship funds. A utility may need to shift funds from write-offs and collection operation expenses to CAPs or LIURP.

E. Response

PP&L objects to the proposed annual expenditure levels for LIURP (0.2 percent of revenues) and CAPs (0.5 percent of revenues). These percentages are arbitrary and have no empirical basis. The experience in the few other states that have established funding levels for similar programs may not be applicable to the conditions in Pennsylvania. Utilities in the Commonwealth have been offering a variety of programs for low-income customers for over a decade. The Company recommends that funding levels for LIURP and CAPs should be based on utilities' individual circumstances and include factors such as the rate cap, the age and breadth of the existing programs, customer needs, and the ability to effectively deliver LIURP and CAP services.

PP&L's LIURP (Winter Relief Assistance Program or WRAP) started in 1985 and is administered by community-based organizations (CBOs). (It should be noted that the LIURP regulations became effective in 1988). The annual budget for WRAP is \$3,023,300, and from 1985 through 1996 the Company has expended about \$32 million to provide WRAP services to over 33,000 customers. PP&L conducts promotional campaigns throughout the year to recruit customers for WRAP. Identifying eligible customers and delivering services for a mature program are challenging assignments. The Company and the CBOs must work hard each year to spend the \$3 million budget. Under the Commission's proposal, PP&L's WRAP budget would increase to approximately \$5.6 million. Although WRAP is an effective and well-run program, the Company believes it would be very difficult to expend

effectively an additional \$2.6 million annually on cost-effective weatherization measures.

In addition, the funding requirements of LIURP are included in the Commission's regulations (52 Pa. Code, Chapter 69), and the expenditure amount for PP&L has been set in accordance with LIURP rules. Changing the funding requirements for LIURP raises serious concerns about amending existing regulations outside the formal rulemaking process.

In its Restructuring Plan filing, the Company has proposed to increase customer participation in OnTrack from 2,000 customers to 10,000 customers by 2001. PP&L estimates that the annual expenditure for a fully subscribed OnTrack would exceed \$9 million. The Commission's suggested funding level for CAPs would increase the annual OnTrack budget to \$14 million. This amount of funding raises concerns about the impact on PP&L's rate cap and the ability of CBOs to effectively enroll thousands of additional customers in OnTrack.

G. Administration.

1. Program administration. During the transition period, the Commission urges a moderate approach to administration of universal service programs. Initially, we recognize each distribution company administers its universal service programs. The Commission encourages utilities to use the resources of community-based organizations. A state-wide administration of LIURP and CAP may be desirable in the future

and should be retained as an option for further exploration and discussion.

In the future, the Commission could select an alternate administrator or service provider for one or more universal service components in that service territory.

1 Response

PP&L agrees with the Commission's moderate approach to the administration of universal service programs. Over the past nearly 20 years the Company has developed strong working relationship with the community-based organizations (CBOs) that are administering its programs such as WRAP, OnTrack, CARES, and Operation HELP. This model for the delivery of energy-related services, which has been fine-tuned and strengthened over time, has worked very effectively for PP&L.

The Company does not support establishment of a statewide administrator for universal service programs. It appears to PP&L there are no advantages to creating a statewide administrative body. The process would disrupt an already effective working relationship between CBOs and utilities. In addition, a statewide structure would be administratively burdensome for CBOs. However, PP&L does support allowing the flexibility for utilities to choose the delivery mechanism(s) for universal service programs. In the coming era of increased competition in the electric utility industry, the Commission should encourage innovation and creativity rather than establish centralized control.

From PP&L's perspective, the Act clearly places ownership and responsibility for administration of universal service and energy conservation programs with the electric distribution companies (EDCs). Sections 2804(8) and 2804(15) of the Act (65 Pa.C.S. §§ 2804(8) and 2804(15)) appear unambiguous with respect to the responsibilities of the EDCs in administering these low-income programs.

2. Administration of program benefits. The universal service funding mechanism should be collected by the distribution company for both the distribution and generation parts of the bill, as a non-bypassable charge, paid by all customers. Universal service and LIHEAP benefits should be assigned to the distribution company.

Another potential approach establishes that the distribution company will collect the revenue to administer the universal service and energy conservation programs. The distribution company will disburse payment assistance benefits on a pro rata basis to each portion of the generation, distribution and transmission part of the bill. We invite comments on the approach of disbursing payment assistance benefits on a pro rata base.

2. Response

PP&L recommends that LIHEAP benefits, fuel fund payments, and partial customer payments should be assigned to the EDC. The Company's proposal is based on the following considerations. First, most of the customer's overdue balance probably would have accrued prior to the selection of a generation supplier.

As a result, it would be inequitable for the generation supplier to receive, for example, a portion of the LIHEAP grant. Second, the responsibility for termination of service due to non-payment is the responsibility of the EDC. Third, all collection and regulatory requirements are associated with the EDC. Fourth, the EDC is the supplier of last resort for customers who leave their generation supplier by voluntary or involuntary means. Therefore, the EDC assumes greater risks and responsibilities

H. Reporting Requirements

1. Each company should gather information and analyze it on an annual basis and report to the Commission on its progress in achieving universal service within its service territory. The company should include in its report recommendations on how to close any identified gaps in providing electric service to its low-income customers.

Annual reports should include, but not be limited to, the following information:

- a) Utilities shall report all criteria used by the company to categorize customers as low-income. Utilities shall report the annual collection operating costs associated with handling low-income customer accounts, including administrative expenses associated with termination activity: 10-day termination notice, personal contact, 48-hour notice, actual termination of service, post

termination and restorations; negotiating payment arrangements requests; budget counseling; handling informal and formal complaints; securing and maintaining deposits, tracking delinquent accounts; collection agencies' expenses; litigation expenses; dunning expenses, and winter survey expenses.

- b) Utilities shall report the dollar amount of the company's gross residential write-offs for the reporting year, the portion related to low-income customers or an estimate of the portion related to the low-income customers.
- c) Utilities shall report how many residential service customers were served in the reporting year, the number of residential customers known to be low-income customers, and total estimated low-income customers, and the company's definition of a low-income customer. Utilities shall also report how many residential customers are payment troubled customers, and how the company defines "payment troubled"? How many low-income customers are known to be payment troubled customers, and what is the estimate of the total number of low-income, payment troubled customers?
- d) Utilities shall report a definition of a residential account in arrears, the total number of residential accounts in arrears in the reporting year, the number of those accounts that were low-

income customers, dollars in arrears owed by identified low-income customers, and the total number of dollars in arrears (identified and estimated).

- e) Utilities shall report annually to the Commission the number of customers who are potentially eligible for CAP. Utilities shall report the number of customers enrolled in CAP.
- f) Utilities shall report annually the number of customers still in need of LIURP services and the cost to serve all customers who need LIURP services.

- 2 The Bureau of Consumer Services will report to the Commission biannually on the status of each company's universal service and conservation programs.
- 3. The Commission will determine if the utility meets the goals of universal service.
- 4. LIURP and CAP evaluations. Five years after a distribution company's restructuring company's restructuring filing is approved, the company should submit an impact evaluation of its CAP and LIURP programs. After the initial impact evaluation the distribution company should submit an impact evaluation of its CAP and LIURP programs every five years. The impact evaluation should focus on the degree to which the program achieves the continuation of utility service to program partici-

pants at reasonable cost levels. The evaluation should be conducted by an independent third-party.

Three years after a distribution company's restructuring filing is approved, the company should conduct a one-time process evaluation of its CAP. The process evaluation should focus on whether CAP expansion has met the level of need, whether it conforms to the program design guidelines and should assess the degree to which the program operates efficiently.

H. Response

PP&L agrees that each company should prepare annual reports regarding the status of its universal service programs. However, the Commission should recognize that not all of the requested information is readily available. For example, PP&L would be unable to provide actual results of the information requested under H. 1. a). The Company currently lacks the computer capability to identify, track, and analyze the required data.

PP&L urges caution in developing the yearly reporting requirements. Reporting on program results is necessary and important, but PP&L also is concerned about being overburdened with producing detailed and comprehensive reports. The Company urges the Commission to look at cost-benefit considerations (e.g., value of information, computer capabilities, ultimate use of data) when it adopts reporting requirements for universal service programs. PP&L supports the proposal

to conduct three- and five-year evaluations of CAPs and a five-year evaluation of LIURP.

I. Advisory Panels

A utility shall create and maintain a universal service program advisory panel to provide consultation and advice to the utility regarding the scope, design and administration of its universal service programs. A utility may use an existing customer advisory panel to satisfy this guidelines when the membership of the panel can reasonably be expected to provide effective consultation and advice regarding universal service programs.

I. Response

PP&L concurs with the Commission's suggestion to create a process for obtaining feedback and suggestions on the effectiveness of universal service and energy conservation programs. The Company believes that collecting feedback can be done through a variety of means. Establishing formal advisory panels as the only feedback mechanism is probably too restrictive. If universal service and energy conservation programs were new, PP&L would agree that an advisory panel initially would be the best approach. However, the Company's major low-income programs have been working effectively for over 15 years.

PP&L recommends that the Commission allow the EDCs to establish processes (e.g., advisory panels, forums, workshops, seminars) to obtain feedback and advice in ways that best fit the needs and conditions of each company. The

bureaucratic and cumbersome process. Rather, the Company would prefer to work closely with the CBOs that have been administering its programs for years. Because most of the universal service programs are already well-established, a formalized advisory panel is unnecessary. With the input of CBOs over the years, the Company has made meaningful changes and improvements to its low-income programs.

C. Conclusion

Accordingly, Pennsylvania Power & Light Company respectfully requests that the Commission revised its proposed Guidelines for Universal Service and Energy Service Programs consistent with the foregoing comments.

Respectfully submitted,



Paul E. Russell
Associate General Counsel
Pennsylvania Power & Light Company
Two North Ninth Street
Allentown, PA 18101

Dated: May 14, 1997
at Allentown, Pennsylvania

T. R. Dahl

- Q. What would CAP enrollment be if the program was large enough to accommodate all low income negative ability to pay customers? State number of customers still in need of LIURP services. State how much it would cost to serve all customers which need LIURP services.
- A. PP&L estimates that there are 58,000 low-income (at or below 150 percent of the federal poverty level), payment-troubled customers who would qualify for the Company's OnTrack program. All of these customers have overdue balances with PP&L.

WRAP targets income eligible customers who have electric heat as their primary energy source. Based on the 1990 U. S. Census, there are approximately 177,000 customers with household incomes at or below 150 percent of the poverty level. Given PP&L's electric heat saturation of 31 percent, it is estimated that nearly 55,000 WRAP-qualified households would have electric heat. Between 1985 and 1996, about 22,500 (41 percent of low-income electric heat households) electric-heat customers have received weatherization services through WRAP. The estimated cost to serve the remaining electric heat customers (55,000 - 22,500 = 32,500) would be \$39 million, or 32,500 customer jobs x \$1,200 average cost per job.

RECEIVED
PM 3:48
P.U.C.
PUBLIC UTILITIES
COMMISSION
CLERK'S OFFICE

Exhibit No. To ____ (CRK-1)

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

PREFILED DIRECT TESTIMONY OF CRAIG R. KUENNEN, Ph.D. (abd)

ON BEHALF OF

THE COMMISSION ON ECONOMIC OPPORTUNITY

Docket No. R-00973954

Statement No. 1

DOCKETED
JUL 10 1997

July 2, 1997

DOCUMENT
FOLDER

RECEIVED
97 JUL - 2 PM 3:48
PA.P.U.C.
PROTHONOTARY'S OFFICE

TABLE OF CONTENTS

I. INTRODUCTION 1

II. SUMMARY 3

III. RELEVANT DEMOGRAPHICS RELATIVE TO THE LEVEL OF NEED 4

IV. ANALYSIS OF PP&L'S WRAP PLAN WITH RESPECT TO NEED 9

V. ALTERNATIVE WRAP PLAN 14

VI. ANALYSIS OF PP&L'S ONTRACK PLAN WITH RESPECT TO NEED ... 19

VII. ALTERNATIVE ONTRACK PLAN PROPOSAL 21

VIII. STAYING WITHIN THE RATE CAP 28

IX. RECOMMENDATIONS 30

EXHIBITS

Exhibit ____ (CRK-2): Curriculum Vitae of Craig R. Kuennen

Exhibit ____ (CRK-3): Poverty in Pennsylvania, 1980-1995

Exhibit ____ (CRK-4): PP&L Service Territory Poverty Figures: Persons and Households 1979, 1989, 1993

Exhibit ____ (CRK-5): PP&L Persons in Poverty, 1979-1993

Exhibit ____ (CRK-6): PP&L Households in Poverty, 1979-1993

Exhibit ____ (CRK-7): Estimated Distribution of PP&L Households by Income, Service Type, and Annual Electricity Burden

Exhibit ____ (CRK-8): PP&L Witness O.G. Kasper response to CEO Interrogatories, Set 1, Question 40.

Exhibit ____ (CRK-9): PP&L Witness T.R. Dahl response to CEO Interrogatories, Set 1, Question 41.

Exhibit ____ (CRK-10): PP&L Witness T.R. Dahl response to CEO Interrogatories, Set 1, Question 43.

Exhibit ____ (CRK-11) Estimated Distribution of PP&L Households by Year Structure Built

EXHIBITS (Continued)

- Exhibit _____ (CRK-12): PP&L Witness T.R. Dahl response to RP-P.9.
- Exhibit _____ (CRK-13): Annual WRAP Completions and Funding, 1988-1996
- Exhibit _____ (CRK-14): 1991/1992 WRAP Bill Characteristic
- Exhibit _____ (CRK-15): John Shingler summary of article. The Impact of CAPS and LIHEAP on Reduced Energy Consumption in the Low Income Usage Reduction Program (LIURP). May 1995
- Exhibit _____ (CRK-16): Non-Treated/Treated Alternative WRAP Household kWh Usage and Bill Analysis
- Exhibit _____ (CRK-17) Alternative WRAP Program Analysis
- Exhibit _____ (CRK-18) 1991/1992 WRAP Household Energy Usage
- Exhibit _____ (CRK-19) PP&L Witness T.R. Dahl response to RP-P.6
- Exhibit _____ (CRK-20) PP&L Witness T.R. Dahl response to RP-P.5
- Exhibit _____ (CRK-21) Estimated OnTrack Program Costs. Assumes No Participants Have Received WRAP Services
- Exhibit _____ (CRK-22) Estimated OnTrack Program Costs. Assumes All Participants Have Received WRAP Services
- Exhibit _____ (CRK-23) Comparison of Total Annual OnTrack Costs 2000-2009, With and Without WRAP Participation

1 **I. INTRODUCTION**

2 Q: Please state your name and business address.

3 A: My name is Craig R. Kuennen and my business address is 165 Amber Lane, Wilkes-Barre,
4 PA 18702.

5
6 Q: On whose behalf are you testifying?

7 A: The Commission on Economic Opportunity of Luzerne County Pennsylvania (CEO) and the
8 low income customers they serve.

9
10 Q: What is your relevant experience to this case before the Commission?

11 A: My involvement in low income energy issues began shortly after joining the Center for
12 Energy and Environmental Policy at the University of Delaware as a Ph.D. student in 1992.
13 Since completing my course requirements for my Ph.D. in 1994, I have been working as the
14 Energy Services Manager for the Commission on Economic Opportunity of Luzerne County
15 Pennsylvania (CEO). In addition to my Ph.D. (abd) in Urban Affairs and Public Policy, with
16 an emphasis in Technology and Society, I graduated summa cum laude with a B.B.A. in
17 Business Administration from National University in 1987, earned an M.B.A. in Financial
18 Management from National University in 1988, earned an M.A. in Philosophy at San Diego
19 State University in 1992. My curriculum vitae is attached as Exhibit ____ CRK-2.

20
21 Q: How have you organized your testimony addressing issues that affect low income households
22 in PP&L's proposed restructuring filing?

1 A: In Section III, I make reference to the changing demographics in Pennsylvania in general, and
2 in PP&L's service territory in particular with respect to the rise in poverty both have
3 experienced since the 1980 U.S. Census, and during the first eight years of the Commission's
4 LIURP. I also highlight relevant statistics with regard to the distribution of PP&L's
5 residential households according to various categories, including the numbers of low income
6 customers, their breakdown according to service type, household income, the age of the
7 housing stock, average electricity usage, bills, and energy burdens to get a sense of the low
8 income need in PP&L's service territory with respect PP&L's universal service and energy
9 conservation plan. In Section IV, I analyze PP&L's proposed WRAP plan and show how it
10 does not meet the basic requirement of Pennsylvania's Electric Restructuring and Customer
11 Choice Act that such programs be "appropriately funded and adequate to meet the need in
12 each electric distribution utility service territory." In Section V, I outline a WRAP Plan that
13 would meet the requirements of the Act. In Section, VI, I analyze PP&L's proposed
14 OnTrack plan and show how it does not meet the basic requirement of Pennsylvania's
15 Electric Restructuring and Customer Choice Act that such programs be "appropriately
16 funded and adequate to meet the need in each electric distribution utility service territory."
17 In Section VII, I outline an OnTrack Plan that would meet the requirements of the Act. In
18 Section VIII, I comment on the rate caps should not be a barrier to the increases in universal
19 service and energy conservation programs and services recommended in this testimony. In
20 Section IX, I summarize my recommendations regarding PP&L's proposed universal service
21 and energy conservation plan.
22

1 **II. SUMMARY**

2 Q: What is the purpose of your testimony?

3 A: As a witness testifying on behalf of the Commission on Economic Opportunity of Luzerne
4 County Pennsylvania (CEO), we would like to express our appreciation to the Pennsylvania
5 Power & Light Company and the Commission for the fine work they have done on behalf
6 of the low income community with regard to meeting low energy needs. Programs such as
7 WRAP and OnTrack are vitally important to us and the many needy families and individuals
8 they serve in PP&L's service territory. We view PP&L and the Commission as colleagues
9 in the delivery of vital low income energy services. My testimony will establish:

10
11 1) That the level of low income need in Pennsylvania in general, and in PP&L's service
12 territory in particular as measured by poverty numbers and poverty rates has
13 increased steadily since 1979, and significantly since 1988 when completion rates
14 and funding levels for PP&L's WRAP program were originally agreed upon, and
15 upon which proposed universal service and energy conservation programs
16 expenditures are based;

17
18 2) That PP&L's WRAP Plan as proposed in this filing does not meet the Act's
19 requirement that universal service and energy conservation programs be appropriately
20 funded and adequate to meet the needs. It is deficient in terms of proposed program
21 offerings, proposed funding, and proposed completion rates;

22

1 3) That an alternative WRAP plan is available that meets the acts requirements with
2 respect to program offerings, funding, and completion rates, and that this alternative
3 plan can be implemented without adversely affecting the rate cap;

4
5 4) That PP&L's OnTrack Plan as proposed in this filing does not meet the Act's
6 requirement that universal service and energy conservation programs be appropriately
7 funded and adequate to meet the need. It is deficient in terms of proposed funding
8 and penetration rates;

9
10 5) That an alternative OnTrack plan is available that meets the acts requirements with
11 respect to funding and penetration, and that this alternative plan could be
12 implemented without adversely affected the rate cap; and

13
14 6) That the proposed recommendations offered at the end should be adopted.
15

16 **III. RELEVANT DEMOGRAPHICS RELATING TO THE LEVEL OF NEED**

17 During the period 1980 to 1995, Pennsylvania's population's grew from 11.8 million to just
18 over 12.0 million, a 3.1% increase. Though the growth in population during this time frame
19 looks like good news for Pennsylvania, the fact is that during the period 1988 to 1995, the
20 first eight years of LIURP, Pennsylvania's population declined by 89,000. Further, during
21 the these same time frames, Pennsylvania's poverty rate and total persons in poverty grew
22 dramatically. From 1980 to 1995, Pennsylvania's poverty rate grew 24.5%, from 9.8% to

1 12.2%, and we added 322,000 persons to the poverty ranks as the number Pennsylvanians
2 in poverty grew 28.2%, from 1,142,000 to 1,464,000. Similarly, during the first eight years
3 of LIURP, 1988 to 1995, Pennsylvania's poverty rate grew 18.4%, from 10.3% to 12.2%, as
4 we added 218,000 persons to the poverty ranks. From 1988 to 1995, our total persons in
5 poverty grew 17.5% from 1,246,000 to 1,464,000 (Exhibit ____ CRK-3).

