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DOCUMENT  
FOLDER

March 29, 2000

James J. McNulty, Secretary  
PA Public Utility Commission  
Room B-20, North Office Bldg.  
Harrisburg, PA 17105-3265

ORIGINAL

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00 MAR 29 PM 4:06  
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SECRETARY'S BUREAU

Re: Application of PECO Energy Company, Pursuant  
To Chapter 11, 19, 21, 22 & 28 of the Public Utility  
Code, For Approval of (1) A Plan of Corporate  
Restructuring Including the Creation of a Holding  
Company and (2) The Merger of the Newly Formed  
Holding Company and Unicom Corporation  
Docket No. A-110550F0147

Dear Secretary McNulty:

Enclosed please find for filing an original and three (3) copies of the Office of  
Consumer Advocate's Statement in Support in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the attached  
Certificate of Service.

Sincerely,

Tanya J. McCloskey  
Senior Assistant Consumer Advocate

Enclosures

cc: All parties of record  
56004

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

Application of PECO Energy Company Pursuant :  
To Chapters 11, 19, 21, 22 and 28 Of The :  
Public Utility Code For Approval Of (1) A Plan :  
Of Corporate Restructuring, Including Creation :  
Of A Holding Company And (2) The Merger :  
Of The Newly Formed Holding Company And :  
Unicom Corporation :

Docket No. A-110550F.0147

DOCKETED

MAR 30 2000

STATEMENT IN SUPPORT OF THE  
OFFICE OF CONSUMER ADVOCATE

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I. BACKGROUND

On November 22, 1999, PECO Energy Company filed an Application with the Pennsylvania Public Utility Commission (PUC) requesting Commission approval of (1) a plan of corporate restructuring, including the creation of a holding company and (2) the merger of the newly formed holding company and Unicom Corporation. In addition, PECO sought approval of various affiliated interest agreements between it and other members of the newly formed holding company with Unicom. PECO also asked the Commission to make findings necessary for its new generating affiliate to obtain exempt wholesale generator (EWG) status and to engage in certain affiliated power sales under Sections 32(c) and 32(k) of the Public Utility Holding Company Act of 1935 (PUHCA). In its Application, PECO averred that the proposed merger is in the public interest. PECO averred that the combined enterprise, by virtue of its greater resources and sharing of "best practices" will be better positioned to meet future customer demands and ensure high quality service. PECO stated

that its rates, rules and regulations will not change and its commitment to the community will continue. PECO also averred that the proposed merger will have a positive impact on competition by facilitating the separation of generation and delivery functions and furthering the development of new energy-related goods and services.

On December 20, 1999, the Office of Consumer Advocate (OCA) filed a Protest and Notice of Intervention in this matter. In its Protest, the OCA raised its concern that, as filed, the proposed merger did not provide substantial affirmative ratepayer benefits and was not in the public interest, as required by Pennsylvania law. In addition, the OCA raised concern about the potential increased risks for PECO's ratepayers related to PECO's merger with Unicom. The OCA requested that the Commission only approve this merger if (1) it is found to be in the public interest, (2) it provides substantial, affirmative benefits for PECO's ratepayers, (3) it does not adversely affect retail competition in Pennsylvania, and (4) it is in accordance with the Public Utility Code.

Following a Prehearing Conference and the establishment of a procedural schedule in this matter, the parties to the proceeding engaged in extensive settlement negotiations in an attempt to resolve this matter. Following these extensive negotiations among diverse parties, a consensus Settlement Agreement was reached among many of those parties. The Joint Petition for Settlement addresses a wide variety of both benefits and protections for PECO's ratepayers, the development of competition, the environment, and the community. As set forth below, the OCA fully supports the Joint Petition for Settlement and submits that this Settlement will bring substantial, affirmative benefits to PECO's ratepayers and the community.

## II. STATEMENT IN SUPPORT

As discussed in the Joint Petition for Settlement, the proposed Settlement provides a wide variety of benefits and protections for PECO's ratepayers. Importantly, the Joint Settlement provides for rate reductions; extensions of the rate cap protections; enhanced reliability and customer service; enhanced universal service programs; reduced risk and costs for nuclear decommissioning of PECO's nuclear units; benefits that will improve the competitive market; environmental benefits; and firm commitments for the communities of Southeastern Pennsylvania.

Of particular importance to the OCA, the Joint Settlement provides for \$200 million in rate reductions for customer's distribution rates from 2002 through 2005.<sup>1</sup> For a residential customer, the rate reductions mean a 7% reduction in the distribution portion of the customer's rate in 2002 and 2003, with a 2.72% overall rate reduction from 1998 rate levels if the customer continues to purchase generation service from PECO. In 2004 and 2005, the distribution charges for a residential customer will be reduced approximately 4.4% from today's distribution rates, with an overall rate reduction of 1.78% from 1998 rate levels if the customer continues to purchase generation service from PECO. If the customer is able to purchase generation from a competitive supplier, the overall savings could be greater. In addition, PECO has agreed to an extension of the rate cap on its regulated transmission and distribution rates through 2006. With this extension of the rate cap, PECO's customers will have nearly a decade of rate stability in the regulated portion of

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<sup>1</sup> Customers will also see a rate reduction in 2001 of \$60 million in securitization savings pursuant to the terms of a separate settlement which was approved by the Commission on March 16, 2000 at Docket No. R-00005030.

their rates since the passage of the Electricity Generation Customer Choice and Competition Act, with reductions in those rates from 1996 levels for the majority of this time.

PECO also has committed to a Quality of Service Plan designed to provide higher levels of reliability and customer service to PECO's ratepayers. The Quality of Service Plan provides specific benchmarks and targets for the Company to achieve or maintain that reflect higher levels of service quality. The Plan addresses areas such as the frequency and duration of service interruptions, storm management, emergency response, worker safety, customer call center availability, billing and meter reading, and compliance with Commission requirements. The Plan also calls for PECO to include overall performance under the Plan in the performance appraisals and compensation of its management and supervisory employees as one means of ensuring compliance with the Plan. In addition, the Plan identifies a Commission process for ensuring PECO's continued compliance with the Plan.

Another important feature of the Joint Settlement are the provisions that provide protections for PECO's ratepayers from the nuclear decommissioning costs, and other nuclear costs, associated with the Unicom nuclear plants, as well as limitations on PECO's ability to recover increased nuclear decommissioning costs from ratepayers associated with its own nuclear units in the future. As to the Unicom nuclear plants, the Joint Settlement provides a specific commitment from PECO that PECO's distribution ratepayers will be insulated from costs associated with those units. Additionally, the Settlement ensures that PECO's ratepayers will only be responsible for nuclear decommissioning costs associated with PECO's share of the nuclear units it owned at December 31, 1999. As to those units, if there is an increase in the nuclear decommissioning liability associated with those units above the levels currently included in rates, PECO shareholders

will absorb the first \$50 million of those increased costs, and will pay 5% of the remainder of any additional increased costs. PECO has also entered into an agreement designed to address issues regarding nuclear monitoring and waste storage, the safe operation of Peach Bottom 2 and 3, and robotics research in the area of nuclear decommissioning and nuclear plant radiation exposure management. Additionally, PECO agreed to increase its level of community involvement and spending in the area near the Peach Bottom Station. PECO both serves customers in that area and serves as a major employer at its Peach Bottom Station.

In addition to protections from the risks associated with Unicom's nuclear plants and increased decommissioning costs for PECO's plants, the Settlement also provides a number of other corporate protections. These protections are designed to ensure that PECO's distribution ratepayers are protected from the risks associated with PECO's diversified businesses and to avoid cross-subsidization of other affiliates. In addition, the agreements ensure the Commission's continuing jurisdiction and the Commission's access to the books, records and personnel necessary to the Commission's regulatory oversight responsibility.

The Joint Settlement also calls for an expansion of PECO's universal service programs, particularly in the area of addressing payment problems for the very low income customer. Initially, PECO has agreed to contribute up to \$3 million over three years to the local hardship funds throughout its service territory so that those hardship funds are better able to address the needs of payment troubled customers. PECO also will coordinate other universal service programs with these contributions to assure that customers are reached. The Settlement also increases the participation levels in PECO's Customer Assistance Program for electric customers,

and contains agreements regarding cost recovery to ensure that the costs of these programs for both electric and gas customers are reasonable.

The OCA would also note that the Joint Settlement contains several provisions intended to promote competition in PECO's service territory. These provisions should help to eliminate barriers for licensed electric generation suppliers, facilitating their ability to serve retail customers. Of particular importance, specific quantities of installed capacity credits will be made available at a specified price to electric generation suppliers pursuant to PECO's FERC Electric Market-Based Rate tariff. These specified quantities of installed capacity credits will be made available to licensed suppliers serving customers in PECO's service territory. This capacity is necessary for a licensed supplier to serve customers, and the availability of these installed capacity credits at the specified price will provide additional means for licensed suppliers to meet this obligation. PECO has also agreed to distribute to its residential customers at least twice per year the OCA's shopping guide, which will enable residential customers to directly compare prices of alternative suppliers relative to PECO's price to compare.

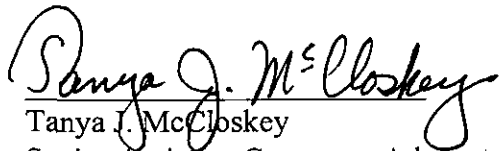
Furthermore, PECO has agreed to modifications in its process for obtaining a competitive default supplier in accordance with its 1998 Electric Restructuring Settlement, to provide a better opportunity for a successful process. Given the recent failure of GPU Energy's competitive default service bid process to attract bidders, the OCA submits that this agreement is important in working toward a successful competitive default service in Pennsylvania. Additionally, the Settlement establishes a process for securing competitive default service in the event that PECO's modified bid process is unsuccessful.

In addition to the above benefits, the Joint Settlement includes a significant investment in renewable energy and in education regarding renewable resources. The Settlement provides that PECO will contribute more than \$20 million to the development of wind and solar-powered projects and education on renewable resources over the next several years.

Finally, the Joint Settlement secures PECO's commitment to maintain its corporate presence in Philadelphia for an extended period of time, and secures PECO's commitment to maintain its charitable and community giving following the merger.