6
7 During this same time frame, PP&L's service territory population went through similar
8 demographic changes. In 1979, PP&L's service territory population was an estimated
9 2,548,948. By 1989, this number had increased 5.8% to 2,697,339. By 1993, PP&L had an
10 estimated 2,760,877 people living in its cities, boroughs, and townships (Exhibit ____
11 CRK-4 and Exhibit CRK-5). Roughly, these figures translate into an 8.3% increase in
12 PP&L's service territory population during the period 1979 to 1993. These rates of increase
13 are even greater for PP&L households as the average household size in PP&L's service
14 territory declined from 2.78 persons per household to 2.63 from 1979 to 1993. In 1979,
15 PP&L had an estimated 914,078 households in its service territory. By 1993, this number
16 had increased 14.5% to 1,046,239. Unfortunately, much like Pennsylvania's general
17 population during this time frame, PP&L's poverty rate and total persons in poverty grew
18 even faster from 1979 to 1993. In 1979, PP&L's poverty rate was 8.9% and its number of
19 persons in poverty was an estimated 227,516. By the second year of Pennsylvania's LIURP,
20 1989, PP&L's poverty rate had declined slightly to 8.8% but its total persons in poverty had
21 increased 4.8% to 238,708. By 1993, the PP&L's poverty rate had increased to 10.2%, and
22 its total number of persons in poverty in had grown another 18.2% to 282,198. This

1 represented a 24.0% increase over 1979 (Exhibit ____ CRK-4 and Exhibit CRK-5). In
2 terms of households in poverty, these statistics are even more telling. In 1979, PP&L had
3 81,747 household at or below 100% of the federal poverty guidelines. By 1993, this number
4 had grown to an estimated 107,125, an increase of 31.0% (Exhibit ____ CRK-4 and Exhibit
5 ____ CRK-6). Also of significant note is the fact that the numbers of 65 and older PP&L
6 persons in poverty grew by 6.0% during the period 1979 to 1989, and the number of 65 and
7 older households in poverty grew by an estimated 12.1% (Exhibit ____ CRK-4).

8
9 Currently, PP&L estimates its 150% of poverty and below population at 177,464 but
10 provides no references to reports or studies from witnesses or in response to interrogatories
11 to back up this number. Data from the 1990 U.S. Census totals for cities, boroughs, and
12 townships in PP&L's service territory shows that PP&L had an estimated 167,440
13 households at or below 149% of the 1990 federal poverty guidelines. Further, 1990 U.S.
14 Census data for cities, boroughs, and townships in PP&L's service territory shows that
15 estimated 12.3%, or 133,473 of PP&L's 1,081,949 customer households had incomes below
16 \$9,999, another 8.8%, or 94,921 earned between \$9,999 and \$14,999 a year, and another
17 8.6%, or 93,527 earned between \$15,000 and \$19,999. In other words, close to 322,000, or
18 nearly 30% of PP&L's customer households earned less than \$20,000 a year (Exhibit ____
19 CRK-7). The 18.2% increase in poverty in PP&L's service territory since during the period
20 1989 to 1993 suggests these numbers and percentages are even higher. Based on the 1989
21 to 1993 18.2% increase in poverty PP&L households at or below 150% of the federal poverty
22 guidelines would be between 198,000 and 210,000.

1 Other demographic characteristics worth noting with respect to PP&L's residential customers
2 is their breakdown according to service classification, and the average age of PP&L's
3 housing stock. PP&L states that nearly 69.2% or 748,438 of its 1,081,949 customer
4 households are non-electric heat baseload customers (Exhibit ___ CRK-8), and that
5 approximately 120,700, or 16.1% of these baseload customers are low income (Exhibit ___
6 CRK-9), and that at least 45,000, or 37.3% of these low income baseload customers are also
7 water heat customers (Exhibit ___ CRK-10). PP&L also states that 58,000 of its low income
8 customers are payment troubled. In light of the above 1990 U.S. Census figures, these totals
9 with respect to low customers could be significantly higher.

10
11 In terms of the age of PP&L's housing stock, these statistics are relevant in light of the fact
12 that low income individuals and families tend to live in the oldest housing stock, and it is the
13 oldest of houses that can benefit most from the kinds of services provided through
14 weatherization and baseload usage reduction programs. As Exhibit ___ CRK-11 shows, an
15 estimated 34.9%, or 377,429 of PP&L Households were built before 1939, another 7.1%, or
16 76,469 were built between 1940 and 1949, while an additional 11.0%, or 118,691 were built
17 between 1950 and 1959. In other words, 53.0%, or an estimated 572,589 PP&L customers
18 live in structure that are more the 37 years old.

19
20 Finally, I would like to say a little about low income electricity burden, i.e., the percent of
21 annual income a household is billed for electric during a given year. For all too many low
22 income households, this burden is significantly larger than that facing the average PP&L

1 customer. As Exhibit ____ CRK-7 shows, the electricity burden for the estimated 594,908
2 PP&L residential customers earning more than \$27,500 a year is quite manageable. Electric
3 heated households in this category spend 4.8% or less of their annual incomes on electricity
4 a year, while PP&L baseload water heat customers spend an estimated 3.0% or less, and
5 baseload only customers spend less than 2.4%. The same cannot be said for the estimated
6 133,473 PP&L households earning less \$9,999. Electric heated households in this group
7 spend 13.2% or more of their annual income to meet yearly electricity needs, while PP&L
8 baseload water heat customers in this category spend 8.1 or more, and baseload only in this
9 group spend at least 6.7%. For the estimated 133,473 PP&L households earning less than
10 \$9,999 a year, these figures are spending as much three times as much of their annual
11 incomes on electric than those PP&L customers household earning above \$27,500 a year.
12 Electric heated households in this category spend at least 13.2% of their annual incomes on
13 electricity, baseload water heat customers are spending at least 8.1% or more, and baseload
14 only customers in this category are spending more than 6.7% annually. Similarly, many of
15 the estimated 94,921 earning between \$9,999 and \$14,999 have trouble meeting their
16 electricity burden as well. Electric heated households in this category spend between 8.8%
17 and 13.2% of their annual incomes on electricity, baseload water heat customers spend
18 between 5.4% and 8.1%, baseload only customers spend between 4.4% and 6.7% of the
19 annual income to meet yearly electricity needs.

20
21 It is the estimated 228,394 PP&L households in earning less than \$14,999 a year that are
22 most in need of PP&L universal service and energy conservation program services. The

1 simple fact is that all too many of these households do not make enough money pay these
2 bills, and still afford food, clothing, and medical supplies. As citizens, we have a choice, we
3 can do our part to ensure that their electric needs of these customers in PP&L's service
4 territory are met in the most effective manner, or we can follow PP&L's lead, and proclaim,
5 as PP&L does in its comments on the Commission's Tentative Order on Universal Service
6 and Energy Conservation, that "larger social equity issues (e.g., senior citizens who pay
7 utility bills in lieu of buying food or medicine)" are issues more appropriately addressed
8 through legislation. I would submit that we have the proper legislation before us, and it is
9 called the Electric Restructuring and Customer Choice Act.

10
11 **IV. ANALYSIS OF PP&L'S WRAP PLAN WITH RESPECT TO NEED**

12 Q: In your expert opinion, does PP&L's WRAP Plan meet the Act's requirement that universal
13 service and energy conservation programs be "appropriately funded and adequate to meet the
14 need" as required by Section 2804 (9) of the Electric Competition and Customer Choice Act?

15
16 A: No. According to PP&L's universal service and energy conservation plan, PP&L projects
17 total WRAP funding at \$39,000,000 based on the need to provide services to 32,500 electric
18 heated homes at an average cost of \$1,200 per home. On an annual basis, PP&L projects
19 WRAP spending at \$3,023,000 for years 1999, 2000, 2001, and beyond (PP&L Statement
20 16, and Exhibit ____ CRK-12). These figures work out to approximately 2,500 WRAP
21 completions a year for the next 13 years.

1 There are at least three ways to evaluate whether PP&L's WRAP is "appropriately funded
2 and adequate to meet the [low income] need" within PP&L's service territory. One way is
3 to look at the level of WRAP completions and funding relative to the level of poverty in
4 PP&L's service territory over the life of the program. If the numbers of homes in need of
5 services is increasing, but the level of WRAP completions and funding have remained
6 constant or declined, then in some sense we can conclude that PP&L's proposed plan does
7 not meet the requirements of the Act. In PP&L's case, we find that both are the case.

8
9 PP&L's WRAP program maxed out in terms of completions during its very first year and have
10 declined steadily through at least 1995. One might argue that this is because WRAP has
11 simply been successful in doing its job and that there are simply fewer electric heat homes
12 in need of services, but in light of the fact that PP&L Witness Dahl states that PP&L
13 currently has 32,500 low income electric heat homes in need of WRAP services, this cannot
14 be the case. Similarly, WRAP maxed out at \$3,158,930 during the program's first year, 1988,
15 declined steadily through 1992 to a low of 2,864,914. Though funding slowly increased to
16 3,023,300 by 1995, it is projected to remain at this level through 2002, and beyond (Exhibit
17 ____ CRK-13).

18
19 Though completions and funding have declined since WRAP beginnings, unfortunately, the
20 same cannot be said of the need. As PP&L's WRAP annual completion were declining
21 22.0% and annual funding was declining by 6.0% during the period 1989 to 1993, PP&L's
22 service territory poverty rate was increasing 18.2% and its actual number of persons in

1 poverty was growing by 43,490. In other words, during the period 1989 to 1993, WRAP
2 annual completions per person in poverty declined 34.0% from 0.013 to 0.008, and annual
3 funding per person in poverty declined 20.5% from \$12.98 to \$10.32. Minimally, these
4 figures suggest that PP&L's WRAP plan should be designed to meet the needs of at least
5 3,628 electric heated household per year with annual funding set at between \$3,662,946
6 ($=3,628 * \$12.98$) and \$4,353,735 ($=3,628 * \$1,200$). In other words, PP&L's WRAP plan in
7 terms of completions is at least 45.1% below the need and in terms of annual funding, and
8 its funding projections are between 21.2% and 44.0% below the need.

9
10 A second way to gauge whether PP&L's WRAP is "appropriately funded and adequate to
11 meet need" as required by the Act is to look at PP&L's low income population and housing
12 stock as a whole and ascertain just how long a PP&L household will have to wait for service
13 given PP&L's annual completion projections. According to its current plan, PP&L estimates
14 that it has 32,500 electric heated household in need of service. At PP&L's stated penetration
15 rate of 2,500 completions per years, this means that 20,000 PP&L households will have to
16 wait 5 years or more for service, and 7,500 will have to be on the waiting list for 10 years or
17 more. If you take into consideration that PP&L's average penetration rate for electric heated
18 homes during the period 1988 to 1995 was just over 2,000 households per year, and not the
19 2,500 PP&L projects, this means that as many as 12,500 will wait 10 years and at least 2,500
20 will wait as much as 15 years for service.

21
22 A third way is to look at the total number of "untreated" or "under treated" homes within

1 PP&L's low income housing stock at any given time since each "untreated" and "under
2 treated" homes represents an additional unnecessary risk with respect to increased demand
3 for other universal service and energy conservation programs such as OnTrack, Help, and
4 CARES. An "untreated" home being one that has never received WRAP service and an
5 "under treated" home being one in which 10 years or more have elapsed since it received
6 WRAP treatment; hence, it could benefit from additional WRAP services given the fact that
7 installed WRAP measures have limited life spans of between 7 and 12 years. Based on these
8 definitions and PP&L's historic and projected completions, beginning in 1999 and
9 continuing through years 2000, 2001, 2002 and beyond, PP&L's total untreated and under
10 treated WRAP electric heat household population will never drop below 30,000 in any given
11 year. These homes represent a significant potential but unnecessary risk in terms of demand
12 for other PP&L low income services because as the Commission's LIURP studies have
13 consistently shown WRAP households pay significantly higher percentages of their own
14 electric bills after receiving these services (Exhibit ___ CRK-14).

15
16 The level of unnecessary addition risk is even greater concern when if we take into
17 consideration the fact that PP&L's WRAP program continues to be essentially silent on the
18 energy conservation and efficiency needs of its low income baseload customers. PP&L's
19 122,756 low income baseload only customers represent 69% of PP&L total low income
20 customer base, 45,000 of which are water heat baseload customers that PP&L Witness Dahl
21 has conceded could benefit from cost-effective WRAP water heating services (Exhibit ____
22 CRK-10), but between the year 1988 and 1995, PP&L had only provide WRAP service to

1 4,917 water heat baseload customers and 846 baseload only customers even though cost-
2 effective baseload programs are available as CEO Witness Crandall has testified.

3
4 Combining the numbers of untreated and untreated low income water heat baseload and
5 baseload only households with the 30,000 untreated and untreated low income electric heat
6 households, and the PP&L Plan sets up a situation in which as many as 146,000, more than
7 82%, of PP&L's estimated 177,464 low income household population is in need of WRAP
8 services during any given year. Equally, important is that fact each day these homes go
9 untreated they represent a potential and unnecessary additional cost to PP&L's CAP
10 program, and ultimately PP&L's general ratepayers as they are the ones paying the bill for
11 PP&L's universal service and energy conservation programs. The compatibility of LIURP
12 and CAP programs is documented in John Shingler at Pennsylvania's Consumer Services
13 Information System Project study of that found that "LIURP customers who are also enrolled
14 in CAPs (in either the post-period only or in both the pre- and post-LIURP periods) reduce
15 their energy consumption by about four percent more than LIURP customers who are not in
16 CAPs (Exhibit ____ CRK-15)," and its beneficial impacts on bill payment habit is well
17 documented in the Pennsylvania Public Utility Commission's June 1994 and July 1995
18 LIURP Reports as shown in Exhibit ____ CRK-14. PP&L has an obligation, therefore, to
19 provide its general ratepayer base with the most effective WRAP program possible. This
20 means significantly increasing annual WRAP penetration rates, not only for low income
21 electric heat households, but for water heat baseload and baseload only households as well.

1 V. ALTERNATIVE WRAP PLAN

2 Q: In your expert opinion, what would an "appropriately funded" WRAP "adequate to meet the
3 need" in PP&L's service territory consist of?

4 A: I would think that such a program would consist of at least three things.

5
6 First, I strongly believe that WRAP services should remain open to all low income PP&L
7 households at or below 150% of the federal poverty guidelines, but I would point out that it
8 makes sense to specifically target those most in need. With the proposed expansion of
9 customer assistance programs, such as OnTrack, I would define "most in need" as those low
10 income households most likely to be in need on customer assistance program.

11
12 Second, such a program would cover all low income service categories—including electric
13 heat, baseload water heat, and baseload only customers—in penetration rates roughly equal
14 to their representation within PP&L's low income population. In other words, the annual
15 goal would be to have 31% of total annual WRAP completions be electric heated homes,
16 25% be baseload water heat homes, and 44% be baseload only homes.

17
18 Third, it would be aggressive in terms of total penetration rates. Much like Kennedy
19 challenged the nation to put a man on the moon within the decade, I would challenge
20 Pennsylvania's electric industry to make a commitment to provide comprehensive LIURP
21 services to a minimum of two-thirds of its total 150% of poverty households by the end of
22 the first decade of the twenty first century. In the case of PP&L, this would mean ramping

1 up to a program designed to provide comprehensive services:

2
3 • at least 37,000 electric heat customers, 10,000 of which I would earmark for
4 participation in a pilot program designed to meet the needs of what I call “under
5 treated” households, i.e., households in that more than 10 years have elapsed since
6 receiving initial WRAP services;

7
8 • at least 30,000 baseload water heat customers over ten years and would require the
9 significant expansion of PP&L’s current program not only in numbers service but in
10 services offered; and

11
12 • at least 52,000 baseload only customers over tens years and would require the
13 creation of a new comprehensive baseload program.

14
15 In total, this alternative WRAP target an estimated 11,900 low income households annually
16 for a ten-year total of 119,000, an amount approximately equal to 67% of PP&L’s stated
17 177,464 low income households.

18
19 More specifically, taking all three of these components together, this alternative WRAP
20 program would to target:

21
22 • an average 2,700 electric heated households and 1000 of PP&L’s “under treated”

1 electric heated households. i.e., households in which more than 10 years has elapsed
2 since they initially received WRAP services. in years 2000 through 2009 for a total
3 of 37,000 WRAP electric heat completions;

- 4
- 5 • an average 3,000 baseload water heat households each from 2000 to 2009 for a total
6 of 30,000 baseload water heat completions; and
- 7
- 8 • an average 5,200 baseload only households annually for a ten-year total of 52,000.
9 an amount roughly equal to 67% of PP&L's 77,464 low income baseload customers.
- 10

11 The pre- and post-WRAP energy use and bill analysis are summarized in Exhibit ___ CRK-
12 16.

13

14 In terms of funding, these penetration rates would amount annual funding of \$7,220,000 and
15 roughly equal 0.25% of PP&L 1996 total gross of operating revenues. The ten-year total
16 program cost is therefore estimated at \$72,220,000. This annual funding total is based on
17 the following program lines:

- 18
- 19 • annual electric heat program costs would equal \$3,240,000 for the standard program
20 for a ten-year total of \$32,400,000, and \$400,000 for a ten-year total of \$4,000,000
21 for the pilot program. The figures are based on PP&L's current electric program cost
22 of \$1,200, and an estimated per unit cost for the pilot of \$400 for in-home energy

1 education and the installation of end use efficiency measures:

- 2
- 3 • annual baseload water heat program costs would equal \$1.5 million for a ten-year
4 total of \$15,000,000 million based on an estimated average job cost of \$500 that
5 would include in-home energy education, water heater wraps, and the installation of
6 end use efficiency measures;

- 7
- 8 • annual baseload only programs costs of \$2,080,000 for a ten-year total of \$20,800,000
9 million based on an estimate average job cost of \$400 that would include the cost of
10 in-home energy education, and the installation of end use efficiency measures.

11

12 Q: In your opinion, would this program be cost-effective with respect to established LIURP
13 guidelines?

14 A: Yes. As Exhibit ___ CRK-17 shows, in terms of simple payback on dollar value per kWh
15 saved basis, this alternative WRAP would pay for itself within an estimated 5.96 years,
16 which is within the historical LIURP standard. Similarly, on a positive bill payment effects
17 basis, this alternative WRAP would pay for itself within an estimate 2.29 years. The
18 following assumptions and PP&L's existing RS-Rate Tariff from the basis of this payback
19 analysis:

- 20
- 21 • Average pre-WRAP household energy use for electric heated homes is estimated at
22 17,000 and for baseload water heat homes it is estimated at 10,000 kWh. These

1 amounts are slightly below the 1991 through 1992 weighted averages pre-WRAP
2 usage for these categories as reported in the Commission's LIURP reports for these
3 years (Exhibit _____ CRK-18). Average pre-WRAP household energy use for
4 "under treated" electric heated homes is estimated an 16.000 and an estimated 8.000
5 kWh for a high use baseload only home:

- 6
- 7 • Average post-WRAP household energy usage of 14.875 for electric heated homes
8 based on estimated achievable savings of 15.0%, 14.400 for under treated electric
9 heated homes based on estimated achievable savings of 10.0%, 9.000 kWh for
10 baseload water heat homes based on estimated achievable savings of 12.5%, and
11 7,200 kWh for baseload only homes based on estimated achievable savings of 10.0%;
- 12
- 13 • Weighted average pre-WRAP bill payment percentages of 54.2% for electric heated
14 homes and 62.8% for baseload water heat homes based on PP&L's 1991 and 1992
15 WRAP experiences (Exhibit _____ CRK-14), and an estimated 78% pre-WRAP bill
16 payment percentage for baseload only homes, an amount equal to Duquesne's 1992
17 LIURP experience as reported the Commission 1995 LIURP report. Weighted
18 average pre-WRAP bill payment percentages for "under treated" electric heated
19 homes is assumed to be 78%, an amount equal to that of PP&L low income baseload
20 water heat;
- 21
- 22 • Weighted average post-WRAP bill payment percentages of 95.3% for electric heated

1 homes and 106.0% for baseload water heat homes based on PP&L's 1991 and 1992
2 WRAP experiences (Exhibit ____ CRK-14), and an estimated 106% post-WRAP bill
3 payment percentage for baseload only homes, an amount equal to Duquesne's 1992
4 LIURP experience as reported the Commission 1995 LIURP report. Weighted
5 average post-WRAP bill payment percentages for "under treated" electric heated
6 homes is assumed to be 106%, an amount equal to that of PP&L low income
7 baseload water heat customers;

8
9 **VI. ANALYSIS OF PP&L's ONTRACK PLAN WITH RESPECT TO NEED**

10 Q: In your expert opinion, does PP&L's OnTrack Plan meet the Act's requirement that universal
11 service and energy conservation programs be "appropriately funded and adequate to meet the
12 need" as required by Section 2804 (9) of the Electric Competition and Customer Choice Act?