Given the wide range of benefits provided by this Joint Settlement, the OCA submits that the Settlement brings value and substantial affirmative benefits to PECO's ratepayers and the community. The OCA supports the adoption of this Settlement, and the OCA submits that this Settlement is in the public interest.

Respectfully submitted,



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Denise R. Foster  
Assistant Consumer Advocates

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Dated: March 28, 2000  
57543

CERTIFICATE OF SERVICE

Re: Application of PECO Energy Company, Pursuant to Chapters 11, 19, 21, 22, and 28 of the Public Utility Code for Approval of (1) A Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) The Merger of the Newly Formed Holding Company and Unicom Corporation  
Docket No. A-110550F0147

I hereby certify that I have this day served a true copy of the foregoing document, OCA's Statement In Support upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 29<sup>th</sup> day of March, 2000

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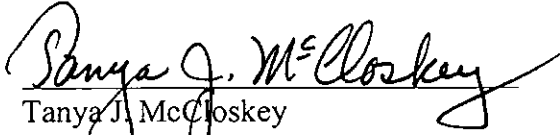
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March 29, 2000

James J. McNulty, Secretary  
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VIA HAND DELIVERY

**Re: Application of Peco Energy Company, Pursuant to Chapters 11, 19, 21, 22 and 28 of the Public Utility Code, For Approval of (1) a Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) the Merger of the Newly Formed Holding Company and Unicom Corporation; Docket No.A-110550F0147**


Dear Secretary McNulty:

Enclosed please find the original and three (3) copies of the Philadelphia Area Industrial Energy Users Group ("PAIEUG") Statement in Support of the Joint Petition for Settlement filed in the above-captioned proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Please date stamp the extra copy of this transmittal letter and kindly return it for our filing purposes.

Very truly yours,

MCNEES, WALLACE & NURICK

By   
Charis M. Burak

CMB/lhe

c: Administrative Law Judge Charles E. Rainey, Jr. (via facsimile and first class mail)  
Certificate of Service

**ORIGINAL**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

APPLICATION OF PECO ENERGY  
COMPANY, PURSUANT TO  
CHAPTERS 11, 19, 21, 22 AND 28 OF  
THE PUBLIC UTILITY CODE, FOR  
APPROVAL OF (1) A PLAN OF  
CORPORATE RESTRUCTURING,  
INCLUDING THE CREATION OF A  
HOLDING COMPANY AND (2) THE  
MERGER OF THE NEWLY FORMED  
HOLDING COMPANY AND UNICOM  
CORPORATION

Docket No. A-110550F0147

**DOCKETED**

MAR 30 2000

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**STATEMENT OF PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP  
IN SUPPORT OF THE JOINT PETITION FOR SETTLEMENT**

**DOCUMENT  
FOLDER**

Philadelphia Area Industrial Energy Users Group ("PAIEUG"), by and through its  
counsel, submits that the Joint Petition for Settlement ("Joint Petition") filed in the above-  
captioned proceeding with the Pennsylvania Public Utility Commission ("PUC" or  
"Commission") on March 23, 2000, reflects a settlement among the Joint Petitioners with respect  
to the application by PECO Energy Company ("PECO" or "Company") for approval of (1) its  
proposed corporate restructuring, and (2) its proposed merger at the holding company level with  
Unicom Corporation ("Unicom").

On December 16, 1999, PAIEUG filed a Petition to Intervene in the above-captioned  
proceeding. As noted in PAIEUG's Petition, PAIEUG members receive electric and natural gas  
services from PECO, and use substantial volumes of electricity and natural gas in their  
manufacturing and operational processes. As a result, PAIEUG members were concerned with

the effects of the proposed merger on retail competition and the retail market in Pennsylvania, as well as the effect on transmission and distribution rates. Additionally, PAIEUG was interested in the calculation of savings created by the synergy of the merger, and the allocation of these savings among customers.

PAIEUG believes that the Joint Petition addresses the aforementioned concerns, as well as providing additional benefits to all PECO customers. Specifically, PAIEUG concludes that the Joint Petition is in the public interest. For the reasons set forth in the Joint Petition, as well as highlighted herein, PAIEUG respectfully requests that Administrative Law Judge Rainey and the Commission approve the terms and conditions of the Joint Petition.

1. As a result of the Joint Petition, PECO customers will receive a \$200 million reduction in their distribution service rates over a four year period, beginning January 1, 2002. This reduction will be distributed equally to all customer classes.

2. The cap on PECO's transmission and distribution rates, which would otherwise expire on June 30, 2005, will extend until December 31, 2006. As a result, the distribution service rates paid by PECO's customers from 1997 through 2006 will either be lower than, or the same as, those rates that were in effect on December 31, 1996, thus providing all PECO customers rate stability for an extended period of time.

3. The Joint Petition will also protect PECO ratepayers from responsibility for nuclear decommissioning expense obligations related to Unicom's nuclear plants. Moreover, if PECO seeks to increase its annual nuclear decommissioning expense allowance above its base annual accrue level of \$29.162 million, PECO agrees to forego recovery of \$50 million of the total, plus 5% of any additional increases above the base level. As a result, the Joint Petition

provides for an appropriate sharing of increases in nuclear decommissioning costs between shareholders and customers.

4. The Joint Petition also provides for the development of a Quality of Service Plan, which will enhance reliability and customer service, while also targeting specific areas in PECO's service territory for improvements. Additionally, the Company will be held accountable if these standards are not met. This enhancement in reliability provides benefits to all PECO customers by ensuring continued improvement in safe and reliable service.

5. The Joint Petition allows customers currently party to an existing "special contract" with PECO to have a unilateral, one-time option to terminate their contract with PECO for competitive energy supply. As a result of this "fresh start" provision, the Joint Petition provides "special contract" customers an additional opportunity to participate in the competitive market. This provision is beneficial to large industrial customers currently receiving service from PECO under a "special contract."

6. As a result of the Joint Petition, expenses incurred by the Joint Petitioners and the Commission for completing this provision will be less than they would have been if the proceeding had been fully litigated.

WHEREFORE, the Philadelphia Area Industrial Energy Users Group respectfully requests that Administrative Law Judge Rainey and the Pennsylvania Public Utility Commission approve the foregoing Joint Petition for Settlement.

Respectfully submitted,

McNEES, WALLACE & NURICK

By 

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Dated: March 29, 2000

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Docket No. A-110550F0147  
Page 2

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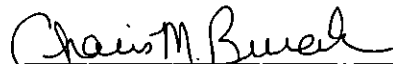
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Charis M. Burak, Esq.

Dated this 29<sup>th</sup> of March, 2000, in Harrisburg, Pennsylvania.

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March 29, 2000

ORIGINAL VIA HAND DELIVERY

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

**Re: Application of Peco Energy Company, Pursuant to Chapters 11, 19, 21, 22 and 28 of the Public Utility Code, For Approval of (1) a Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) the Merger of the Newly Formed Holding Company and Unicom Corporation; Docket No.A-110550F0147**


Dear Secretary McNulty:

Enclosed please find the original and three (3) copies of the Industrial Energy Consumers of Pennsylvania ("IECPA") Statement in Support of the Joint Petition for Settlement filed in the above-captioned proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Please date stamp the extra copy of this transmittal letter and kindly return it for our filing purposes.

Very truly yours,

MCNEES, WALLACE & NURICK

By   
Charis M. Burak

CMB/lhe

c: Administrative Law Judge Charles E. Rainey, Jr. (via facsimile and first class mail)  
Certificate of Service

5

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

APPLICATION OF PECO ENERGY  
COMPANY, PURSUANT TO  
CHAPTERS 11, 19, 21, 22 AND 28 OF  
THE PUBLIC UTILITY CODE, FOR  
APPROVAL OF (1) A PLAN OF  
CORPORATE RESTRUCTURING,  
INCLUDING THE CREATION OF A  
HOLDING COMPANY AND (2) THE  
MERGER OF THE NEWLY FORMED  
HOLDING COMPANY AND UNICOM  
CORPORATION

Docket No. A-110550F0147

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**STATEMENT OF INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA  
IN SUPPORT OF THE JOINT PETITION FOR SETTLEMENT**

---

Industrial Energy Consumers of Pennsylvania ("IECPA"), by and through its counsel, submit that the Joint Petition for Settlement ("Joint Petition") filed in the above-captioned proceeding with the Pennsylvania Public Utility Commission ("PUC" or "Commission") on March 23, 2000, reflects a settlement among the Joint Petitioners with respect to the application by PECO Energy Company ("PECO" or "Company") for approval of (1) its proposed corporate restructuring, and (2) its proposed merger at the holding company level with Unicom Corporation ("Unicom").

On December 22, 1999, IECPA filed a Petition to Intervene in the above-captioned proceeding. As noted in IECPA's Petition, IECPA is a forty-two member association of energy-intensive industrial consumers of electricity and natural gas. IECPA's members annually

consume approximately 7.5 billion kWh of electricity and 850 million MCF of natural gas, which represent a significant cost of production and operation for IECPA members. Because PECO's proposed merger is the first merger of major magnitude decided by the Commission under 66 Pa. Section 2811(e) of the Electricity Generation Customer Choice and Competition Act, IECPA members were concerned with the precedential value of the Commission's deliberations and decision, as well as general public interest issues that would be addressed in the proceeding.

IECPA believes that the Joint Petition addresses the aforementioned concerns, as well as providing additional benefits to all PECO customers. Specifically, IECPA concludes that the Joint Petition is in the public interest. For the reasons set forth in the Joint Petition, as well as highlighted herein, IECPA respectfully requests that Administrative Law Judge Rainey and the Commission approve the terms and conditions of the Joint Petition.

1. As a result of the Joint Petition, PECO customers will receive a \$200 million reduction in their distribution service rates over a four year period, beginning January 1, 2002. This reduction will be distributed equally to all customer classes.

2. The cap on PECO's transmission and distribution rates, which would otherwise expire on June 30, 2005, will extend until December 31, 2006. As a result, the distribution service rates paid by PECO's customers from 1997 through 2006 will either be lower than, or the same as, those rates that were in effect on December 31, 1996, thus providing all PECO customers rate stability for an extended period of time.