13
14 A: No. According to PP&L's universal service and energy conservation plan, PP&L proposes
15 to ramp up annual OnTrack participation levels to 10,000 customers annually at a cost of
16 \$9,100,000 a year by 2002. This is despite the fact that PP&L has 177,464 low income
17 households that are OnTrack income eligible, and despite the fact that PP&L Witness Dahl
18 states that at least 58,000 of these income eligible households are payment troubled thus
19 more than likely contributing the bulk of PP&L's estimated \$30,392,450 in 1996 gross write-
20 offs, OnTrack revenue short falls, arrearage forgiveness, and postage and collections PP&L
21 Witness Dahl generally attributes to PP&L's low income customers base (Exhibit ____ CRK-
22 19, and Exhibit CRK-20). In other words, plan will effectively deny OnTrack participation

1 to 94.4% of its entire total low income household population, over 167,000 low income
2 households, and 82.2% of its entire low income payment troubled population, over 48,000
3 low income payment troubled households. No one will argue that the Act requires that
4 PP&L's entire low income population be offered OnTrack services, but a reasonable
5 argument can be made that the Act requires that a good portion of PP&L's 48,000 low
6 income payment troubled customers must receive OnTrack services.

7
8 As a matter of policy, Pennsylvania's Electric Restructuring and Customer Choice Act states
9 that "electric service is essential to the health and well-being of residents, to public safety and
10 to orderly economic development; and electric service should be available to all customers
11 on reasonable terms and conditions" (§2802(9)). I would submit that charging and billing
12 low income customers for the "essential service" of electricity in amounts that many of them
13 simply cannot afford is not consistent with the letter and intent of the law that "electric
14 service should be available to all customers on reasonable terms and conditions." Further,
15 I would submit that reasonable terms and conditions for PP&L electricity service would not
16 exceed the charging and billing of customers in excess of 8.0% of annual household income
17 for electric heat customers, 5.0% for baseload water heat customers, and 4.0% of annual
18 household income for baseload only customers.

19
20 As pointed out in Section II, the electricity bill burden for all too many of PP&L's low
21 income population is significantly larger than that facing the average PP&L customer, and
22 this is perhaps the biggest contributing factor to their inability to pay their electric bills. An

1 previously stated. an estimated 133,473 PP&L households earn less than \$9,999 a year.
2 Electric heated households in this category are asked to spend at least 13.2% of their annual
3 incomes on electricity, baseload water heat customers are asked to spend 8.1% or more, and
4 baseload only customers in this category are asked to spending more than 6.7% of their
5 annual incomes yearly on electricity. The estimated 94,921 PP&L households earning
6 between \$9,999 and 14,999 are billed between 8.8% and 12.5% of their annual incomes for
7 electricity each year, baseload water heat customers between 5.4% and 8.1%, and baseload
8 only customers are billed between 4.4% and 6.7%. when the fact is that these households do
9 not make enough money pay their electric bills, and still afford food, clothing, and medical
10 supplies. It is these PP&L individuals and families in these lowest income categories that
11 are in desperate need of universal service and energy conservation program services.
12

13 **VII. ALTERNATIVE ONTRACK PLAN**

14 Q: In your expert opinion, what would an “appropriately funded” OnTrack Program “adequate
15 to meet the need” in PP&L’s service territory consist of?

16 A: I would think that such a program would target those most in need of bill payment assistance.
17 As pointed out in my introduction, Exhibit ___ CRK-7 shows that close to 600,000 PP&L
18 residential households—about 55% of its total—earn at least \$27,500 or more a year.
19 Further, electric heat households in this income category are billed 4.8% or less of their
20 annual income for electricity, while baseload water heat households in this category are bill
21 3.0% or less, and baseload only customers are billed less than 2.4%. Another 260,000 or so,
22 approximately 24.0% of PP&L total households, spend between 2.4% and 8.8% depending

1 on whether they are electric heat, baseload water heat, or baseload only customers. For the
2 majority of these households, we can assume that electricity is affordable and they are not
3 in need of OnTrack services. It is the household group making less than 15,000 annually that
4 an OnTrack program must concern itself with.

5
6 Exhibit ____ CRK-21 is an example of an OnTrack Program that would meet the
7 requirements of the law. It would target 40% of PP&L's poorest households for OnTrack
8 services at an annual cost of \$23,128,966, an amount approximately equal to PP&L stated
9 gross low income write-offs, and approximately equal to 0.8% of PP&L's 1996 gross
10 operating revenues. It is an adaptation of the percentage of payment plan offered by
11 Consultants Barbara Alexander and Nancy Brockaway on behalf of the Office of Consumer
12 Advocate in response to request for comments by the Commission's Universal Service and
13 Energy Conservation Work Group, this "alternative" OnTrack program would target 40%
14 of PP&L's 150% of poverty and below population, approximately 71,000 households, for
15 bill payment assistance in the following manner:

- 16
- 17 • efforts would be made to target each service type according the general make-up of
18 PP&L's residential customers class, i.e., it would target 31% electric heat, 25%
19 baseload water heat, and 44% baseload only customers;
 - 20
 - 21 • within each service type, it would target those most in need, i.e., those electric heated
22 households with electricity burdens at or above 8.0% a year, baseload water heat

1 homes with electricity burdens at or above 6.0%, and baseload only customers with
2 electricity burdens at or above 4.0%.

3
4 Further, the following assumptions apply:

- 5
6 • 177,464 PP&L 150% of poverty and below households;
- 7
8 • 1992 U.S. Census poverty ratio distributions of 23% for PP&L households between
9 0-50% of federal poverty guidelines, 31% for PP&L households between 51-100%
10 of federal poverty guidelines, and 44% for PP&L households between 101-150% of
11 federal poverty guidelines;
- 12
13 • average annual low income electric heat bill of \$1,316.59, baseload water heat bill
14 of \$812.00, and baseload only bill of \$667.04; and
- 15
16 • mid-point average annual income of \$3,046.90 for households between 0-50% of
17 federal poverty category, \$9140.70 for households between 51-100%, and \$15,234.50
18 for households between 101-150%.

19
20 Taken together, these program targets and assumptions produce an alternative OnTrack
21 program that would provide an estimated \$23,128,966 in bill payment assistance to
22 approximately 22,000 low income electric households, 18,000 baseload water heat

1 households. and 31,000 baseload only households. Average annual payment assistance
2 benefits for each service type and income category would be:

- 3
- 4 • \$1,072.84 for electric heat households earning between 0-50% of federal poverty,
5 \$585.33 for those earning between 51-100%, and \$97.83 for those earning between
6 101-150% of federal poverty;

 - 7
 - 8 • \$659.65 for baseload water heat households earning between 0-50% of federal
9 poverty, \$354.96 for those earning between 51-100%, and \$50.27 for earning
10 between 101-150% of federal poverty; and

 - 11
 - 12 • \$545.16 for baseload only households earning between 0-50% of federal poverty,
13 \$304.41 for those earning between 51-100%, and \$57.66 for earning between 101-
14 150% of federal poverty.
- 15

16 Q: How does this plan compare to PP&L proposed plan under this filing in terms of households
17 served and annual funding, and in terms of costs per unit, per 1996 total kWh sold, and as
18 a percent 1996 gross operating revenues, etc.?

19 A: In terms of annual households served and annual funding, PP&L's plan proposes to ramp up
20 OnTrack enrollment to 10,000 a year by 2001 and where it would remain for an indefinite
21 period of time. Funding would ramp up to \$9,625,000 in year 2001, then decline to
22 \$9,100,000 in 2002 and remain at this level for an indefinite period of time. This equates to

1 an average cost per participating household of \$910 per year when fully implemented. As
2 for annual costs per 1996 total kWh sold and as a percent of gross operating revenues, PP&L
3 plan would cost \$0.00028 and 0.31% respectively.

4
5 The alternative OnTrack would ramp up OnTrack enrollment to 71,000 and funding to
6 \$23,128,966 by year 2000. In terms of average cost per participating household, these
7 figures equate to \$325.76 per household per year when fully implemented, compared to the
8 \$910.00 per participating household in PP&L's plan. In terms of annual costs per 1996 total
9 kWh sold and as a percent of gross operating revenues, this alternative plan would cost
10 \$0.00072 and 0.80% respectively. In other words, this alternative WRAP would provide
11 benefits to more than seven times the number of households than PP&L's plan at almost one
12 third the per household cost. For those who would argue, yes but the annual cost in terms
13 of 1996 kWh sold and 1996 gross operating revenues are nearly three times as much as
14 PP&L's plan, I would simply point out that law is clear that electric service should be made
15 available to all households on "reasonable terms" and that each universal service and energy
16 conservation plan must be made "appropriately funded and adequate to meet the need." This
17 argument is not relevant in that the level of poverty in PP&L's service territory is such that
18 PP&L's plan does not meet intent of the law in terms of program size relative to need; hence,
19 such a comparison is not valid.

20
21 Q: What would the annual cost for this alternative OnTrack be in terms of residential
22 households?

1 A: Assuming the program is paid through a non-bypassable kWh charge on all kWh sold, the
2 cost to an electric heat household using 17,000 kWh a year would be \$12.25, for a baseload
3 water heat household using 10,000 kWh, the cost would be \$7.20, and for a baseload only
4 household using 8,000 kWh annually, the cost would be \$5.26 a year based on total 1996
5 PP&L kWh sales of 32,101,459,668. If these costs were exclusively distributed within the
6 residential class, the average annual program cost per residential customer would be
7 approximately \$21.38. On the surface these figures may appear significant, but it is
8 important to point out these cost figures, regardless of the methodology chosen, neither
9 represent nor would they translate into rate or bills increases. Rather, these costs could be
10 more than covered by a transferring of the \$30,000,000 in annual in gross write-offs, revenue
11 shortfall and arrearage forgiveness, and collection and postage costs PP&L attributes to its
12 low income customers. In other words, this alternative OnTrack program would meet the
13 Act's requirements with respect to rate caps.

14
15 Q: Even so, are there other ways in which to keep costs associated with the alternative OnTrack
16 program down?

17 A: Certainly. By aggressively targeting Alternative OnTrack program participants for
18 participation in the Alternative WRAP program services outlined in Section V, these costs
19 could be significantly reduced. Exhibit ____ CRK-22 shows that the estimated total annual
20 cost of the Alternative OnTrack program assuming all participant households have received
21 Alternative WRAP treatment. One-hundred percent participation reduces annual Alternative
22 OnTrack costs by \$6,650,706 or 28%. On a 10-year life of measure basis, this equates to

1 \$66.650.706 in reduced OnTrack costs on a total Alternative WRAP investment \$47.800.000
2 for simple return of 39.1%. Though 100% OnTrack participation is achievable, it is not
3 achievable all at once. Rather, it would have to be achieved over a number of years.

4
5 Exhibit ___ CRK-23 assumes 100% participation over a 10-year period from 2000 to 2008,
6 and shows the estimated cumulative positive affects that would be achieved through such an
7 Alternative OnTrack/WRAP synergy based on the following assumptions:

- 8
- 9 • 2,200 OnTrack electric heat customers, 1,800 OnTrack baseload water heat, and
10 3,100 OnTrack baseload only customers receive Alternative WRAP services each
11 year from 2000 to 2009; and

 - 12
 - 13 • all Alternative WRAP kWh savings and bill reduction effects, excluding increases
14 in bill payment percentages, apply.
- 15

16 Based on these assumptions, as the number of Alternative OnTrack homes treated increases,
17 and the cumulative bill reduction affects of the Alternative WRAP program take hold, the
18 annual cost of the Alternative OnTrack as a percentage of 1996 PP&L gross operating
19 revenues will decline from an estimated 0.77% in 2000 to 0.56% in 2009, and the annual cost
20 in terms of total 1996 PP&L kWh sold will decline from an estimated \$0.00070 to \$0.00050.

21
22 Q: What would you say to those who might argue that goals of OnTrack and WRAP are not

1 compatible in that as the cost of energy is reduced through payment assistance programs the
2 impetus for conserve energy is also reduced?

3 A: I would point the 1995 study of 6000 Pennsylvania households weatherized through WRAP
4 during 1989 to 1991 by John Shingler at Pennsylvania's Consumer Services Information
5 System Project which found that "LIURP customers who are also enrolled in CAPs (in either
6 the post-period only or in both the pre- and post-LIURP periods) reduce their energy
7 consumption by about four percent more than LIURP customers who are not in CAPs
8 (Exhibit ____ CRK-15). Further, LIHEAP and CAPs, when both present, are associated with
9 an additional two percent in reduced energy consumption. Finally, there is no evidence to
10 support any hypothesis that LIURP customers on public assistance or who receive other
11 sources of income assistance are less like to reduce their energy consumption." Though
12 Shingler clearly points out that we cannot draw conclusions regarding any direct relationship
13 between the additional positive energy effects, i.e., the 4% additional reduction exhibited in
14 LIURP customers who were also enrolled in CAP, and CAP enrollment alone due to self-
15 selection factors, his study is strong evidence against arguments that would suggest an
16 incompatibility between the goals of CAP and LIURP.

17
18 **VIII. STAYING WITHIN THE RATE CAP**

19 Q: The Electric Restructuring and Customers Choice Act has a Rate Cap requirement, how
20 would you answer those who will argue that expansion of universal service and energy
21 conservation program programs is not possible because of this?

22 A: First, I would say that I do not believe the Pennsylvania General Assembly devised the rate

1 cap to limit the size of PP&L's proposed universal service and energy conservation programs
2 to \$14.3 million a year. Rather, I believe their intent was to limit the size of PP&L's
3 stranded cost claims to below the \$4.611 million they claim they are due, but of which they
4 are only asking to be reimbursed \$4.210 million over the next nine years (PP&L Witness
5 R.E. Hill, Statement No. 2). This equates to \$467.8 million a year in stranded cost recovery
6 each year until 2006. This is more than 32 times the 14.5 million a year increase in universal
7 service and energy conservation programs we are proposing.

8
9 If anything is going to adversely impact the rate cap it is going to be the stranded cost issue,
10 not any marginal increases to PP&L proposed universal service and energy conservation.
11 Especially in light of the fact that these increases are already being paid for in current rates.
12 Specifically, PP&L states that it spent an estimated \$32,388,472 in gross write-offs,
13 collection costs, and dunning letter postage costs on low income customers during 1996.
14 PP&L could transfer \$22.8 million, or just under 71% of these funds to its universal service
15 and energy conservation programs to finance the program expansions outlined in this
16 testimony without any adverse effect on the rate caps. Further, the transfer and expansion
17 would make sound business sense given that the proposed program expansions are
18 specifically designed to target the needs of those 30-40% of PP&L total low income
19 population that PP&L Witness Dahl says are the major generators of these costs in the first
20 place.

21
22 Specifically, \$4.2 could be transferred new and expanded WRAP services bring the program

1 total to \$7.2 million. \$14.0 million could be transferred to OnTrack expenditures to bring that
2 program to \$23.1 million. \$0.24 million could bring annual Operation Help expenditures to
3 \$0.5 million, and another \$1.4 million in annual PP&L contributions to CARES beginning
4 in 1999 could go a long way toward ensuring low income customers make a successful
5 transition to a market based electric system. Again, these increases in expenditures should
6 have no adverse effect on the rate cap.

7
8 In addition to the above considerations with respect the rate caps and the need for increases
9 in PP&L's universal service and energy conservation program. I would remind the
10 Commission that, and as Witness Karp has pointed out in his testimony, the Act has found
11 "electric service is essential to the health and well-being of residents, to public safety and to
12 orderly economic development; and *electric service should be available to all customers on*
13 *reasonable terms and conditions* (§2802 (9) emphasis added)," and further," the Commission
14 shall ensure that universal service and energy conservation policies, activities and services
15 are *appropriately funded and available* in each electric distribution territory (§2804 (9)
16 emphasis added)." PP&L's plan as proposed does not meet these two basic requirements
17 of the Act. The alternative plans proposed herein do. In a company with \$2,900 million in
18 gross operating revenues, it should not be hard to find an additional \$22.8 million in
19 universal service and energy conservation funding necessary to bring plan into conformance
20 without violating the rate caps. The gross write-off option presented in this section is but one
21 example of where the funds might be found.

1 **IX. RECOMMENDATIONS**

2 Q: Do you have any recommendations to make to the Commission regarding this proceeding?

3 A: Yes. They are as follows:

- 4
- 5 • **WRAP Expenditure Levels**—minimally, WRAP funding should be ramped up to
6 \$7,200,000 by 2000, and continue at this level through at least 2009. This would
7 place WRAP funding at an amount equal to 0.25% of 1996 gross operating revenues
8 of \$2,909,087,000 and would ensure that this program is “appropriately funded” as
9 required by §2804 (9) of the Act.

 - 10
 - 11 • **WRAP Program Offerings**—WRAP should be redesigned to provide program
12 services for electric heated homes, baseload water heat homes, and baseload only
13 homes. Further, PP&L should be required to develop and implement a pilot program
14 that would provide remedial WRAP services to all low incomes households in which
15 more than 10 years have elapsed since initial service were provides.

 - 16
 - 17 • **WRAP Program Penetration**—minimally, WRAP program penetration should be
18 ramped up from existing levels to 2,700 electric heated homes, 3,000 baseload water
19 heat homes, 5,200 baseload only homes annually, and 1,000 under treated electric
20 heated homes annual by the year 2000. These penetration levels should continue
21 through at least 2009.

 - 22

- 1 • **OnTrack Expenditure Levels**—initially, annual OnTrack funding should be ramped
2 up to \$23.1 million by 2000 and continue at this level until it is determined by the
3 PUC that different level is needed. This would place OnTrack funding at an amount
4 equal to 0.80% of 1996 gross operating revenues of \$2,909,087,000 and would
5 ensure that this program is “appropriately funded” as required by §2804 (9) of the
6 Act.
7
- 8 • **OnTrack Program Offerings**—OnTrack should be designed to provide payment
9 assistance to all low income PP&L households in amounts such that no electric
10 heated household is billed more than 8% of their annual income for annual electricity
11 needs, no baseload water heat household is billed more than 5% of their annual
12 household income for annual electricity needs, and no baseload only household is
13 billed more than 4.0% of their annual income for annual electricity needs;
14
- 15 • **OnTrack Penetration Levels**—Initially, OnTrack penetration levels should be
16 ramped-up from existing levels to an amount equal to 40% of PP&L’s total 150% of
17 federal poverty household base; and every effort should be made to target the poorest
18 electric heat, baseload water heat, and baseload only households at levels equal to
19 their representation within the low income population as a whole;
20
- 21 • **Combining of Services**—Every effort should be made to aggressively promote the
22 WRAP participation for all on OnTrack eligible households in an effort to keep

1 OnTrack funding exposure to an absolute minimum:

- 2
- 3 • **Staying Within the Rate Cap**—to ensure that the recommended funding increases
4 for WRAP and OnTrack meet the Rate Cap requirements of the law. PP&L should
5 be required to transfer \$22.8 million from its stated \$32,388.472 in 1996 gross write-
6 offs, collection costs, and dunning letter and postage costs to finance the additional
7 Universal Service and Energy Conservation Costs beyond that which PP&L has
8 proposed in the following manner: \$4.2 in additional annual WRAP expenditures,
9 for an annual total of \$7.2 million, \$14.0 million in additional annual OnTrack
10 expenditures, for an annual total of \$23.1 million, \$0.24 million to Operation Help
11 for an annual total of \$0.5 million, and \$1.4 million to CARES expenditures for a
12 1999 total of \$2.0 million.