3. The Joint Petition will also protect PECO ratepayers from responsibility for nuclear decommissioning expense obligations related to Unicom's nuclear plants. Moreover, if

PECO seeks to increase its annual nuclear decommissioning expense allowance above its base annual accrue level of \$29.162 million, PECO agrees to forego recovery of \$50 million of the total, plus 5% of any additional increases above the base level. As a result, the Joint Petition provides for an appropriate sharing of increases in nuclear decommissioning costs between shareholders and customers.

4. The Joint Petition provides for the development of a Quality of Service Plan, which will enhance reliability and customer service, while also targeting specific areas in PECO's service territory for improvements. Additionally, the Company will be held accountable if these standards are not met. This enhancement in reliability provides benefits to all PECO customers by ensuring continued improvement in safe and reliable service.

5. As a result of the Joint Petition, expenses incurred by the Joint Petitioners and the Commission for completing this provision will be less than they would have been if the proceeding had been fully litigated.

**WHEREFORE**, the Industrial Energy Consumers of Pennsylvania respectfully request that Administrative Law Judge Rainey and the Pennsylvania Public Utility Commission approve the foregoing Joint Petition for Settlement.

Respectfully submitted,

McNEES, WALLACE & NURICK

By Charis M. Burak

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Dated: March 29, 2000

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March 29, 2000

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VIA HAND DELIVERY

**Re: Application of Peco Energy Company, Pursuant to Chapters 11, 19, 21, 22 and 28 of the Public Utility Code, For Approval of (1) a Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) the Merger of the Newly Formed Holding Company and Unicom Corporation; Docket No.A-110550F0147**


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As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Please date stamp the extra copy of this transmittal letter and kindly return it for our filing purposes.

Very truly yours,

MCNEES, WALLACE & NURICK

By   
Charis M. Burak

CMB/lhe

c: Administrative Law Judge Charles E. Rainey, Jr. (via facsimile and first class mail)  
Certificate of Service

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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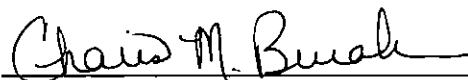
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Charis M. Burak, Esq.

Dated this 29<sup>th</sup> of March, 2000, in Harrisburg, Pennsylvania.

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DOCUMENT March 29, 2000  
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Re: Application of PECO Energy Company, Pursuant To Chapters 11, 19, 21, 22 And 28  
Of The Public Utility Code, For Approval of (1) A Plan Off Corporate Restructuring,  
Including The Creation Of A Holding Company and (2) The Merger Of The Newly  
Formed Holding Company And Unicom Corporation.  
Docket No. A-110550F0147

Dear Secretary McNulty:

Enclosed please find for filing an original and three copies of the Statement in Support of Joint Petition for Settlement of Consumers Education and Protective Association, Association of Community Associations for Reform Now, Action Alliance of Senior Citizens of Greater Philadelphia and Tenants' Action Group in the above-captioned matter..

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Very truly yours,

*Philip A Bertocci*  
PHILIP A. BERTOCCI

Enclosures

cc: Administrative Law Judge Charles E. Rainey, Jr.  
Certificate of Service

79

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

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Application of PECO Energy Company :  
Pursuant to Chapters 11, 19, 21, 22 and :  
28 of the Public Utility Code, :  
For Approval of (1) a Plan of :  
Corporate Restructuring, Including :  
the Creation of a Holding Company :  
and (2) the Merger of the Newly :  
Formed Holding Company and Union :  
Corporation

Docket No. A-110550F0147

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MAR 31 2000

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**Statement in Support of Joint Petition for Settlement  
of Consumers Education and Protective Association, Association of Community  
Associations for Reform Now, Action Alliance of Senior Citizens  
of Greater Philadelphia and Tenants' Action Group**

The Consumers Education and Protective Association, the Association of Community Organizations for Reform Now, the Action Alliance of Senior Citizens of Greater Philadelphia, and the Tenants' Action Group (collectively "CEPA et al."), through counsel Community Legal Services, Inc., hereby file this Statement in Support of Joint Petition for Settlement as follows:

CEPA et al. filed a Protest and Intervention in this proceeding on December 20, 1999 and, as in PECO Energy Company's prior securitization and restructuring cases at Docket Nos. R-00973953 and P-00971265, have actively participated in the extended and complex

settlement negotiations that resulted in the Joint Petition for Settlement. On the basis of this experience, and all available information, CEPA et al. have concluded that the proposed settlement (hereinafter "Settlement") assures that between 2001 and the end of 2006, PECO ratepayers and the public at large will substantially benefit from the proposed merger in a wide variety of ways, and that the sum of the benefits exceeds the dollar value of the net savings to be achieved by PECO Energy as a regulated distribution company resulting from merger related synergies. CEPA et al. submit that if this case were fully litigated before the Commission, the public would not be able to obtain greater value, and might very well obtain a lesser result.