- 13
- 14 • **Low Income Electric Restructuring Education**—In addition to transferring \$22.8
15 million from its stated \$32,388,472 in 1996 gross write-offs, collection costs, and
16 dunning letter and postage costs to finance the additional expenditures in current
17 programs, PP&L should be required to an addition \$1.0 million annually to fund a
18 new low income electric restructuring education program along the lines proposed
19 in the testimony of CEO Witness Michael Karp.

20

21 Q: Does this conclude your testimony?

22 A: Yes.

Craig R. Kuennen

1646 Hilton Head Court #2216
El Cajon, CA 92019
619-593-4159

craig.kuennen@mci2000.com

Relevant Energy and Environmental Policy Experience

1994-Present Energy Services Manager, The Commission on Economic Opportunity, 165 Amber Lane, Wilkes-Barre, Pennsylvania 18702

- **Work independently** as an energy policy/utility program analyst on low income energy conservation, efficiency and energy education issues and programs
- **Analyze** utility energy conservation, efficiency, and social programs
- **Author position papers, conduct training, and coordinate efforts** of Pennsylvania's forty-three member Weatherization Providers Task Force as Project Manager for Pennsylvania's U.S. Department of Energy funded Weatherization Assistance Program Leveraging Project
- **Represent** low income energy consumers and energy efficiency advocates as panel developer, presenter, and participant at state and national energy policy conferences
- **Researcher, author, and presenter** of expert testimony on low income energy and electric industry restructuring issues before regulatory and legislative bodies

1992-1994 Research Associate, Center for Energy and Environmental Policy, College of Urban Affairs and Public Policy, University of Delaware, Newark, DE.

- **Independent and group project researcher** for Center for Energy and Environmental Policy projects and reports
- **Authored written policy reports** on energy and environmental policy issues for various private and governmental organizations
- **Presented professional papers** at national conferences

Formal Education

Ph.D. (abd), Urban Affairs and Public Policy, Center for Energy and Environmental Policy, College of Urban Affairs and Public Policy, University of Delaware, Newark, DE.

- **Doctoral Candidate**, will graduate with a 3.91 GPA in May 1998
- **Emphasis in Technology and Society**
- **Dissertation Title:** *Ideology, Efficiency, and Human Development: Searching for Sustainability in U.S. Development Policies*
- **Elected** President of the College of Urban Affairs Student Association, September 1993 to June 1994
- **Served** on Faculty Search Committee, March 1994 to April 1994

- **Awarded** the College of Urban Affairs and Public Policy Milton and Mary Edelstein Prize for Public and Community Service, May 1994

M.A., Philosophy, San Diego State University, San Diego, CA.

- **Graduated** with 3.76 GPA in December 1992
- **Emphasis in Philosophy of Technology and Social Ethics**
- **Thesis Title:** *The Ideology of Coadaptation: Toward a Non-Domineering Model of Technology*
- **Elected** Vice-President of the San Diego State University Philosophy Club September 1991 to June 1992

M.B.A., Financial Management, National University, San Diego, CA.

- **Graduated** with 3.86 GPA in January 1988
- **Thesis Title:** Thesis not required, completed capstone course in Strategic Policy Development, grade A

B.B.A., Business Administration, National University, San Diego, CA.

- **Graduated summa cum laude** with 4.00 GPA in January 1987
- **Awarded** \$2,500 Academic Scholarship, January 1987
- **Awarded** a \$750 Leadership Scholarship, September 1986

Military Service

1980-1988 United States Navy, First Class Personnelman. Honorable Discharge, April 1988.

Publications

"Global Climate Change: European Policy Makers' Views of How Science Enters the Political Process," with Willett Kempton and P. P. Craig, *Energy & Environment*, vol. 6, no. 2, 1995.

"The Theory of Coadaptation: Toward a Non-Domineering Model of Technology," *Capitalism Nature Socialism*, vol. 5, no. 4, issue 20, December 1994.

"The Limits of Efficiency: Policy Impacts and Implications for Sustainable Development," *ACEEE 1994 Summer Study on Energy Efficiency in Buildings, Proceedings, Panel 4. Global and Environmental Issues*, American Council for an Energy Efficient Economy, Berkeley, CA, 1994.

"Is Efficiency Enough as an Environmental Policy Guideline?" *Bulletin of Science, Technology,*

and Society, vol. 13, no. 4, December 1993.

"Urban Sustainability During Industrialization: The Case of China," with John Byrne, Young-Doo Wang, Bo Shen, Chongfang Wang, and Ziuguo Li. *Bulletin of Science, Technology, and Society*, vol. 13, December 1993.

Professional Presentations

"Panel on Sustainable Development," with Paul Durbin, The Society for Philosophy and Technology, VIII Biannual Meeting, Hofstra University, June 1995.

"The Limits of Efficiency: Policy Impacts and Implications for Sustainable Development," American Council for an Energy Efficient Economy 1994 Summer Study, Monterey, CA. August 1994.

"Expressing Environmental Effects of Energy Behaviors," with Willett Kempton and Rana Belshie. Affordable Comfort Conference >94, Philadelphia, PA. March 1994.

"Utility Fuel Assistance Programs: The Pennsylvania Experience," National Consumer Action Foundation/U.S. Department of Energy Conference, St. Petersburg, FL. December 1993.

"Transcending Efficiency's Dilemma: A View from the Coadaptationist Position," National Association of Science, Technology, and Society, Washington D.C.. January 1993.

Professional Papers

"Weatherization: Trends, Issues, & New Technologies," with Ashley Miller, and Chongfang Wang, Center for Energy and Environmental Policy, University of Delaware, Newark, DE, prepared for the Delaware General Assembly, June 1994.

"Status of Compliance for the November 15, 1993 Deadlines of the Clear Air Act Amendments of 1990: Survey Results of Area States," with Ashley Miller, Joseph Bryan, and Brian Gallagher, Center for Energy and Environmental Policy, University of Delaware, Newark, DE, prepared for the Delaware General Assembly, October 1993.

"Weatherization Leveraging Project Final Report," with John Byrne and Willett Kempton, Center for Energy and Environmental Policy, University of Delaware, Newark, DE 19716, June 1993.

Legal Briefs

Social Programs, Demand Side Management, and Generating Capacity Issues, contributing author to The Commission on Economic Opportunity, PA PUC vs. PP&L, Docket No. R-00943271, June 16, 1995.

Written and Oral Testimony

Electric Industry Restructuring. contributing author to The Commission on Economic Opportunity, Pennsylvania House Committee on Consumer Affairs, hearing on electric industry restructuring and hostile takeovers. May 22, 1996.

Electric Power Competition. The Commission on Economic Opportunity, PA PUC Investigation into Electric Power Competition, Docket No. I-940032, contributing author. (pre-filed written) November 6, 1995, (oral) December 1, 1995, and (oral) March 19, 1996.

Demand Side Management and Generating Capacity Issues. The Commission on Economic Opportunity, PA PUC vs. PP&L. Docket No. R-00943271, (written and oral) April 14, 1995.

EXHIBIT ___ CRK-3

Poverty in Pennsylvania, 1980 to 1995
 Source: U.S Census Bureau

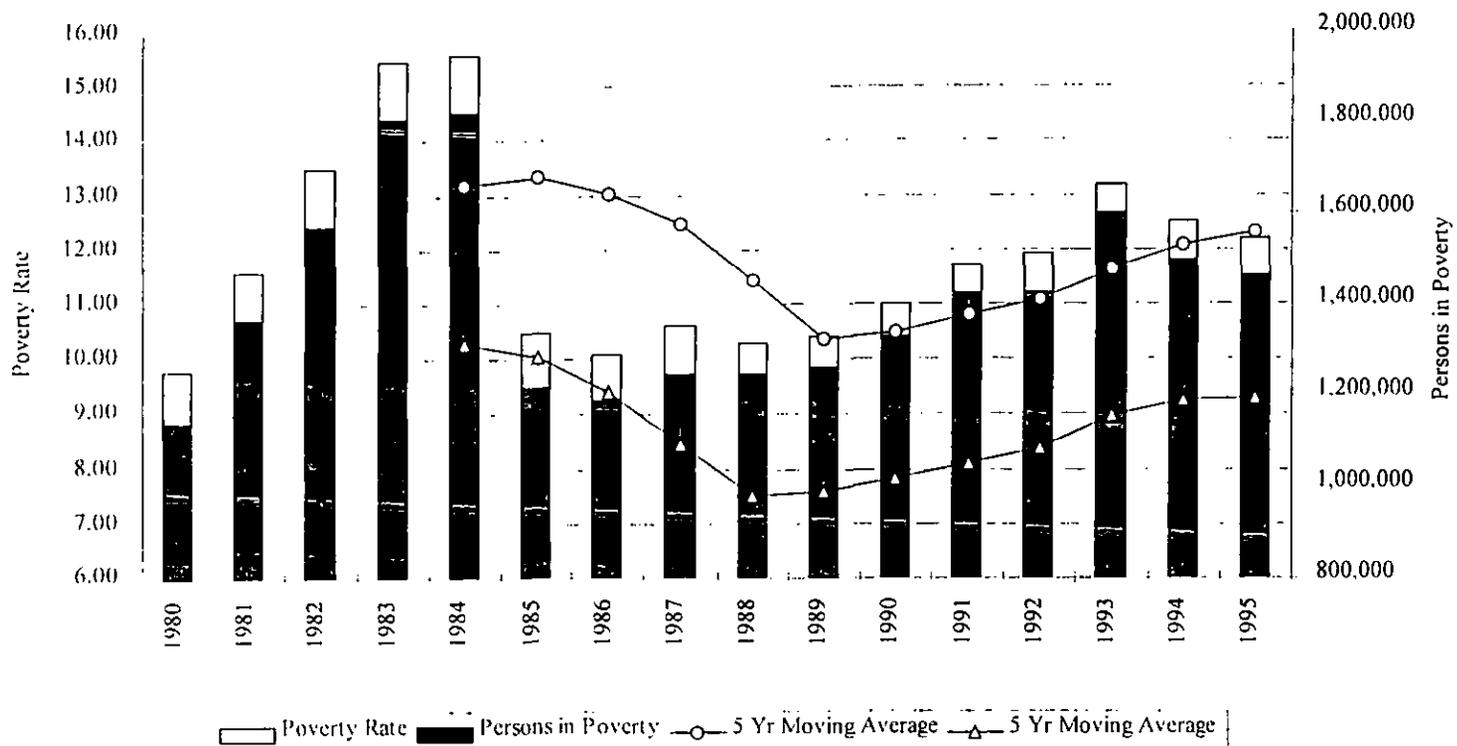


EXHIBIT ____ CRK- 4

PP&L Service Territory Poverty Figures: Persons and Households:
1990 U.S. Census for PP&L Cities, Boroughs, and Townships

Characteristic	Total Persons	Percent of Total Persons	Percent Change	Percent Change 1979-93	Total HHDs	Percent of Total HHDs	Percent Change	Percent Change 1979-93
Persons/Households in 1979	2,548,948	100.0%			914,078	100.0%		
Persons/Households in 1989	2,697,339	100.0%	5.8%		1,018,960	100.0%	11.5%	
Persons/Households in 1993	2,760,877	100.0%	2.4%	8.3%	1,046,239	100.0%	2.7%	14.5%
Persons/Households below poverty level in 1979	227,516	8.9%			81,747	8.9%		
Persons/Households below poverty level in 1989	238,708	8.8%	4.9%		90,567	8.9%	10.8%	
Persons/Households below poverty level in 1993	282,198	10.2%	18.2%	24.0%	107,125	10.2%	18.3%	31.0%
Persons/Households above poverty level in 1979	2,321,432	91.1%			832,331	91.1%		
Persons/Households above poverty level in 1989	2,458,631	91.2%	5.9%	5.9%	928,393	91.1%	11.5%	
Persons/Households above poverty level in 1993	2,478,679	89.8%	0.8%	6.8%	936,778	89.5%	0.9%	12.1%
Persons/Households 65 (=/+) in 1979	331,934	13.0%			119,519			
Persons/Households 65 (=/+) in 1989	406,512	15.1%	22.5%		154,325	16.9%	29.1%	
Persons/Households 65 (=/+)below poverty in 1979	37,982	1.5%			13,700			
Persons/Households 65 (=/+)below poverty in 1989	40,258	1.5%	6.0%		15,363	1.7%	12.1%	
Persons/Households 65 (=/+) above poverty in 1979	293,952	11.5%			105,819			
Persons/Households 65 (=/+)above poverty in 1989	366,254	13.6%	24.6%		138,962	15.2%	31.3%	

EXHIBIT ___ CRK-5

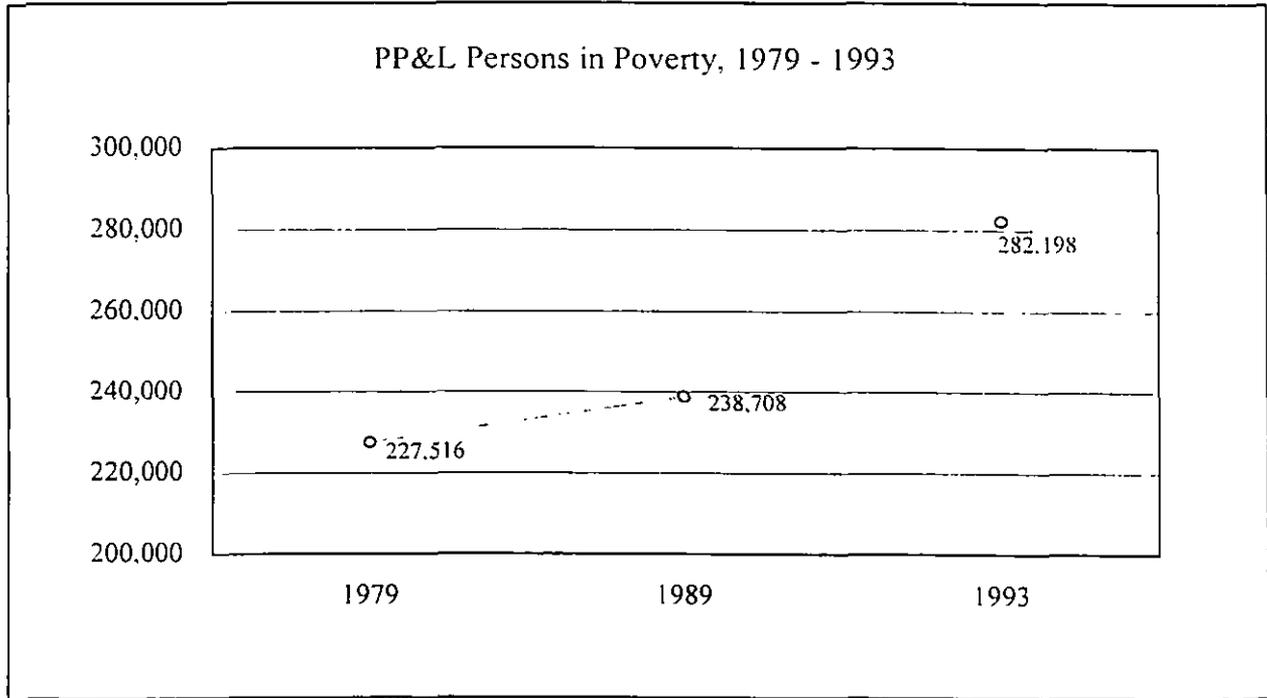


EXHIBIT ___ CRK-6

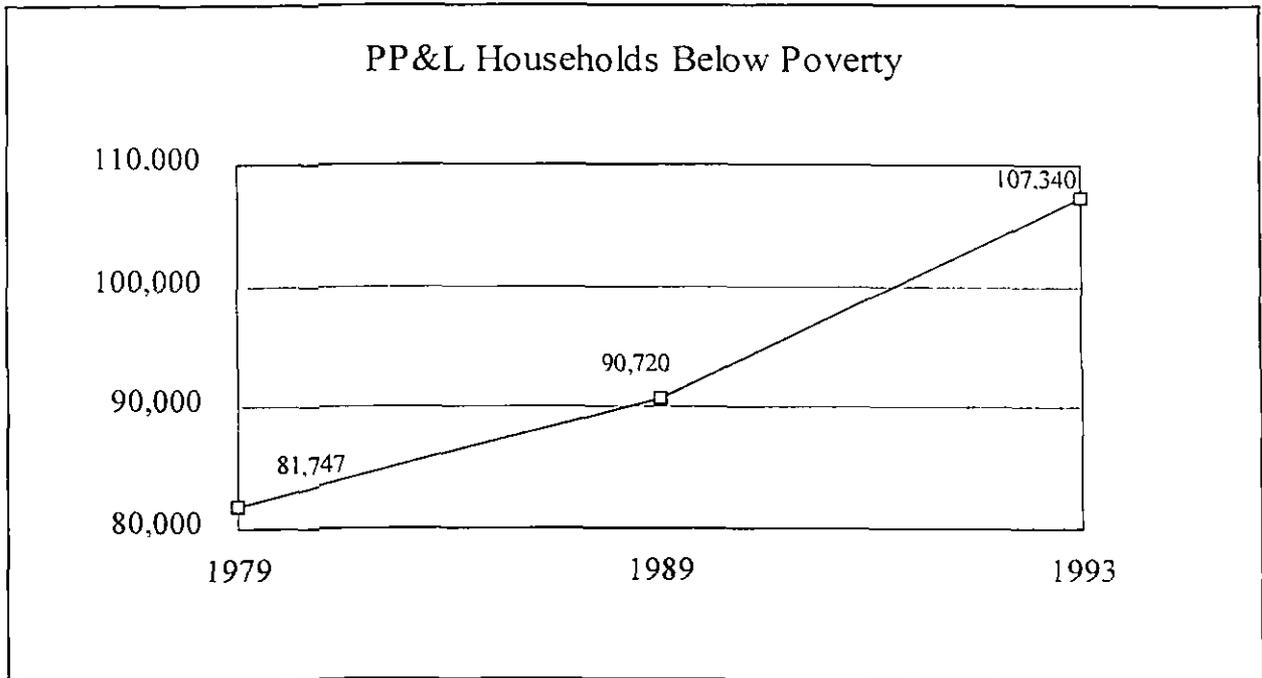


EXHIBIT ____ CRK-7

**Estimated Distribution of PPL Households
by Income, Service Type, and Annual Electricity Burden**

(1) Household Income and Type of Service	(2) Dist. of Households By Income '90 Census ¹	(3) Est. Dist. of PP&L Customers by Income ²	(4) Est. Dist. of PP&L Households by Service ³	(5) Est. Avg. Annual Household kWh Use ⁴	(6) Est. Avg Annual Household Bill ⁵	(7) Est. Avg. Annual Electricity Burden ⁶
Less than \$9,999	12.3%	133,473				
Electric Heat (31%)			41,377	17,000	\$ 1,316.59	13.2% or more
Baseload Water Heat (37%)			34,076	10,000	\$ 812.00	8.1% or more
Baseload Only (32%)			58,021	8,000	\$ 667.04	6.7% or more
\$9,999 - \$14,999	8.8%	94,921				
Electric Heat (31%)			29,426	17,000	\$ 1,316.59	8.8% to 13.2%
Baseload Water Heat (37%)			24,233	10,000	\$ 812.00	5.4% to 8.1%
Baseload Only (32%)			41,262	8,000	\$ 667.04	4.4% to 6.7%
\$15,000 - \$19,999	8.6%	93,527				
Electric Heat (31%)			28,993	17,000	\$ 1,316.59	6.6% to 8.8%
Baseload Water Heat (37%)			23,877	10,000	\$ 812.00	4.1% to 5.4%
Baseload Only (32%)			40,656	8,000	\$ 667.04	3.3% to 4.4%
\$20,000 - \$24,999	10.3%	111,597				
Electric Heat (31%)			34,595	17,000	\$ 1,316.59	5.3% to 6.6%
Baseload Water Heat (37%)			28,491	10,000	\$ 812.00	3.2% to 4.1%
Baseload Only (32%)			48,511	8,000	\$ 667.04	2.7% to 3.3%
\$25,000 - \$27,499	4.9%	53,523				
Electric Heat (31%)			16,592	17,000	\$ 1,316.59	4.8% to 5.3%
Baseload Water Heat (37%)			13,664	10,000	\$ 812.00	3.0% to 3.2%
Baseload Only (32%)			23,266	8,000	\$ 667.04	2.4% to 2.7%
\$27,500 and above	55.0%	594,908				
Electric Heat (31%)			184,422	17,000	\$ 1,316.59	4.8% or less
Baseload Water Heat (37%)			151,880	10,000	\$ 812.00	3.0% or less
Baseload Only (32%)			258,607	8,000	\$ 667.04	2.4% or less

1-Derived from 1990 Census figures for PP&L cities, boroughs, and townships

2-Column (2) x 1,081,991 known PP&L customers

3-Column (3) x PP&L's stated penetration rates for each service category

4-Estimates for electric heat and water heat are based on 1994 and 1995 PUC LIURP reports; baseload estimates are based CEO's expertise in the field.