**Rate Reductions.** CEPA et al. regard the \$200 million in rate reductions provided for in the Settlement as a significant step in passing through tangible merger related synergies to the public. The rate reductions provided in Section 10 and 11 must be viewed in conjunction with the \$60 million reduction in CTC for the year 2001 that has been achieved through settlement of issues associated with the recent additional issuance of a QRO for the securitization of stranded costs. Coupled with this CTC reduction, the Settlement assures that Transmission and Distribution rates, instead of rising 6% next year to return to January 1, 1997 levels, will remain for residential customers at least 2.3% below January 1, 1997 levels for the years 2001, 2002 and 2003, and at 1.5% to 1.75% below those levels during the years 2004 and 2005. Moreover, due to the extension of the Transmission and Distribution rate cap through 2006, customers will pay no more in 2006 than they paid as

of January 1, 1997. In addition, the modification of the Restructuring Full Settlement provisions concerning PECO's recovery of its universal service costs will save customers as much as \$15 million in charges not subject to the rate cap between 2001 and the end of 2006.<sup>1</sup>

**Universal Service.** In addition to seeking reductions in rates for all customers, CEPA et al. sought in these negotiations to focus attention on the most obvious deficiencies in PECO's CAP Rate program, a discount program for customers with household incomes at or below 150% of the federal poverty level. Recent expert evaluations and analyses of PECO's CAP Rate program have expressed the concern that the tariffed rates for customers below 100% of poverty (approximately 50% off the standard residential rates for the first 500 kWh) are not affordable under PUC affordability standards for many households with incomes below 50% of federal poverty. See Peach, H. Gil, Process Evaluation of the PECO Energy "CAP-Rate" Pilot, Beaverton, Oregon: H. Gil Peach & Associates/Scan America, 1998, Monograph 981-2, pp. xxi; "Direct Testimony and Exhibits of Roger D. Colton. Universal Service and Energy Efficiency Issues," OCA Statement No. 4, Docket No. R-00994787. This "special needs" part of the low income population is typified by the

---

<sup>1</sup> On the electricity generation side, the provisions contained in Sections 45 through 56 of the Settlement, designed to enhance retail electric generation competition, may lead to additional opportunities for cost savings by customers who exercise their right to shop for electricity generation.

household whose sole source of income is TANF, an income which is approximately 35% of the federal poverty standard. The Settlement addresses problems posed by the energy needs of this portion of the low income population in several ways, some as part of the class of low income customers generally, and some directly as a distinct subgroup within that class.

At Section 34, PECO reaffirms that the CAP Rate Program is an “open enrollment” program, open to all payment troubled customers with household incomes at or below 150% of federal poverty. The initial maximum participation level in the existing CAP Rate electric program is raised to 125,000. This measure ensures that no otherwise eligible customer will be denied the benefits of CAP Rate solely because the Program is “full.”

At Section 30, PECO commits to the prompt development and implementation of a computerized customer “Data Warehouse” which is critical for the rational development and refinement of programs to meet the needs of the low income population in general and the low income population below 50% of federal poverty.

At Section 31, PECO commits to working with its LIURP Advisory Committee to assess the energy circumstances of households at 50% of poverty and below, and to develop as necessary program enhancements to meet their special needs.

At Section 29, PECO agrees to provide support above its existing support to the fuel funds in the five county area in the amount of \$1.3 million annually in 2001 and 2002; in the event that a “special needs” program is not in place by 2003, PECO commits to providing an additional \$400,000 to these fuel funds in that year. Under this Section, the Philadelphia

fuel fund, the Utility Emergency Services Fund (“UESF”), will receive \$1 million per year in the next two years to assist low income households who are threatened with termination of utility service or whose utility service has already been terminated.<sup>2</sup>

**Jobs and Economic Development.** CEPA et al. have traditionally attached high importance to economic development and the preservation of jobs in Philadelphia and the five county area generally.

At Section 82 of the Settlement, PECO commits to maintaining 1250 jobs at its headquarters at 2301 Market Street, Philadelphia, through 2003, more than 90% of the jobs currently there.

In addition, Section 43 of the Settlement provides for acceleration of the \$9.98 million otherwise due to the Sustainable Development Fund (SDF) between the present and 2005 under the Restructuring Full Settlement. This acceleration, which has a value of several million dollars, provides added resources to a fund whose mission is “to promote the development and use of renewable energy and clean energy technologies, energy conservation and efficiency, and economic development projects which promote clean energy.” Joint Petition for Full Settlement of PECO Energy Company’s Restructuring Plan and Related Appeals and Application for a Qualified Rate Order and Application for Transfer of Generation Assets (April 29, 1998), Dockets Nos. R-00973953 and P-

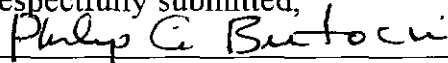
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<sup>2</sup> Approximately 70% of UESF’s available funds are distributed to households with incomes below 50% of federal poverty.

00971265(emphases added).

In conclusion, in this Settlement, PECO and the participating parties attempted to accommodate and harmonize all the diverse interests articulated by all the parties who filed Protests and/or intervened. PECO has been induced to put substantial value on the table in many forms to meet the particularized needs of this region. CEPA et al. believe that it would be a serious mistake to delay approval of the Settlement in the hope of extracting marginal additional benefits, thereby increasing the risk that the merger will not be consummated and that the parties will never see any merger benefits at all. CEPA et al., like all other parties, did not obtain everything that they hoped to obtain through these negotiations. They recognized that their needs had to be reconciled with the needs of other parties and of PECO itself, and that their bargaining power was limited by the relatively meager leverage provided by the Public Utility Code, existing legal precedent and the Electricity Generation Customer Choice and Competition Act. For these reasons, CEPA et al. request that the Commission approve the Settlement without modification.