5-Based on Column (5) usage and current PP&L Tariff

6-Column (6) divided by Column (1) income figures

O. G. Kasper

Pennsylvania Power & Light Company
Response to Interrogatories of
the Commission on Economic Opportunity , Set I
Dated May 19, 1997
Docket No. R-00973954

- Q.40 How many residential baseload - i.e., non-electric heat - customers does PP&L have?
- A.40. As of April 30, 1997, PP&L had 748,438 non-electric heat residential customers

**Pennsylvania Power & Light Company
Response to Interrogatories
of the Commission on Economic Opportunity, Set I
Dated May 19, 1997
Docket No. R-00973954**

Q.41. Approximately how many of those customers mentioned in response to Question (30) are baseload only customers?

A.41. Approximately 120,700 low-income customers are non-electric heat residential customers.

Pennsylvania Power & Light Company
Response to Interrogatories
of the Commission on Economic Opportunity, Set I
Dated May 19, 1997
Docket No. R-00973954

- Q.43. How many baseload only customers mentioned in response to Question (41) would be eligible for LIURP?
- A.43. Approximately 45,000 of these customers have electric water heating and would be eligible for WRAP low-cost services.

PP&L Households: Year Structure Built

Year Built	Distribution of HHD Age¹	Estimated Distribution of PP&L Households
1989-Newer	2.7%	29.084
1985-1988	7.9%	85.655
1980-1984	6.3%	68.574
1970-1979	18.5%	200.218
1960-1969	11.6%	125.829
1950-1959	11.0%	118.691
1940-1949	7.1%	76.469
1939-Older	34.9%	377.429

¹-1990 U.S. Census for PP&L Cities, Boroughs, and Townships

- Q. What would CAP enrollment be if the program was large enough to accommodate all low income negative ability to pay customers? State number of customers still in need of LIURP services. State how much it would cost to serve all customers which need LIURP services.
- A. PP&L estimates that there are 58,000 low-income (at or below 150 percent of the federal poverty level), payment-troubled customers who would qualify for the Company's OnTrack program. All of these customers have overdue balances with PP&L.

WRAP targets income eligible customers who have electric heat as their primary energy source. Based on the 1990 U S. Census, there are approximately 177,000 customers with household incomes at or below 150 percent of the poverty level. Given PP&L's electric heat saturation of 31 percent, it is estimated that nearly 55,000 WRAP-qualified households would have electric heat. Between 1985 and 1996, about 22,500 (41 percent of low-income electric heat households) electric-heat customers have received weatherization services through WRAP. The estimated cost to serve the remaining electric heat customers ($55,000 - 22,500 = 32,500$) would be \$39 million, or 32,500 customer jobs x \$1,200 average cost per job.

Annual WRAP Expenditures and Completions, 1988-1995

	1988	1989	1990	1991	1992	1993	1994	1995	8 Year Total	% of Total Population	8 Year Average
WRAP Expenditures	\$ 3,158,930	\$ 3,098,465	\$ 3,019,108	\$ 2,973,991	\$ 2,864,914	\$ 2,911,914	\$ 3,006,046	\$ 3,023,300	\$24,056,668	N/A	\$3,007,084
WRAP Completions Total	3,007	3,069	2,919	2,751	2,723	2,393	2,575	2,700	22,137	12.5%	2,767
Elect Heat	2,493	2,435	2,197	1,790	1,909	1,896	1,854	1,800	16,374	9.2%	2,047
Baseload Water Heat	514	634	722	961	814	497	325	450	4,917	2.8%	615
Baseload Only	-	-	-	-	-	-	396	450	846	0.5%	106

Source: LIURP Report, Pennsylvanian Public Utility Commission, July 1995

1991/1992 WRAP Bill Characteristics

Characteristics	Electric Heat	Baseload Water Heat
Jobs in Analysis		
1991	71	51
<u>1992</u>	<u>436</u>	<u>148</u>
Total	507	199
Mean Bill Reduction		
1991	\$111.00	\$39.00
1992	<u>\$114.00</u>	<u>\$39.00</u>
Weighted Average	113.58	\$39.00
% Pre-WRAP Bill Paid		
1991	74.0%	85.0%
1992	<u>51.0%</u>	<u>55.0%</u>
Weighted Average	54.2%	62.8%
% Post-WRAP Bill Paid		
1991	97.0%	109.0%
1992	<u>95.0%</u>	<u>105.0%</u>
Weighted Average	95.3%	106.0%

Adapted from the Pennsylvania Public Utility Commission Reports on Pennsylvania's 1991 and 1992 Low Income Usage Reduction Programs, Reports issued June 1994, and July 1995

EXHIBIT ____ CRK-15

Source: <http://www.aers.psu.edu/csis/puc/index.htm>

The Impact of CAPS and LIHEAP on Reduced Energy Consumption in the Low Income Usage Reduction Program (LIURP)

John Shingler
Consumer Services Information System Project

In 1994 the Consumer Services Information System Project completed an investigation of the relative effect of several low-income payment assistance programs on the reduction of energy consumption by households participating in the Pennsylvania Low-Income Usage Reduction Program (LIURP). Specific payment programs examined included LIHEAP and Customer Assistance Programs (CAPs). CAPs are designed to assist eligible customers to decrease their arrearage and increase their ability to make payments toward their energy bills on a consistent basis. LIHEAP, a federal payment assistance program, provides cash grants to eligible families to be used toward maintaining their utility service. One fundamental difference between LIHEAP and CAPs is that CAPs requires customers to meet their payment agreements with their own money while LIHEAP provides funds to pay part of a recipients's energy bill for them. However, it is possible to use LIHEAP payments as a funding source for CAPs. In Pennsylvania, utility companies are encouraged to coordinate the implementation of these payment programs with LIURP, a weatherization and energy conservation education program.

This study was based on the following premise: A variety of complicated and inter-connected political and societal forces create the conditions and shape the context within which multiple social programs are combined. These programs usually share a common base of eligible, low-income customers. These programs are coordinated and jointly implemented in an effort to serve as many needs of eligible clients as possible. Often these programs can be incompatible, either during the process of implementation or in terms of their intended impacts, or both.

This study was conducted because several respondents to previous surveys of LIURP providers suggested that payment assistance programs may not be compatible with LIURP in terms of their effect on energy consumption. Further, certain political and societal theories assume that payment assistance provides no incentives for recipients to reduce their energy consumption or lower their energy bills since the money to pay these bills comes from another source. Thus, the presence of payment assistance programs can counteract the goals of energy conservation programs, which are intended to reduce energy consumption, thereby reducing energy bills. According to this perspective, the main impact of payment assistance programs will be to diminish or neutralize that portion of reduced energy consumption that would occur from any energy conservation education, in addition to the reduced energy consumption that will result primarily from the installation of physical weatherization measures.

Note that all conclusions resulting from this study are restricted to assessing the degree to which program combinations are associated with reduced energy consumption. It is possible that one of the two assistance programs is clearly preferable to the other with regard to reducing energy consumption, or that there are specific conditions under which the programs can be combined to achieve the objectives of both CAPs and LIHEAP without diminishing LIURP's goal of reduced energy consumption. To examine these issues, this study analyzed data on over 6000 households weatherized through LIURP between 1989 and 1991.

Regression analysis was used to determine the relative effect of the various payment assistance programs and income sources on reduced post-LIURP energy consumption. Standard regression analysis revealed that weatherization measures contributed to most of the reduced energy consumption achieved through LIURP. To isolate the additional amount of reduced energy consumption beyond that resulting from the physical act of weatherization, this study controlled for the presence and type of physical weatherization measures installed in each LIURP job. LIURP participants were divided into several groups, including those who receive LIHEAP only, those who are in CAPs only, those who are in both, and those who are in neither. Further analysis was conducted to examine changes in energy consumption due to the presence of either or both programs in only the pre-LIURP period, only the post-period, in both periods, or in neither period. Additionally, the analysis also examined the impact of public assistance and several other sources of income assistance on reduced energy consumption during the LIURP post-period.

Results indicate that LIURP recipients who also receive LIHEAP are no more or less likely to reduce their energy consumption than those LIURP recipients who do not also receive LIHEAP. Thus, the presence of LIHEAP is not associated with either an increase or a decrease in the reduction in energy consumption and is a neutral variable with regard to energy conservation. However, CAPs are found to significantly contribute to the variance in energy consumption accounted for by the regression model. LIURP customers who are also enrolled in CAPs (in either the post-period only or in both the pre- and post-LIURP periods) reduce their energy consumption by about four percent more than LIURP customers who are not in CAPs. Further, LIHEAP and CAPs, when both present, are associated with an additional two percent in reduced energy consumption. Finally, there is no evidence to support any hypothesis that LIURP customers on public assistance or who receive other sources of income assistance are less likely to reduce their energy consumption.

It is questionable whether or not any direct causal relationship exists between enrollment in CAPs and additional reductions in energy consumption. It is possible that the same types of customers who are likely to successfully complete a CAPs payment agreement are also the same customers who are likely to be motivated to change their behavior in order to reduce their energy consumption beyond the levels of reduced energy consumption due solely to the installation of physical weatherization measures.

Note that the absence of any effect of LIHEAP on LIURP, either in the form of increased or decreased reductions in energy consumption following the implementation of energy

conservation programs, indicates that there is no negative penalty associated with LIHEAP in terms of energy conservation. Thus, there is no validity to the view that payment assistance such as LIHEAP promotes a lack of responsible behavior on the part of the recipient, and there is no compelling reason not to coordinate the implementation of energy conservation programs with the receipt of payment assistance.

The results of this study have implications for the development of social theory. First, the fact that LIHEAP is not associated with increased energy consumption indicates that the receipt of payment assistance does not promote wasteful or irresponsible levels of energy consumption. This finding, combined with the fact that public assistance and other sources of income assistance are not associated with lower reductions of energy consumption, suggests that theories which view low-income customers as irresponsible and unresponsive to assistance are not valid.

A side issue to this study is that a Pennsylvania Public Utility Commission (PUC) official Policy Statement recommends using at least one LIHEAP payment grant as a means of reducing the shortfall experienced by companies as a result of CAP payment agreements, under which CAP participants agree to pay an amount less than the total amount they owe. Thus, from the perspective of maximizing the impact of LIURP on reduced energy consumption, the preferable role of LIHEAP is as a source of funding for CAPs.

These findings do not suggest that LIHEAP is not important in and of itself. While LIURP is a one-time intervention, LIHEAP is potentially a continuing source of payment assistance. LIHEAP is also a source of assistance for those who either are not eligible for LIURP or refuse to accept it. However, it must be noted that it is the potentially continuing nature of LIHEAP assistance grants which brings LIHEAP under the criticism of those who oppose assistance programs because they are said to foster dependency and undermine self-sufficiency.

Evidence in the organizational literature suggests that LIHEAP, because it is an established program, may also provide a support framework for both LIURP and CAPs, which are relatively new programs. Thus, LIHEAP may provide a familiar reference point for companies enacting CAPs for the first time, and for customers being offered new programs such as CAPs and LIHEAP. However, given this context, it is important to consider how reduced levels of LIHEAP or its possible elimination will affect both CAPs and LIURP.

In summary, the presence of CAPs is significantly associated with additional reductions in energy consumption during the LIURP post-period. It is possible that the same types of customers who are likely to successfully complete a CAPs payment agreement are also the same customers who are likely to be motivated to change their behavior in order to reduce their energy consumption beyond the levels of reduced energy consumption due solely to the installation of physical weatherization measures. While LIHEAP is not associated with any additional reductions in energy consumption, there is no evidence to suggest that it is associated with any irresponsible energy consumption behavior on the part of LIHEAP recipients. Finally, further research is recommended to establish a more complete understanding of the relationship between

payment assistance and energy conservation programs.

This paper was presented at the May 1995 "Utilities, Consumers, and Public Policy Conference" on Issues of Quality, Affordability and Competition, held at University Park, Pennsylvania. Copies of this paper or of the Proceedings from the Conference may be obtained by contacting John Shingler of the CSIS Project (814-863-8653).

EXHIBIT ___ CRK-16

Non-Treated Alternative WRAP Household kWh Usage and Bill Analysis

Household Service Category	Average Annual Usage	Weighted Average kWh Price	Annual Customer Charge	Average Annual Bill	Average Annual Payment Percentage	Average Annual Bill Payment	Average Annual Bill Deficit
Electric Heat	17,000	\$ 0.0729	\$ 77.64	\$1,316.94	54.2%	\$ 713.78	\$ 603.16
Under Treated Elect Heat	16,000	\$ 0.0729	\$ 77.64	\$1,244.44	62.8%	\$ 781.51	\$ 462.93
Water Heat Baseload	10,000	\$ 0.0732	\$ 77.64	\$ 809.44	62.8%	\$ 508.33	\$ 301.11
Baseload Only	8,000	\$ 0.0734	\$ 77.64	\$ 664.44	78.0%	\$ 518.26	\$ 146.18

Treated Alternative WRAP Eligible Household kWh Usage and Bill Analysis

Household Service Category	Average Annual Usage	Weighted Average kWh Price	Annual Customer Charge	Average Annual Bill	Average Annual Payment Percentage	Average Annual Bill Payment	Average Annual Bill Deficit
Electric Heat	14450	\$ 0.0729	\$ 77.64	\$ 1,131.05	95.3%	\$ 1,077.89	\$ 53.16
Under Treated Elect Heat	14400	\$ 0.0730	\$ 77.64	\$ 1,128.44	106.0%	\$ 1,196.15	\$ (67.71)
Water Heat Baseload	8750	\$ 0.0732	\$ 77.64	\$ 717.97	106.0%	\$ 761.04	\$ (43.08)
Baseload Only	7200	\$ 0.0734	\$ 77.64	\$ 609.76	106.0%	\$ 642.11	\$ (36.35)

**Alternative WRAP Simple Payback
and Life of Measures Benefit Cost Analysis (Per Unit)**

	Annual Units	Per Unit Cost	\$ Value of Annual kWh Saved	kWh Value Simple Payback In Years	10 Year kWh Value Minus Costs	10 Year kWh Value/ WRAP Cost	Annual \$ Value of Bill Effects	Bill Effects Simple Payback In Years	3 Year Bill Value Minus Costs	3 Year Bill Effects Value/Cost	Total Benefits Simple Payback In Years	Lifetime Benefits Minus Costs	Lifetime Benefits/ Cost
Program Total	11,900	\$ 606.72	\$ 90.14	6.73	\$ 294.65	1.49	\$ 200.44	3.03	\$ (5.41)	0.99	2.09	\$ 895.97	2.48
Electric Heat	2,700	\$1,200.00	\$ 184.88	6.49	\$ 648.75	1.54	\$ 364.10	3.30	\$ (107.69)	0.91	2.19	\$ 1,741.06	2.45
Under Treated Elect Heat (Pilot)	1,000	\$ 400.00	\$ 116.00	3.45	\$ 760.00	2.90	\$ 414.64	0.96	\$ 843.91	3.11	0.75	\$ 2,003.91	6.01
Baseload Water Heat	3,000	\$ 500.00	\$ 90.63	5.52	\$ 406.25	1.81	\$ 252.71	1.98	\$ 258.14	1.52	1.46	\$ 1,164.39	3.33
Baseload Only	5,200	\$ 400.00	\$ 58.00	6.90	\$ 180.00	1.45	\$ 123.84	3.23	\$ (28.47)	0.93	2.20	\$ 551.53	2.38

1991/1992 WRAP Household Energy Usage

Characteristic	Electric Heat	Baseload Water Heat
Jobs in Analysis		
1991	608	639
1992	<u>340</u>	<u>119</u>
Total	948	758
Pre-WRAP kWh Usage		
1991	18,383	11,020
1992	<u>15,598</u>	<u>9,312</u>
Weighted Average	17,384	10,752
Post-WRAP kWh Usage		
1991	16,968	10,568
1992	<u>14,132</u>	<u>8,865</u>
Weighted Average	15,973	10,301
Mean kWh Savings	7.7% ¹	4.1% ²
1991	<u>9.0%</u>	<u>4.8%</u>
1992	8.2%	4.2%
Weighted Average		
Mean Job Cost		
1991	\$1,226.00	\$275.00
1992	<u>\$ 856.00</u>	<u>\$238.00</u>
Weighted Average	\$1,093.30	\$269.00

EXHIBIT ____ CRK-18

Adapted from the Pennsylvania Public Utility Commission Reports on Pennsylvania's 1991 and 1992 Low Income Usage Reduction Programs, Reports issued June 1994, and July 1995.

¹*PP&L reported that 64% of its 1991 electric heat completions report savings averaging 14.0%*

²*PP&L reported 62% of its 1991 Water Heat completions had savings averaging 13.5 for 12 months following intervention.*

- Q. State the dollar amount of the company's gross residential write-offs for 1996, the portion related to low-income customers or an estimate of the portion related to low-income customers.
- A. The total gross write-offs for residential customers and the portion of write-offs attributable to low-income customers are shown below.

Total Gross Write-offs:

Gross Write-off Residential Finalled Accounts	\$22,777,203
Gross Write-off Low Income-Active Accounts	5,603,262
OnTrack Revenue Shortfall	1,094,799
OnTrack Arrearage Forgiveness	<u>434,179</u>
Total Gross Write-off	\$29,909,443

Low Income Gross Write-off (estimated):

Residential Finalled Accounts	
- 50% of terminations - Level 1	\$11,565,253
- 20% of terminations - Level 2	4,626,101
Active Accounts	5,603,262
OnTrack Revenue Shortfall	1,094,799
OnTrack Arrearage Forgiveness	<u>434,179</u>
Total Gross Write-off for Low Income	\$23,323,594

- Q. Identify all criteria used by the company to categorize customers as low income customers. State the collection costs for the base year 1996 associated with handling low income customer accounts including administrative expenses associated with termination activity (10-day termination notice, personal contact, 48-hour notice, actual termination of service, post-termination and restoration costs), negotiating payment arrangement requests, budget counseling, handling formal and informal complaints, securing and maintaining deposits, tracking delinquent accounts, collection agency expenses, litigation expenses, dunning expenses and winter survey expenses.
- A. Customers with annual household incomes at or below 150 percent of the federal poverty level are considered low income for the purpose of negotiating payment plans. The 1997 income levels by family size for 150 percent of poverty are shown below:

<u>Family Size</u>	<u>Household Income</u>
1	\$11,835
2	15,915
3	19,995
4	24,075
5	28,155
6	32,235
Each additional person	4,080

PP&L estimated collection costs for calendar year 1996 are shown below:

Revenue Collection Department

- Payroll costs	\$3,238,555
- Collection agency/attorney fees	1,215,975
- Other costs (including chargebacks)	1,642,554

Facilities Costs (estimated)

- Office space	164,230
- Telephone Equipment	24,000

EXHIBIT _____ CRK-20

PP&L's Office of General Counsel	
- Internal support for collection activities	450,000
- External legal counsel	350,000
Meter Reading & Service	
- Costs to process 70,000 work orders	<u>875,000</u>
Total Estimated Annual Collection Costs	\$7,960,314

PP&L requires very few residential customers to pay a security deposit. As a result, the costs of securing and maintaining security deposits are not tracked. The Company's annual postage costs for sending dunning letters was \$1,104,564 in 1996.