Respectfully submitted,

  
PHILIP A. BERTOCCI, ESQUIRE  
EDWARD A. MCCOOL, ESQUIRE  
Attorneys for CEPA, ACORN,  
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Date: March 29, 2000

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(215) 981-3702

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CERTIFICATE OF SERVICE

MAR 29 2000

Re: Application of PECO Energy Company, Pursuant to Chapters 1912, 1921, 21, 22 and 28 of the Public Utility Code for Approval of (1) A Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) The Merger of the Newly Formed Holding Company and Unicom Corporation.  
Docket No. A-110550F0147

I hereby certify that I have this day served a true copy of the foregoing document, Statement in Support of Joint Petition for Settlement, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 29<sup>th</sup> day of March 2000

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Action Alliance and TAG

COMMUNITY LEGAL SERVICES, INC.  
1424 Chestnut Street, 4<sup>th</sup> Floor  
Philadelphia, PA 19102  
(215)-981-3702

**ALJ APPEARANCE SHEET**

**Hearing Report**

Docket No.	A-110550F0147	Check Those Blocks Which Apply:			
Case Name	Application of PECO Energy Company	Prehearing Held	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/> NO
ALJ	Charles E. Rainey, Jr.	Hearing Held *	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/> NO
Reporting Firm	Commonwealth Reporting	Testimony Taken	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/> NO
Location	Norristown	Transcript Due	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/> NO
Date	March 29, 2000	Hearing Concluded	<input type="checkbox"/>	YES	<input type="checkbox"/> NO
ALJ	Charles E. Rainey, Jr.	Further Hearing Needed	<input type="checkbox"/>	YES	<input type="checkbox"/> NO
Reporting Firm	Commonwealth Reporting	Estimated Add'l Days			
		RECORD CLOSED	<input type="checkbox"/>	YES	<input type="checkbox"/> NO
		Briefs to be Filed	<input type="checkbox"/>	YES	<input type="checkbox"/> NO
		Bench Decision	<input type="checkbox"/>	YES	<input type="checkbox"/> NO
		REMARKS: *	<i>Public Input Hearing</i>		

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 OFFICE OF P.A.L.J.  
 00 APR 10 10:02 AM '00  
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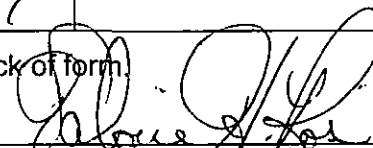
**DOCUMENT  
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 DOCKETED**  
 APR 13 2000

Names, Addresses and Telephone Numbers of Parties or Counsel of Record  
 PLEASE PRINT CLEARLY

Incomplete Information may Result in Delay of Processing

Name and Telephone Number	Address	Appearing for
Kenneth <sup>306</sup> Mickens Telephone No. (717) 787-1976	P.O. Box 3265 City Hbg. State PA Zip 17105-3265	Office of Trial Staff
Bernard A. Ryan Telephone No. (717) 783-2525	Suite 1102, Commerce Bldg 300 N. Second St City Hbg. State PA Zip 17101	Office of Small Business Advocate
JAMES A. MULLINS Telephone No. (717) 783-5048	555 Walnut St. City Hbg. State PA Zip 17101	OCHA

Check this box if additional parties or counsel of record appear on back of form.

  
 Reporter  
 Valorie H. Rosi

Name, Title and Telephone Number	Address			Appearing for
PAUL BONNEY	2301 Market Street			PECO ENERGY
Telephone No. 215 841-4252	City Phila	State PA	Zip 19109	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	

**ALJ APPEARANCE SHEET**

**Hearing Report**

Docket No.	A-110550F0147	Check Those Blocks Which Apply:				
		Prehearing Held	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
Case Name	Application of	Hearing Held <sup>*</sup>	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO
	PECO Energy Company	Testimony Taken	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO
		Transcript Due	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO
		Hearing Concluded	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
Location	Glenmoore <i>1:00 P.M.</i>	Further Hearing Needed	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
Date	March 30, 2000	Estimated Add'l Days				
ALJ	Charles E. Rainey, Jr.	RECORD CLOSED	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
Reporting Firm	Commonwealth Reporting	DATE				
		Briefs to be Filed	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
		DATE				
		Bench Decision	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
		REMARKS: <sup>*</sup>	<i>Public Input Hearing</i>			

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Names, Addresses and Telephone Numbers of Parties or Counsel of Record  
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Name and Telephone Number	Address	Appearing for
<b>ANGELA JONES</b> Telephone No. 717-783-2525	1102 COMMERCE BLDG. 300 N. 2ND ST. City HARRISBURG State PA Zip 17101	OFFICE OF SMALL BUSINESS ADVOCATE
Kandace F. Melillo Telephone No. 717-783-6155	Pa. P.U.C. P.O. Box 3265 City Harrisburg State PA Zip 17105-3265	Pa PUC Office of Trial Staff
Stephen J. Keene Telephone No. 717-783-5048	555 Walnut St. 5th Floor City Harrisburg State PA Zip 17101	Office of Consumer Advocate

Check this box if additional parties or counsel of record appear on back of form.