Estimated OnTrack Program Costs
Assumes No Participants Have Received WRAP Services

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Poverty Level	Household Dist. of PP&L Low Inc HHs 1990 Census	Percentage Dist. of PP&L Low Inc. HHs 1990 Census	40% Penetration of PP&L Est 177,464 Low Inc. Households	40% Penetration of PP&L Est 55,000 Low Inc. Elect Ht Households	40% Penetration of PP&L Est 45,000 Low Inc. Water Ht Households	40% Penetration of PP&L Est 77,500 Baseload LI Households	Average Low Income PP&L Bill Elect Heat HHID	Average Low Income PP&L Bill Water Heat HHID	Average Low Income PP&L Bill Baseload HHID
0-50%	37,692	23%	16,000	5000	4,000	7,000	\$ 1,316.94	\$ 809.44	\$ 664.44
51-100%	50,764	31%	23,000	7,000	6,000	10,000	\$ 1,316.94	\$ 809.44	\$ 664.44
100-150%	76,989	44%	32,000	10,000	8,000	14,000	\$ 1,316.94	\$ 809.44	\$ 664.44
	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)
Poverty Level	Midpoint Poverty Category	Poverty Level, Average Low Income PP&L Household	Midpoint Ann. Income, Low Income PP&L Household	Low Income PP&L Bill as % Midpt Ann Inc. Elect Heat HHID	Low Income PP&L Bill as % Midpt Ann Inc. Water Heat HHID	Low Income PP&L Bill as % Midpt Ann Inc. Baseload HHID	Low Income PP&L Bill at 8% Midpt Ann Inc. Elect Heat HHID	Low Income PP&L Bill at 6% Midpt Ann Inc. Water Heat HHID	Low Income PP&L Bill at 4% Midpt Ann Inc. Baseload HHID
0-50%	0.25	12,187.60	3,046.90	43.2%	26.6%	21.9%	\$ 243.75	\$ 152.35	\$ 121.88
51-100%	0.75	12,187.60	9,140.70	14.4%	8.9%	7.3%	\$ 731.26	\$ 457.04	\$ 365.63
101-150%	1.25	12,187.60	15,234.50	8.6%	5.3%	4.4%	\$ 1,218.76	\$ 761.73	\$ 609.38
	(19)	(20)	(21)	(22)	(8) Estimated bill based on average Pre-WRAP usage of 10,000 kWh, weighted average Pre-WRAP usage for PP&L water heat home = 10,301, 1994&1995 PUC LIURP Reports				
Poverty Level	CAP Cost Per PP&L Low Income Elect Heat Hhd	CAP Cost Per PP&L Low Income Water Heat Hhd	CAP Cost Per PP&L Low Income Baseload HHID	Aggregate CAP Cost, 50% of PP&L Low Inc. HHID	(9) Estimated bill based on Pre-WRAP usage 8,000 kWh and current PP&L Tariff				
0-50%	\$ 1,073.19	\$ 657.10	\$ 542.56	\$ 11,792.268	(10) Midpoints between 0% and 50%, 51% and 100%, and 101% and 150% of Poverty Level				
51-100%	\$ 585.68	\$ 352.41	\$ 298.81	\$ 9,202.338	(11) 1997 FPG based on avg HHIDsize for PP&L Cities, Boroughs, and Townships of 2.58 persons, Tape SFT1A, 1990 US.Census. = \$7,890+\$2,720*1.58				
101-150%	\$ 98.18	\$ 47.71	\$ 55.06	\$ 2,134.360	(12) Column (10) Subtotals * Column (11) Subtotals				
(23) Total				\$ 23,128,966	(13) Column (7) Subtotals * Column (12) Subtotals				
(24) Aggregate CAP Costs as a Percentage of PP&L 1996 Total GOR				0.80%	(14) Column (8) Subtotals * Column (12) Subtotals				
(25) Aggregate CAP Costs per total PP&L 1996 kWh sold				\$ 0.00072	(15) Column (9) Subtotals * Column (12) Subtotals				

ASSUMPTIONS:

- (1) Dist. of LI HHs, PP&L, Cities, Boroughs, and Townships, Tape SFT1A, '90 U.S.Census
- (2) Column (1) Subtotals/Column (1) Total
- (3) Approx. 40% of PP&Ls 177,464 Low Inc HHs distributed according to Column (2)
- (4) Column (3) numbers * 31%, PP&L, Electric Heat saturation
- (5) Column (3) numbers * 25% Low Income Water Heat saturation
- (6) Column (3) Subtotal - Column (4) Subtotals - Column (5) Subtotals
- (7) Estimated bill based on Pre-WRAP usage 17,000 kWh current PP&L Tariff, weighted average Pre-WRAP usage for PP&L, Low Income electric heated home = 17,384 kWh, 1994&1995 PUC LIURP Reports

- (8) Col. (12) Subtotals * 8%, assumes affordable LI elect heat bill equal to 8% of ann. inc.
- (9) Col. (12) Subtotals * 6%, assumes affordable LI water heat bill equal to 6% of ann. inc.
- (10) Col. (12) Subtotals * 4%, assumes affordable LI baseload bill equal to 4% of ann. inc.
- (11) Col. (7) Subtotals - Col. (16) Subtotals, Pos. = prog. cost, block blank if result is neg.
- (12) Col. (8) Subtotals - Col. (17) Subtotals, Pos. = prog. cost, block blank if result is neg.
- (13) Col. (9) Subtotals - Col. (18) Subtotals, Pos. = prog. cost, block blank if result is neg.
- (14) Column (19) Subtotals * Column (4) Subtotals + Column (20) Subtotals * Column (5) Subtotals + Column (21) Subtotals * Column (6) Subtotals
- (15) Equals the total of Column (22) Subtotals
- (16) Equals \$23,247,804/\$2,900,000,000
- (17) Equals 16,478,364/32,101,459,668

Estimated OnTrack Program Costs
Assumes All Participants Have Received WRAP Services

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Poverty Level	Household Dist. of PP&L Low Inc HHDS 1990 Census	Percentage Dist. of PP&L Low Inc. HHDS 1990 Census	40% Penetration of PP&L Est 177,464 Low Inc. Households	40% Penetration of PP&L Est 55,000 Low Inc. Elect Ht Households	40% Penetration of PP&L Est 45,000 Low Inc. Water Ht Households	40% Penetration of PP&L Est 77,500 Baseload LI Households	Average Low Income PP&L Bill Elect Heat HHID	Average Low Income PP&L Bill Water Heat HHID	Average Low Income PP&L Bill Baseload HHID
0-50%	37,692	23%	16,000	5,000	4,000	7,000	\$ 1,131.05	\$ 717.97	\$ 605.76
51-100%	50,764	31%	23,000	7,000	6,000	10,000	\$ 1,131.05	\$ 717.97	\$ 605.76
101-150	76,989	44%	32,000	10,000	8,000	14,000	\$ 1,131.05	\$ 717.97	\$ 605.76
	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)
Poverty Level	Midpoint Poverty Category	Poverty Level, Average Low Income PP&L Household	Midpoint Ann. Income, Low Income PP&L Household	Low Income PP&L Bill as % Midpt Ann Inc. Elect Heat HHID	Low Income PP&L Bill as % Midpt Ann Inc. Water Heat HHID	Low Income PP&L Bill as % Midpt Ann Inc. Baseload HHID	Low Income PP&L Bill at 8% Midpt Ann Inc. Elect Heat HHID	Low Income PP&L Bill at 6% Midpt Ann Inc. Water Heat HHID	Low Income PP&L Bill at 4% Midpt Ann Inc. Baseload HHID
0-50%	0.25	12,187.60	3,046.90	37.1%	23.7%	20.0%	\$ 243.75	\$ 154.73	\$ 130.55
51-100%	0.75	12,187.60	9,140.70	12.4%	7.9%	6.7%	\$ 731.26	\$ 464.19	\$ 391.64
101-150%	1.25	12,187.60	15,234.50	7.4%	4.7%	4.0%	\$ 1,218.76	\$ 773.64	\$ 652.74
	(19)	(20)	(21)	(22)	(8) Estimated bill based on average Post-WRAP usage of 8,750 kWh, a 12.5% reduction of 12.5% over estimated Pre-WRAP average usage of 10,000 kWh and current PP&L RS Tariff				
Poverty Level	CAP Cost Per PP&L Low Income Elect Heat Hd	CAP Cost Per PP&L Low Income Water Heat Hd	CAP Cost Per PP&L Low Income Baseload HHID	Aggregate CAP Cost, 50% of PP&L Low Inc. HHID	(9) Estimated bill based on average Post-WRAP usage of 7,200 kWh, a 10% reduction over estimated Pre-WRAP average usage of 8,000 kWh and current PP&L RS Tariff				
0-50%	\$ 887.29	\$ 563.24	\$ 475.21	\$ 10,015,896	(10) Midpoints between 0% and 50%, 51% and 100%, and 101% and 150% of Poverty Level				
51-100%	\$ 399.79	\$ 253.78	\$ 214.12	\$ 6,462,364	(11) 1997 FPG based on avg HHDSIZE for PP&L, Cities, Boroughs, and Townships of 2.58 persons, Tape SFT1A, 1990 US.Census, = \$7,890+\$2,720*1.58				
101-150%	\$ -	\$ -	\$ -	\$ -	(12) Column (10) Subtotals * Column (11) Subtotals				
(23) Total				\$ 16,478,364	(13) Column (7) Subtotals * Column (12) Subtotals				
(24) Aggregate CAP Costs as a Percentage of PP&L 1996 Total GOR				0.57%	(14) Column (8) Subtotals * Column (12) Subtotals				
(25) Aggregate CAP Costs per total PP&L 1996 kWh sold				\$ 0.00051	(15) Column (9) Subtotals * Column (12) Subtotals				

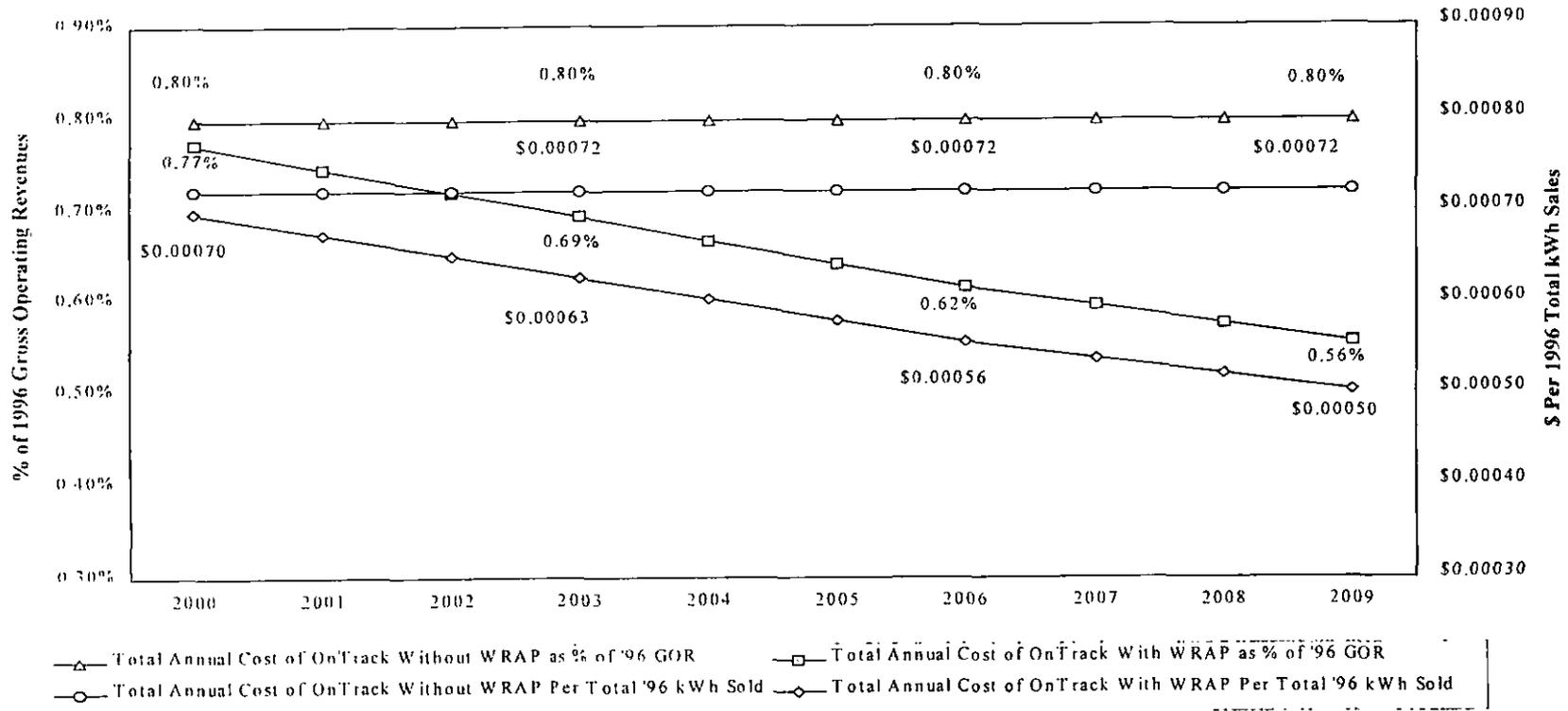
ASSUMPTIONS:

- (1) Dist. of LI HHDS, PP&L, Cities, Boroughs, and Townships, Tape SFT1A, '90 U.S.Census
- (2) Column (1) Subtotals/Column (1) Total
- (3) Approx. 40% of PP&Ls 177,464 Low Inc. HHDS distributed according to Column (2)
- (4) Column (3) numbers * 31%, PP&L Electric Heat saturation
- (5) Column (3) numbers * 25% Low Income Water Heat saturation
- (6) Column (3) Subtotal - Column (4) Subtotals - Column (5) Subtotals
- (7) Estimated bill based on Post-WRAP usage 14,500 kWh, a 15% reduction over estimated Pre-WRAP average usage of 17,000 kWh and current PP&L Tariff

- (8) Estimated bill based on average Post-WRAP usage of 8,750 kWh, a 12.5% reduction of 12.5% over estimated Pre-WRAP average usage of 10,000 kWh and current PP&L RS Tariff
- (9) Estimated bill based on average Post-WRAP usage of 7,200 kWh, a 10% reduction over estimated Pre-WRAP average usage of 8,000 kWh and current PP&L RS Tariff
- (10) Midpoints between 0% and 50%, 51% and 100%, and 101% and 150% of Poverty Level
- (11) 1997 FPG based on avg HHDSIZE for PP&L, Cities, Boroughs, and Townships of 2.58 persons, Tape SFT1A, 1990 US.Census, = \$7,890+\$2,720*1.58
- (12) Column (10) Subtotals * Column (11) Subtotals
- (13) Column (7) Subtotals * Column (12) Subtotals
- (14) Column (8) Subtotals * Column (12) Subtotals
- (15) Column (9) Subtotals * Column (12) Subtotals
- (16) Col. (12) Subtotals * 8%, assumes affordable LI elect heat bill equal to 8% of ann. inc.
- (17) Col. (12) Subtotals * 6%, assumes affordable LI water heat bill equal to 6% of ann. inc.
- (18) Col. (12) Subtotals * 4%, assumes affordable LI baseload bill equal to 4% of ann. inc.
- (19) Col. (7) Subtotals - Col. (16) Subtotals, Pos. = prog. cost, block blank if result is neg.
- (20) Col. (8) Subtotals - Col. (17) Subtotals, Pos. = prog. cost, block blank if result is neg.
- (21) Col. (9) Subtotals - Col. (18) Subtotals, Pos. = prog. cost, block blank if result is neg.
- (22) Column (19) Subtotals + Column (4) Subtotals + Column (20) Subtotals * Column (5) Subtotals + Column (21) Subtotals * Column (6) Subtotals
- (23) Equals the total of Column (22) Subtotals
- (24) Equals \$16,539,600/\$2,900,000,000
- (25) Equals 16,478,364/32,101,459,668

Comparison of Total Annual OnTrack Cost 2000 - 2009 With and Without WRAP Participation

Assumes 2,200 Electric Heat, 1,800 Baseload Water Heat,
and 5,200 Baseload Only Completions Annually



BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

PREFILED DIRECT TESTIMONY of GEOFFREY C. CRANDALL

ON BEHALF OF

THE COMMISSION ON ECONOMIC OPPORTUNITY

July 2, 1997

RECEIVED
97 JUL -2 PM 3:48
P.A.P.U.C.
PROTHONOTARY'S OFFICE

PREFILED DIRECT TESTIMONY OF GEOFFREY C. CRANDALL
DOCKET NO. R-00973954

DOCKETED
JUL 10 1997

DOCUMENT
FOLDER

TABLE OF CONTENTS

INTRODUCTION 1
REACTION TO PP&L'S PROGRAM PROPOSAL 2
REVIEW OF ALTERNATIVE PROGRAM IDEAS 5
DISCUSSION OF PROPOSED MODIFICATIONS 6
RECOMMENDATIONS 8

EXHIBITS

Exhibit ____ (GCC-2): Curriculum Vitae of Geoffrey C. Crandall
Exhibit ____ (GCC-3): PP&L Response to CEO, Interrogatories Set 1, Question 56
Exhibit ____ (GCC-4): Excerpts from " ENERGY EFFICIENCY PROGRAMS
FOR LOW INCOME HOUSEHOLDS:SUCCESSFUL
APPROACHES FOR A COMPETITIVE
ENVIRONMENT

1 I. INTRODUCTION

2 Q: Please state your name and business address.

3 A: My name is Geoffrey C. Crandall. I am the Vice President and a principal of MSB
4 Energy Associates, Inc., located at 7507 Hubbard Avenue Suite 200, Middleton, WI
5 53562.

6
7 Q: On whose behalf are you testifying?

8 A: The Commission on Economic Opportunity of Luzerne County Pennsylvania (CEO) and
9 the low income customers they serve.

10

11 Q: What is the purpose of your testimony?

12 A: As a witness testifying on behalf of the Commission on Economic Opportunity of Luzerne
13 County Pennsylvania (CEO), we would like to emphatically express our appreciation to the
14 Pennsylvania Power & Light Company and the Commission for the very existence of the
15 current LIURP weatherization program. It is important to us and the many needy families
16 and individuals throughout Pennsylvania who are served by the program. We view ourselves
17 and our colleagues as an integral part of the delivery system for these activities. We live with
18 this program every day and are well aware of its subtleties and dimensions. We are PP&L's
19 trade allies and weatherization experts for the low income community. We want to work
20 cooperatively to improve these efforts because we are constantly striving to improve
21 everything we do. It is in that spirit that we offer suggestions for improvement. My
22 testimony addresses several objectives:

1 1. Concur with CEO witness Kuennen and Karp in their request to increase
2 PP&L funding for the Wrap, OnTrack and Low Income Electric
3 Restructuring Education programs since there is a great need to assist low
4 income families in Pennsylvania.

5
6 2. Recommend changes to improve the PP&L's WRAP weatherization program
7 for its low-income customers. Such changes would provide significant
8 benefits and enhance overall effectiveness.

9
10 Q: What is the basis for your findings and recommendations?

11 A: My findings and recommendations are based on my review of PP&L's filing and related
12 materials including testimony, responses to discovery questions, LIURP reports and related
13 materials.

14
15 **II. REACTION TO PP&L'S PROGRAM PROPOSAL**

16 Q: What is your reaction to PP&L's proposed Weatherization (WRAP) and Keep Warm
17 programs?

18 A: I agree with witness Karp when he states that "low income customers are likely not to share
19 in the benefits of a restructured industry and may be substantially harmed unless policies are
20 put into place to protect this sector. Not only are low-income households small consumers,
21 and therefore less attractive, but they use even less energy per household on the average than
22 the other small customers in the residential market. They are perhaps the most captive of

1 customers." Additionally, they have virtually no discretionary income for investments in
2 efficiency measures and have a high risk of arrearages, making them even less attractive to
3 most aggregators"..... This being said, it is of paramount importance for PP&L to ensure
4 that a meaningful weatherization service reaches the maximum number of households. We
5 appreciate the fine work that PP&L has done on this and related programs over the years and
6 we would like to offer our opinion on their proposal in a constructive manner.

7
8 Q: Do you have programmatic suggestions to offer regarding the WRAP and Keep Warm
9 Programs?

10 A. Yes. On May 19, 1997 CEO asked PP&L (Mr. T.R. Dahl) in its Responses to
11 interrogatories, Set 1 was asked to "provide copies of all PP&L reports, needs-based
12 assessments, studies, work papers, and other work products used in developing PP&L's
13 response to paragraph A, "Universal service and energy conservation programs as
14 components of restructuring," of the Commission's tentative Order regarding Guidelines for
15 Universal Service and Energy Conservation programs. PP&L responded by indicating that
16 "PP&L's response to this portion of the Commission's tentative Order was based upon its
17 experience in designing, developing and implementing universal service and energy
18 conservation programs, as well as its general knowledge and expertise regarding these issues.
19 This response reflects the corporate position that PP&L is basing its program design, funding
20 levels, measure selection on its judgement and expertise in a manner that is not readily
21 available to the public and its customers. This response makes it difficult for the
22 Commission, staff or public parties to clearly understand if the particular method used to

1 select or design these programs resulted in programs which will operate in an optimal
2 manner.

3
4 An important document to review to understand the implications of weatherization program
5 design is the Pennsylvania Public Utility Commission Bureau of Consumer Services LIURP -
6 Low Income Usage Reduction Program dated July 1995. In this document (on page 9), the
7 Commission details the "Statewide LIURP Energy Savings & Measures Costs". The Mean
8 Energy Reduction pre to post was 7.3% at a cost of \$1,116 for electric heating and 5.5% and
9 \$227 for Electric Water Heating. In comparison PP&L had a Mean Energy Reduction Pre
10 to Post of 9.4% at an installed cost of \$856 (33% better than the statewide average at 77%
11 of the average cost) for space heating customers and 4.8% at an installed cost of \$238 (87%
12 of the average savings at 105% of the average cost) for the water heating program. The
13 Commission noted in its report that PP&L "has shown improved energy savings for both
14 heating and water heating jobs over time. PP&L reported that the significant decrease in
15 energy usage is coincident with full implementation of Blower Door testing and Air
16 Infiltration Reduction Measures in 1992. ... Overall the Bureau is encouraged by the
17 progress that PP&L has made with LIURP." (page 23). What was noticeably absent from the
18 PP&L report was a baseload-only program for PP&L. On page 12 of the same document
19 Duquesne Power's baseload program is described which has experienced outstanding results.
20 The pre to post results were 27% at an average cost of \$579 and their electric water heating
21 program resulted in 15% pre to post savings at an average cost of \$312 (273% above average
22 at 137% of the average cost). As the Bureau indicates (page vii) "Duquesne initiated a

1 successful baseload reduction pilot program in 1992 *whose innovative design serves as a*
2 *model baseload program for LIURP (emphasis added)*".

3
4 **III. REVIEW OF ALTERNATIVE PROGRAM IDEAS**

5 Q: What is unique about Duquesne's baseload LIURP program, and could this program serve
6 as a model for expanding PP&L's proposed Weatherization (WRAP) and Keep Warm
7 programs?

8 A: Duquesne Light's Smart Comfort Program has been showcased by both the American
9 Council for an Energy Efficient Economy study "ENERGY EFFICIENCY PROGRAMS
10 FOR LOW INCOME HOUSEHOLDS: SUCCESSFUL APPROACHES FOR A
11 COMPETITIVE ENVIRONMENT, Miriam Pye, August 1996 (Exhibit GCC-4) as well as
12 IRT (The Results Center) 1996, IRT#123. Basalt, Colorado. According to the ACEEE
13 report the program has "experienced great success, achieving a mean reduction of 35.5 %
14 from the 1993 baseline and is projected to be higher. According to the IRT report it has a
15 levelized cost of \$0.03/kWh of saved energy. It reportedly has been successful for the
16 following reasons:

- 17
- 18 1) Education has played an important role
 - 19
 - 20 2) Partnership with the participants and neighborhood organizations is key
 - 21
 - 22 3) Targeting high use customers

1 4) Comprehensiveness of approach and avoiding lost opportunities

2
3 5) High quality energy managers as a key element to the success. Giving energy
4 managers autonomy and no spending limit on each installation through
5 flexible program implementation approaches.

6
7 Since the LIURP program includes a number of eligible energy conservation measures, it is
8 reasonable to expect that many energy conservation measures could be included in a cost-
9 effective manner into a PP&L baseload energy efficiency weatherization program. Since
10 PP&L has yet to provide the necessary information as was requested in discovery set 1 of
11 CEO Question 56, (Exhibit GCC-3) we are somewhat at a disadvantage not knowing what,
12 if any, analyses PP&L has completed to aid them in selecting their weatherization programs.
13 That being the case we have reviewed a number of studies, reports, and documents to
14 determine if PP&L could operate a baseload electric low-income weatherization program in
15 an effective and reasonable manner. We are convinced that it would be in the public interest
16 for PP&L to do so.

17
18 **IV. DISCUSSION OF PROPOSED MODIFICATIONS**

19 Q: Are you recommending specific program changes?

20 A: Yes. I am recommending that PP&L in addition to offering the electric space heating and
21 water heating weatherization programs add a program that includes baseload only. I believe
22 such a program is needed, could be reasonably implemented, and has the potential to be cost

1 effective.

2

3 Q. Could you explain your modifications proposal further?

4 A. Yes. In reviewing the IRT results for Duquesne Light's Smart Comfort Program the analysis
5 indicated a levelized cost of energy of \$0.03/kWh of saved energy. This suggests that the
6 program is indeed cost effective. In addition, I have reviewed the cost effectiveness of
7 numerous baseload related measures including compact fluorescent light bulbs, refrigerators,
8 waterbed heater timers, waterbed insulation, removal of second refrigerators and freezers,
9 34-watt lights with electronic ballasts, etc. Using system avoided cost estimates in the range
10 of or lower than those anticipated for PP&L, it is my opinion that these energy conservation
11 measures would be suitable to satisfy the economic criteria using industry standards in
12 determining cost effectiveness for energy efficiency programs. I have conducted an internal
13 analysis and found that energy conservation measures included in a baseload low-income
14 electric weatherization program (similar Duquesne Light's program) would be appropriate
15 for use in PP&L's programs. Many of these measures were quite attractive economically for
16 example, the waterbed insulation had a benefit/cost ratio greater than 7:1 and the and
17 waterbed heater timers were greater than 10:1, compact fluorescent lights were in excess of
18 1 as were removal of second refrigerators. I am convinced that such a program could be
19 assembled, would be cost-effective and would be responsive to the task at hand which is to
20 reach non-heating low income electricity customers who are in need of reducing their bills.
21 The Commission could direct PP&L to design and implement a program identical to
22 Duquesne Light's, design a different program with input from trade allies and delivery

1 partners or the Commission could empower a collaborative to collectively design a program
2 that would be in place immediately and evaluated according to Commission guidelines. I
3 would recommend the first or second option for purposes of expediency. We recommend
4 that the budget and allocation for this program be in accordance with that proposed by
5 witness Kuennen.

6
7 **V. RECOMMENDATIONS**

8 1. Recommend that the Commission direct PP&L to increase their funding
9 levels to those proposed by witness Kuennen and Karp for the Wrap,
10 OnTrack and Low Income Electric Restructuring Education program. There
11 is a tremendous, pressing need to assist low income families in Pennsylvania
12 and Witness Kuennen's proposal to have PP&L reach 2/3rds of its 150% of
13 poverty households with comprehensive weatherization services by 2010 is
14 a goal that should be adopted and then pursued.

15
16 2. Recommend that the Commission (or PP&L voluntarily agree and the
17 Commission approve) the changes I have proposed to improve the PP&L's
18 WRAP/Keep Warm weatherization programs by adding a baseload
19 weatherization program for its low-income customers. Such changes could
20 come directly from an Order in this proceeding or alternatively could emanate
21 from a collaborative work group that would be empowered to review and
22 agree to the specific changes I am proposing.

1 Q: Does this conclude your testimony?

2 A: Yes.

Exhibit _____ (GCC-2): Curriculum Vitae of Geoffrey C. Crandall

GEOFFREY C. CRANDALL
Vice President & Principal
MSB Energy Associates, Inc.

EDUCATION

B.S. in Business and Pre-Law, Western Michigan University, 1974.

Mr. Crandall has also completed courses at Michigan State University Graduate School, the University of Wisconsin-Madison and Wayne State University, in areas of federal taxation, accounting, management and the economics of utility regulation. Mr. Crandall also completed the examination for the National Conference of States on Building Codes and Standards Energy Auditor.

EXPERIENCE

Mr. Crandall joined MSB in January 1990. He specializes in reviewing utility demand-side management programs of both electric and gas utilities. He has analyzed and proposed modifications to utility demand-side programs in the states of Arizona, Georgia, Hawaii, Illinois, Maine, Michigan, Minnesota, North Carolina, Ohio, Pennsylvania, Virginia, Wisconsin, and Washington D.C. He has analyzed and/or designed demand-side programs for low-income customers in Michigan, Georgia, Wisconsin, Arizona, and New Orleans, and has conducted workshops on low-income demand-side management issues in Washington, Hawaii, Nevada, Kansas, Michigan, Rhode Island, California, Virginia, and New Orleans.

Prior to joining MSB, Mr. Crandall was employed by the Michigan Public Service Commission from 1974 through 1989, where he served as the Director of the Demand-Side Management Division. He was responsible for the development, implementation and monitoring of government- and utility-sponsored demand-side management, energy-efficiency and conservation policies and programs. These activities involved customers in the residential, commercial, industrial and institutional sectors. He was responsible for both pilot and full-scale programs, and conducted demand-side program design and implementation. Mr. Crandall is familiar with marketing strategies, segmentation and market-penetration analyses, as well as the administrative costs of implementing successful demand-side programs.

Mr. Crandall has dealt with a wide variety of regulatory issues beyond energy conservation, including utility diversification, non-traditional regulatory concepts, incentive regulation, utility billing practices, utility power plant maintenance and management of plant outages.

Mr. Crandall served as Chair of the NARUC Energy Conservation Staff Subcommittee from 1986-1989. He has lectured and made presentations to many groups on demand-side programs and least-cost planning, including two NARUC-sponsored least-cost planning conferences; the 1990 NARUC Regional Workshops on Least-Cost Utility Planning in Newport, Rhode Island and Little Rock, Arkansas; the Wisconsin Public Service Commission's Integrated Resource Planning Workshop; the 1988, 1989, and 1990 Michigan State University Graduate School of Public Utilities and the U.S. Department of Energy.

Mr. Crandall has testified before the: United States Congress, Michigan Legislature, Michigan Public Service Commission, North Carolina Utilities Commission, Public Service Commission of the District of Columbia, Illinois Commerce Commission, Maine Public Utilities Commission, Massachusetts Department of Public Utilities, Public Service Commission of Hawaii, Minnesota Public Service Commission, Iowa Public Service Commission, Georgia Public Service Commission, Public Utility Commission of Ohio, Virginia Public Service Commission, Wisconsin Public Service Commission, and the City Council of the City of New Orleans, Louisiana.

Mr. Crandall has written several articles published in the Public Utilities Fortnightly and Electricity Journal, Natural Gas Magazine, and a number of proceedings for the Biennial Regulatory Information Conference and the American Council for an Energy-Efficient Economy.

TESTIMONY

Case No. U-5531, (8/77), Consumers' Power Company electric rate increase application. Mr. Crandall served as the Staff Witness and recommended that the Applicant initiate the Residential Electric Customers' Information program.

Case No. U-6743, (3/81), Michigan Consolidated Gas Company. Mr. Crandall served as the Staff policy witness and recommended that the Commission approve a surcharge to cover all reasonable and prudent costs associated with Applicant's implementation of the Michigan Residential Conservation Services Program .

Case No. U-6819, (6/81), Michigan Power Company-Gas. Mr. Crandall served as the Staff policy witness and described the basis for the program and the expected level of activity, recommending that the Commission approve a surcharge to cover all reasonable and prudent costs associated with Applicant's implementation of the Michigan Residential Conservation Service Program.

Case No. U-6787, (6/81), Michigan Gas Utilities Company. Served as the Staff policy witness and described the basis for the program and the expected level of activity, recommending that the Commission approve a surcharge to cover all reasonable and prudent costs associated with the implementation of the Michigan Residential Conservation Service Program.

Case No. U-6820, (6/81), Michigan Power Company-Electric. Served as the Staff policy witness and reviewed the Applicant's request to operate the Michigan Residential Conservation Service Program. Although not mandated by federal law, Applicant chose to operate the program in conjunction with its other services offered to residential gas customers. Recommended the establishment of a surcharge to cover all reasonable and prudent costs associated with the operation of that program.

Case No. U-5451-R (10/82), Michigan Consolidated Gas Company. Served as the Staff policy witness and described the Staff's position regarding Applicant's proposed adjustment of surcharge level. Recommended that the eligibility criteria for customers be adjusted to more accurately reflect proper fuel consumption and to include customers who would be likely to realize a seven-year return on their investment by installing flue-modification devices in conjunction with Applicant's financing program.

Case No. U-6743-R, (10/82), Michigan Consolidated Gas Company. Served as the Staff policy witness regarding the Applicant's proposed expenses and revenues, as well as the reasonableness of activity and expense levels in the company's projected period.

Case No. U-7341 (12/84), Detroit Edison Company, Request for Authority for Certain Non-Utility Business Activities. Represented the Staff's position during settlement discussions and sponsored the settlement agreement.

Case No. U-6787-R, (3/84), Michigan Gas Utilities Company. Served as the Staff witness regarding the Applicant's proposed expenses and revenues. This also included a review of the company's future expenses associated with the Energy Assurance Program, the Specialized Unemployed Energy Analyses, and the Michigan Business Energy Efficiency Program expenses.

Case No. U-8528, (3/87), Commission's Own Motion on the Costs, Benefits, Goals and Objectives of Michigan's Utility Conservation Programs. Represented the Staff on the costs and savings of conservation programs and the other benefits of existing programs, and described alternative actions available to the Commission relative to future energy-conservation programs and services and other conservation policy matters.

Case No. U-8871, et al., (4/88), Midland Cogeneration Venture Limited Partnership. For approval of capacity charges contained in a power-purchase agreement with Consumers' Power Company. Served as the Staff witness on Michigan conservation potential and reasonably achievable programs that could be operated by Consumers' Power Company,

and testified to the potential impact of these conservation programs on the Company's request for use of its converted nuclear plant cogeneration project. Also recommended levels of demand-side management potential for the commercial, industrial and institutional sectors in Consumers' Power service territory.

Case No. U-9172, (1/89), Consumers' Power Company, Power-Supply Cost-Recovery Plan and Authorization of Monthly Power-Supply Cost-Recovery Factors for 1989. Served as Staff witness on the conservation potential and reasonably achievable programs that could be operated by Consumers' Power Company. Testified to the potential impact of these conservation programs on the Company's fuel and purchase practices, its five-year forecast and the fuel factor. Recommended levels of demand-side management potential for the commercial, industrial and institutional sectors in Consumers' Power service territory as an offset to its more-expensive outside and internally generated power. Suggested that CPCO vigorously pursue conservation, demand-side management research, planning and program implementation.

Case No. U-9263, (4/89), Consumers' Power Company Request to Amend its Gas Rate Schedule to Modify its Rule on Central Metering. Served as a Staff witness on the conservation effect of converting from individual metered apartments to a master meter. Suggested that the Commission continue its moratorium on the master meters, due to the adverse energy-conservation and efficiency impact.

Case No. E-100 (1/90) North Carolina Public Service Commission proceeding on review of the Duke Power Company's least-cost utility plan. Testified on behalf of the North Carolina Consumers' Council regarding utility energy-efficiency and demand-side management programs and the concept of profitability and implementation of demand-side management programs.

Case No. 889 (1/90) Public Service Commission of the District of Columbia. Testified on behalf of the Government of the District of Columbia in the Potomac Electric Power Company's application for an increase in its retail rates (general rate case). Sponsored testimony regarding the design and implementation and overall appropriateness of PEPCO's existing and proposed energy-efficiency and conservation programs.

Case No. 889 (4/90) Public Service Commission of the District of Columbia. Provided supplemental direct testimony and testified on behalf of the Government of the District of Columbia in the Potomac Electric Power Company's application for an increase in its retail rates (general rate case). Offered supplemental testimony regarding a more detailed review of PEPCO's existing pilot and full-scale energy-efficiency and conservation programs. Offered suggestions and recommendations for a future direction for PEPCO to pursue in order to implement more cost-effective and higher-impact energy-efficiency and conservation programs.

Case No. ICC Docket 90-004 and 90-0041 (6/90) Illinois Commerce Commission proceeding to adopt an electric-energy plan for Central Illinois Light Company (CILCO). Testified on behalf of the State of Illinois, Office of Public Counsel and the Small-Business Utility Advocate. Reviewed the CILCO electric least-cost plan filing and the conservation and load-management programs proposed in its filing. Sponsored testimony regarding my analysis of the proposed programs, and offered alternative programs for the Company's and the Commission's consideration.

Case No. D.P.U. 90-55 (6/90) Commonwealth of Massachusetts Department of Public Utilities. Testified on behalf of the Commonwealth of Massachusetts, Division of Energy Resources. Reviewed and analyzed Boston Gas' proposed energy-conservation programs that were submitted for pre-approval in its main rate case. In addition, suggested that it might consider implementation of other natural-gas energy- efficiency programs, and not award an economic incentive for energy-efficiency and conservation programs until minimum program-implementation standards are satisfied.

Case No. U-9346 (6/90) Michigan Public Service Commission. Testified on behalf of the Michigan Community Action Agency Association. Reviewed and analyzed the Consumers' Power Company rate-case filing related to energy-efficiency and demand-side management programs. Proposed alternative energy-efficiency programs and recommended program budgets and a cost-recovery mechanism.

Case No. 89-193; 89-194; 89-195; and 90-001 (6/90) Maine Public Utilities Commission. Testified on behalf of the Maine Public Advocate's Office. Reviewed the appropriateness of Bangor Hydro-Electric Company's existing energy-efficiency and demand-side management programs in the context of BHE's main rate case and request for approval to construct the Basin Mills Hydro-Electric dam. Reviewed the overall resource plan and suggested alternative programs to strengthen the energy-efficiency and demand-side management resource efforts.

Case No. 6617 (4/91) Hawaii Public Utility Commission. Testified on behalf of the Hawaii Division of Consumer Advocacy. Described what demand-side management resources are, why they should be included in the integrated resource planning process, and proposed the implementation of several pilot projects in Hawaii along with guidelines for the pilot programs.

Case No. E002/GR-91-001 (5/91) Minnesota Public Utilities Commission. Testified on behalf of Minnesotans for an Energy Efficient Economy. Assessed the DSM programs being operated or proposed by Northern States Power Company and made recommendations as to ways in which NSP could improve its DSM efforts.

Case No. 905 (6/91) Public Service Commission of the District of Columbia. Testified on behalf of the District of Columbia Energy Office. Responded to the energy-efficiency and load management aspects of Potomac Electric Company's filing and made several

recommendations for DC-PSC action.

Case No. 6690-UR-106 (9/91) Public Service Commission of Wisconsin. Testified on behalf of The Citizens' Utility Board of Wisconsin. Assessed the DSM programs being operated or proposed by the Wisconsin Public Service Corporation, made recommendations as to the WPSCO energy efficiency programs, and suggested ways the company could improve its DSM efforts.

Case No. E002/CN-91-19 (12/91) Minnesota Public Utilities Commission. Testified on behalf of Minnesota Department of Public Service. Assessed the DSM potential and programs being operated or proposed by Northern States Power Company and made recommendations as to the potential for energy efficiency in the NSP service territory and ways in which NSP could improve its DSM efforts.

Case No. 912 (4/92) Public Service Commission of the District of Columbia. Testified on behalf of the Government of the District of Columbia in the Potomac Electric Power Company's application for an increase in its retail rates for the sale of electric energy. Testified regarding the reasonableness of DSM and EUM policy changes, the cost allocation of the DSM and EUM expenses, an examination of the prudence of management regarding the energy-efficiency programs, and an examination of the appropriateness of the costs associated with energy-efficiency programs.

Case No. PUE 910050 (5/92) Virginia State Corporation Commission. Testified on behalf of the Citizens for the Preservation of Craig County regarding the need for the Wyoming-Cloverdale 765 kV transmission line. Specifically, addressed the adequacy of the DSM planning of Appalachian Power Company and Virginia Power/North Carolina Power. Made recommendations as to APCO and VEPCO's energy efficiency programs, and suggested ways the company could improve its DSM efforts.

Case EEP-91-8 (5/92). Iowa Utilities Board. Testified on behalf of the Izaak Walton League concerning the adequacy of Iowa Public Service Company's Energy Efficiency Plan. Reviewed the plan and suggested modifications to it.

Case No. 4131-U and 4134-U (5/92). Georgia Public Service Commission. Testified on behalf of the Georgia Public Service Commission staff regarding the demand-side management portions of Georgia Power Company's and Savannah Electric and Power Company's Integrated Resource Plans. Testimony demonstrated that it is reasonable for the Commission to expect that the utilities can successfully secure substantial amounts of demand-side management resources by working effectively with customers.

Case 917 (8/92). Public Service Commission of the District of Columbia. Testified on behalf of the District of Columbia Energy Office in hearings on Potomac Electric Power Company's Integrated Resource Planning process. Addressed a number of program-specific issues related to PEPCO's demand-side management efforts.

Case No. 4132-U, 4133-U, 4135-U, 4136-U (10/92). Georgia Public Service Commission. Testified on behalf of the Staff Adversary IRP Team of the Georgia PSC. Provided a critique of Georgia Power Company's and Savannah Electric and Power Company's proposed residential and small commercial DSM programs.

Case No. 4135-U (3/93). Georgia Public Service Commission. Testified on behalf of the Staff Adversary IRP Team of the Georgia PSC. Provided a critique of Savannah Electric and Power Company's proposed Commercial and Industrial DSM programs.

Case No. R-0000-93-052 (12/93). Arizona Corporation Commission. Testified on behalf of the Arizona Community Action Association. Critiqued and made recommendations regarding the integrated resource plans and demand-side management programs of Arizona Public Service Company and Tucson Electric Power Company.

Case No. 934 (4/94). Public Service Commission of the District of Columbia. Filed testimony on behalf of the District of Columbia Energy Office in hearings concerning the Washington Gas Light Company (WGL) general rate case application to increase existing rates and charges for gas service. Testimony involved critiquing and reviewing WGL's least cost planning efforts and integration of DSM, marketing and gas supply efforts.

Case No. U-10640 (10/94). Michigan Public Service Commission. Testified on behalf of the Michigan Community Action Agency Association concerning the need to integrate DSM and load promotion analysis into MichCon's GCR planning process.

Case No. 05-EP-7 (3/95). Wisconsin Public Service Commission. Testified on behalf of the Citizens' Utility Board on level of utility DSM and program designs and strategies.

Case No. 05-EP-7 (3/95). Wisconsin Public Service Commission. Testified on behalf of the Wisconsin Community Action Program Association on low-income customers and utility DSM programs.

Case No. TVA 2020-IRP (9/95). Tennessee Valley Authority. Testified on behalf of the Tennessee Valley Energy Reform Coalition. Assessed, critiqued and made recommendations regarding the integrated resource plans and demand-side management programs proposed by the Tennessee Valley Authority.

Case No. R-96-1 (10/95). Alaska Public Utilities Commission. Testified on behalf of the Alaska Weatherization Directors Association regarding the proposed standards and guidelines for integrated resource planning and energy efficiency initiatives under consideration in Alaska.

Case No. D95.9.128 (2/96). Montana Public Service Commission. Testified on behalf of the District XI Human Resources Council concerning the low-income energy efficiency programs offered by the Montana Power Company.

Pennsylvania Power & Light Company
Response to Interrogatories
of the Commission on Economic Opportunity, Set I
Dated May 19, 1997
Docket No. R-00973954

Q.56. Please provide copies of all PP&L reports, need based assessments, studies, work papers, and other work products used in developing PP&L's response to paragraph A, "Universal service and [energy] conservation programs as components of restructuring," of the Commissions Tentative Order regarding Guidelines for Universal Service and Energy Conservation Programs.

A.56. PP&L's response to this portion of the Commission's Tentative Order was based upon its experience in designing, developing and implementing universal service and energy conservation programs, as well as its general knowledge and expertise regarding these issues.

Exhibit _____ (GCC-4): Excerpts from "ENERGY EFFICIENCY PROGRAMS FOR LOW INCOME HOUSEHOLDS: SUCCESSFUL APPROACHES FOR A COMPETITIVE ENVIRONMENT"

**ENERGY EFFICIENCY PROGRAMS
FOR LOW-INCOME HOUSEHOLDS:
SUCCESSFUL APPROACHES
FOR A COMPETITIVE ENVIRONMENT**

Miriam Pye

August 1996



**ENERGY EFFICIENCY PROGRAMS
FOR LOW-INCOME HOUSEHOLDS:
SUCCESSFUL APPROACHES
FOR A COMPETITIVE ENVIRONMENT**

Miriam Pye

August 1996

© American Council for an Energy-Efficient Economy

**American Council for an Energy-Efficient Economy
1001 Connecticut Avenue, NW, Suite 801, Washington, DC 20036 (202)429-8873
2140 Shattuck Avenue, Suite 202, Berkeley, CA 94704 (510)549-9914
Please contact the Berkeley office for ordering information.**

EXECUTIVE SUMMARY

The nation's low-income population bears an inordinate energy burden, paying, on average, three to seven times more on energy than the median-income household pays as a percentage of income. Utilities have made some good progress towards ameliorating this burden by providing energy efficiency programs for their low-income customers. Many of these programs have been implemented by utilities in response to regulatory mandates and were not expected to be cost effective. Certain utilities, however, have proven that these programs can operate cost effectively. Despite the fact that regulatory changes are creating an uncertain future, this does not indicate a necessary death of energy efficiency. It is most likely that some sort of funding will be required to continue energy efficiency programs for low-income households. This period of transition presents opportunities to pursue new, innovative approaches to achieving energy efficiency goals for customers in general and low-income customers in particular.

As utilities deregulate and become more focused on the "bottom line," they will change the way they do business. If low-income programs are mandated, utilities will want to operate them as cost effectively as possible. The recommendations detailed in this paper speak to this goal. This paper also discusses the business advantages—from a utility perspective—of providing energy efficiency services to their low-income customers:

- Energy efficiency programs for low-income customers *can* be operated cost effectively.
- The low-income sector, because of its generally older, draftier, substandard housing, presents greater opportunities for energy savings than the average customer.
- Many deaths occur each year due to inadequate heating and cooling or termination of utility service. Energy efficiency programs for low-income customers can reduce the incidence of such deaths and create good public relations, which utilities will value more as they become more competitive.
- Energy efficiency is good for the local economy because saving money on energy (money that usually goes *outside* the local area) increases discretionary dollars, which tend to be spent locally. Energy savings also tend to have a positive net effect on providing jobs. A strong local economy is good for the utility's business.
- Reducing the low-income energy burden has non-energy benefits for the utility, including reducing arrearages, disconnect/reconnect costs, working capital needs, and customer goodwill.

This report draws on the research and experience of some of the country's leaders in providing energy efficiency services to low-income households. In addition, several of the more successful and progressive energy efficiency programs for low-income customers are profiled. The case studies,

experience, and research compiled in this report provide many ideas regarding how energy efficiency services can be provided to low-income customers most effectively, from both a cost-of-service perspective and a benefit-to-customer perspective. Recommendations fall into six categories: forming partnerships, targeting high-use customers, education, energy efficiency measure selection, marketing, and avoiding lost opportunities.

Utilities may form *partnerships* with other utilities (e.g., water, alternate fuel), government programs (WAP and LIHEAP), or local community agencies. Potential synergies also exist with affordable-housing developers, banks, first-time home ownership programs, local housing financing agencies, state and local land trusts, and community development financial institutions. These partnerships can provide effective cost controls by making possible such activities as bulk purchasing; centralized participant recruitment; large, more competitive subcontracting; increased energy savings through increased comprehensiveness; sharing of trained energy efficiency professionals; and development of joint delivery. The result of sharing expertise and resources is to provide more comprehensive energy efficiency services to more people more efficiently and more cost-effectively. In some cases, partnerships allow the utility to enable someone else to operate energy efficiency programs, without having a substantial day-to-day role itself.

Most of the programs profiled indicate the importance of *targeting customers with high-energy use*. These customers tend to use energy the most inefficiently and therefore have the highest potential to save energy both through efficiency measures and by becoming more aware and involved in conserving energy. Targeting these customers helps make a program more cost-effective because savings are maximized while effort is minimized. High-use low-income customers also tend to have higher arrears, so by targeting them, the utility increases its opportunity to reduce bad debt and the administrative cost of credit and collections. Although many utilities do not yet quantify these non-energy savings, as utilities become more streamlined under competitive pressures, the savings in this area will get increased attention.

Education has proven to be a valuable component of energy efficiency programs, not just education of the customer, but also education of the service providers and program sponsors. Experience has shown that energy efficiency programs increase energy savings and enhance the persistence of savings by providing customer education, and providing training to maintenance staff. Education helps the customer feel more committed to the program and gives the customer some control over their energy usage and savings.

Measure selection directly affects the energy savings of a program. Many criteria will affect which measures will provide the greatest, most cost-effective energy savings in any one home for any specific utility in a particular climate. For example, because electric heating is less common than gas heating, electric utilities will probably find the greatest energy savings resulting from replacement of electric appliances. Gas utilities, on the other hand, get the most energy savings from measures that reduce the energy needed to heat the home (e.g., attic

Energy Efficiency Programs for Low-Income Households, ACEEE

and wall insulation, replacing inefficient heating systems, and increasing attention to heating system distribution systems). Ideally, electric and gas utilities will work together so that a comprehensive set of measures can be provided cost effectively through one customer contact.

Marketing is an important facet of any energy efficiency program. In order for a program to be successful, customers must be interested in participating. The utility must understand and identify the low-income market segment, and market the program in a way that will minimize barriers and maximize participation. An important component of this marketing strategy is that customers be contacted by someone they trust.

In the case of energy efficiency, *lost opportunities* occur when we miss an occasion to install energy-efficient measures at minimal incremental cost. In order to avoid lost opportunities, it is important that a program is *comprehensive*, maximizing the savings in each home. This can be achieved by analyzing all end uses and technologies that *may* be cost effective, and installing as many types and numbers of measures as is cost effective in as few visits to the home as possible. This approach increases program costs in the short term, but increases program benefits, reducing costs in the long term.

These approaches have proven to be valuable to many utilities, allowing them to provide energy efficiency programs to their low-income population more cost effectively. These programs fulfill some very important social needs, but also have value that stretches beyond social benefits. Serving the low-income customer sector can be good for society, good for the economy, and good for business.

CASE STUDIES

Several utilities have developed successful energy efficiency programs for their low-income customers. The case studies that follow profile several such programs that exhibit various approaches to achieving cost-effective energy efficiency goals.

Duquesne Light's Smart Comfort Program

In 1992, Duquesne Light Company (Duquesne) developed an end-use pilot program designed to reduce electric bills for low-income, payment-troubled, electric-baseload (non-space heating) customers. This approach, which has since become a full-scale program, represented a shift from Duquesne's traditional approach of offering space heating efficiency measures and services (e.g., heating, windows, and insulation) to customers with electric heat. Fewer than five percent of Duquesne's customers heat with electricity, so the utility took this new approach believing that a usage-reduction program that focused on baseload customers would offer more cost-effective, electric-reduction opportunities than approaches that primarily address space heating (Gregory 1994).

Smart Comfort team members look at how electricity is used by low-income, non-electric-heating customers with monthly bills exceeding \$70. Duquesne has trained three energy managers in energy usage analysis, usage reduction analysis, and conservation measure installation. An energy manager visits qualified customers' homes, and walks through the home with the customer, looking at how electricity is used, identifying efficiency opportunities from each customer's unique perspective, and educating the customer on energy-saving habits. Energy managers use diagnostic tools that provide on-site, accurate readings. For example, energy managers install a meter on customers' refrigerators while conducting the audit (approximately two hours) and if energy use is greater than six kWh per day, a new efficient refrigerator is provided. After reviewing all the data, the energy manager identifies electric usage reduction opportunities, helps the customer make better choices on energy use, and installs appropriate energy efficiency measures, as needed (Duquesne 1995). The evaluation indicated that the primary technical sources of savings were lighting, refrigerator replacement and replacement of water beds with conventional bedding. Originally, Duquesne approached homes with a preconceived notion of its energy savings potential; they later found that entering customers' homes with an open mind, customizing end-use solutions, and providing comprehensive energy efficiency services is a more successful approach (IRT 1996).

There is a significant follow-up process for one year following installations. Participants are supposed to phone the energy manager every month after receiving their electric bill to track post-installation consumption. This call allows customers to ask questions and allows the energy manager to see if customers are following through with behavioral and technical modifications. The energy manager also calls participants quarterly following the in-home visit to discuss changes in energy bills to ensure expected savings. Site visits were made on a sample of 20 percent of participants to check if installed measures (e.g., CFLs) were still in place and to meter the consumption of replacement refrigerators. After a year, the energy manager conducts a survey to identify reasons for differences in energy

consumption pre/post program. Unfortunately, during the early years of the program, only 20 percent of participants actually made their monthly calls to the utility and energy managers frequently missed their quarterly calls. This lack of follow up has been identified as a program weakness and plans to focus more on follow up should improve persistence, awareness, and savings (IRT 1996).

Duquesne's Smart Comfort has experienced great success, achieving a mean reduction in electricity use of 35.5 percent from baseline in 1993, and is projected to be 40 percent in 1994. These savings are based on the weather-adjusted comparison of pre- and post-program electricity bills for a sample of participants. The average utility program cost in 1994 was approximately \$1,100 per household, which resulted in an estimated annual bill reduction of \$356 per household. The levelized cost of saved energy to the utility is approximately \$0.03/kWh of saved energy (IRT 1996).

Mitigating bill arrearages is an attractive benefit to the utility. By including customer's income level and payment history as eligibility criteria, the program has been successful in enabling payment-troubled customers to pay their bills and even repay some past arrearages. For 1992 (pilot year) participants had paid an average of 78 percent of their total billing prior to participation in the program. After participating in the program, the average payment was 106 percent, indicating that customers were paying off past debt. Another benefit (not yet quantified) identified by the utility is emissions mitigation (IRT 1996).

In addition to *targeting customized end-use savings*, Smart Comfort's success is attributed to several other design attributes.

- An evaluation performed by the Pennsylvania Public Utilities Commission (PPUC) identified Duquesne's *targeting of high-use customers* as the primary reason for success.
- The PPUC also identified the *high quality of energy-managers* as a key to the program's success. Energy managers were selected not only for their technical qualifications, but also for strong communication skills and the ability to make decisions. Their training was designed to enable them to perform their responsibilities. Giving energy managers the autonomy to maximize savings while minimizing costs has also proven to be more cost effective than setting spending guidelines or prescribing eligible measures. Although counterintuitive, the *absence of a spending limit* on each installation has controlled program costs. In addition, the attention paid to the selection and training of staff, along with the freedom they are given to manage their own time, have all contributed to *low turnover of staff*, which also strengthens the program. Energy managers also recognize the value of continuing professional development on advanced technologies and techniques for efficiency.
- This program's success is also heightened by its *comprehensiveness*, addressing the entirety of the customer's using habits and thus avoiding "lost opportunities."

Energy Efficiency Programs for Low-Income Households. ACEEE

- *Education*, which results in behavioral changes, also plays an important role, which was demonstrated by an evaluation that documented energy savings *prior* to appliance replacements (IRT 1996).
- The utility works in *partnership with participants* to deliver a range of services and products designed to reduce total electric consumption. According to the program coordinator, the partnership aspect—finding steps that both the utility and the customer can take—is an important component to the program's success. Creating a partnership involves listening to the customer's needs and observing their usage patterns. Customers participate by learning how to effectively practice energy conservation and agreeing to monitor their monthly consumption (Duquesne 1995). The difficulty of forming partnerships with customers in gang-controlled neighborhoods (15 percent of Smart Comfort participants) was overcome by employing a gang liaison to determine when and where it was appropriate to visit these customers. In cases where customers showed no interest or concern in decreasing energy usage, energy managers recognized that it made no sense to invest in added measures and time, although in certain instances, these customers received basic no- and low-cost installations required through Pennsylvania's Low-Income Usage-Reduction Program (LIURP) (IRT 1996).

Smart Comfort's impact has gone beyond saving energy in Duquesne's service territory; it also influenced Pennsylvania's PUC to include baseload-usage reduction when revising their Low-Income Usage-Reduction Program. The program won the governor's energy award in 1993 and DOE's National Energy Award in Utility Technology in 1994. The Smart Comfort team has also begun to explore ways to coordinate its approach with gas utility low-income programs; pilots are underway at Columbia Gas Company of Pennsylvania and Equitable Gas Company (Duquesne 1995).

As a result of Duquesne's success with this program, New England Electric System (NEES) is running a pilot similar to Smart Comfort. NEES's Appliance Management pilot, which started April 1, 1996, targets Massachusetts Electric's low-income population, and assesses electric end-use information (Legg 1996).

Iowa's Low-Income Weatherization Collaborative

Since 1992, the state of Iowa and Iowa's major investor-owned utilities (IOUs) have collaborated on energy efficiency programs for low-income households in Iowa. In order to meet cost-effectiveness guidelines issued by the PUC, Iowa's major IOUs centralized their contracting through the Division of Community Action Agencies (DCAA), and combined their efforts with the Department of Human Rights, the Iowa Office of Consumer Advocates, and the Department of Energy's Kansas City regional office. This collaborative approach extends the reach of the program and makes the program more cost effective (Dalhoff 1996b; Pigg, Dalhoff, and Gregory 1995).

opportunities, it is important that a program is comprehensive, maximizing the savings in each home. This can be achieved by analyzing all end uses and technologies, and installing as many types and numbers of measures as is cost effective in as few visits to the home as possible. This approach increases program costs in the short term, but will increase program benefits, reducing costs in the long term.

CONCLUSION

Low-income households face an inordinate energy burden. Utilities have made some good progress towards ameliorating this burden by providing energy efficiency programs for their low-income customers. Many of these programs have been implemented by utilities in response to regulatory mandates and were not expected to be cost effective. Certain utilities, however, have proven that these programs can operate cost effectively. Despite the fact that regulatory changes are creating an uncertain future, it is likely that many utilities will maintain energy efficiency programs for low-income customers either at their own initiation or because of regulatory requirements. Regardless of what form this funding takes, utilities will want to maximize the benefits achieved.

The experience compiled in this study indicates that energy efficiency programs for low-income customers *can* be cost effective. Some utilities, such as Duquesne Light, have achieved cost effectiveness by targeting measures that will save their utility the most (e.g., electric appliances for electric utilities, and gas heating and insulation for gas utilities). Other utilities have maximized the return on investment by forming partnerships. All of the programs profiled in this report involve some sort of partnership or plan to integrate partnership into their low-income program. These partnerships can exist with state and federal agencies—most often WAP and LIHEAP—or with other utilities or community agencies. Forming partnerships allows dollars to be spent more effectively, providing more services to more customers at a lower cost. This is done by sharing expertise, labor, and equipment, and taking advantage of economies of scale. Opportunities to leverage funding also exist through synergies with banks and affordable-housing developers.

As utilities deregulate and become more focused on the "bottom line," they will change the way they do business. If low-income programs are mandated, utilities will want to operate them as cost effectively as possible. If utilities are not mandated to operate energy efficiency programs for low-income customers, some utilities may be tempted to cut them completely. In an idealistic world, free-market enterprise would be rewarded (profit-wise) for performing valuable social services. But since the real world mandates free-market enterprise to maximize shareholder value, utilities may want to consider the following business advantages to providing energy efficiency services to low-income customers:

- Energy efficiency programs for low-income customers *can* be operated cost effectively.
- The low-income sector, because of its generally substandard housing, presents opportunities for greater energy savings than the average customer.
- Many deaths occur each year due to inadequate heating and cooling or termination of utility service. Energy efficiency programs for low-income customers can reduce the incidence of such deaths and enhance goodwill, which utilities will value more as they become more competitive.
- As utilities begin to compete with each other for customers, some consumers may be more inclined to select an energy provider who exhibits a legitimate social consciousness by assisting lower-income households.
- Energy efficiency is good for the local economy because saving money on energy (money that usually goes *outside* the local area) increases discretionary dollars, which tend to be spent locally. Energy savings also tend to have a positive net effect on providing jobs. A strong local economy is good for the utility's business.
- Reducing the low-income energy burden has a variety of benefits for the utility, including reducing arrearages, disconnect/reconnect costs, and working capital needs.

Providing energy efficiency programs to the low-income population has benefits that stretch beyond social advantages. Serving the low-income customer sector is good for society, good for the economy, and good for business.