*Robert G. Stankus*

Reporter

Name, Title and Telephone Number	Address			Appearing for
<del>WARD SMITH</del> <del>2301 Market Street</del> <del>Phila., PA 19101</del>				
Telephone No.	City	State	Zip	
WARD SMITH	2301 Market St. Phila., Pa 19101			PELO Energy }
215-841-6863 Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	

**ALJ APPEARANCE SHEET**

**Hearing Report**

Docket No.	A-110550F0147	Check Those Blocks Which Apply:				
		Prehearing Held	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
Case Name	Application of	Hearing Held*	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO
	PECO Energy Company	Testimony Taken	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO
		Transcript Due	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO
		Hearing Concluded	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
Location	Glenmoore 7:00 p.m.	Further Hearing Needed	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
Date	March 30, 2000	Estimated Add'l Days				
ALJ	Charles E. Rainey, Jr.	RECORD CLOSED	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
Reporting Firm	Commonwealth Reporting	DATE				
		Briefs to be Filed	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
		DATE				
		Bench Decision	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
		REMARKS: * Public Input Hearing.				

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Names, Addresses and Telephone Numbers of Parties or Counsel of Record  
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Name and Telephone Number	Address			Appearing for
Denise R. Foster Telephone No. 717-783-5048	555 Walnut St, 5 <sup>th</sup> Floor City Harrisburg State PA Zip 17101-1923			Office of Consumer Advocate
ANGELA T. JONES Telephone No. 717-783-2525	1102 COMMERCE BLDG. 300 N. 2 <sup>ND</sup> ST. City HARRISBURG State PA Zip 17101			OFFICE OF SMALL BUSINESS ADVOCATE
WARD SMITH Telephone No. 215-841-6836	2300 WALNUT ST City Phila State PA Zip 19103			PECO Energy

Check this box if additional parties or counsel of record appear on back of form.

*Robert J. Shaw*

Reporter

Name, Title and Telephone Number	Address			Appearing for
CHARLES F. HOFFMAN DIRECTOR OF TRIAL STAFF	P.O. BOX 3265			OTS
Telephone No. (717) 787-7304	City HBT	State PA	Zip 17120	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	

**ALJ APPEARANCE SHEET**

**Hearing Report**

Docket No.	A-110550F0147	Check Those Blocks Which Apply:				
Case Name	Application of PECO Energy Company	Prehearing Held	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
		Hearing Held	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO
		Testimony Taken	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO
		Transcript Due	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO
		Hearing Concluded	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
Location	Media	Further Hearing Needed	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
Date	March 31, 2000	Estimated Add'l Days	30			
ALJ	Charles E. Rainey, Jr.	RECORD CLOSED	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
Reporting Firm	Commonwealth Reporting	DATE	30 APR 5 7			
		Briefs to be Filed	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
		DATE				
		Bench Decision	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
		REMARKS:	* Public Input Hearing			

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Names, Addresses and Telephone Numbers of Parties or Counsel of Record  
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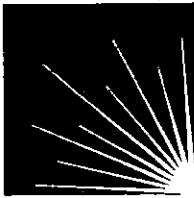
Name and Telephone Number	Address	Appearing for
Denise Foster Telephone No. 717-783-5048	555 Walnut Street, 5th Floor, Forum Place City Hbg State PA Zip 17101-1923	Pennsylvania Office of Consumer Advocate
Paul Bonney Telephone No. 215 841-4252	2301 Market St. City Phila State PA Zip 19101	PECO ENERGY
Bernard A. Ryan Telephone No. (717) 783-2525	Suite 1102, Commerce Bldg 300 N. Second St City Hbg State PA Zip 17101	CSBA

Check this box if additional parties or counsel of record appear on back of form.

William J. Horst - CRE, Inc  
Reporter

Name, Title and Telephone Number	Address			Appearing for
Kandace F. Melillo	P. O. Box 3265 Pa PUC			Pa PUC Office of Trial Staff
Telephone No. 717 783-6155	City Harrisburg	State PA	Zip 17105 3265	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	
Telephone No.	City	State	Zip	

Clean Air Council



304709

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**RE: Application of PECO Energy Company  
Docket No.: A-110550F0147**

Dear Mr. McNulty:

Enclosed for filing please find an original and three (3) copies of the Statement of Support for the Joint Petition for Settlement of Clean Air Council, et al, in the above-referenced proceeding.

A copy of this document has been served on the parties of record and as required by rule as shown on the attached certificate of service.

Sincerely,

Michael Fiorentino, Esq.  
Staff Attorney

Enclosures

cc: The Honorable Charles E. Rainey, Jr.  
See Certificate of Service

EEF

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00 APR -4 AM 8:08  
April 1, 2000

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**Philadelphia**  
135 South 19th Street  
Suite 300  
Philadelphia, PA 19103  
215-567-4004  
Fax 215-567-5791  
E-Mail members@cleanair.org  
www.cleanair.org

**Harrisburg**  
105 N. Front St.  
Suite 106  
Harrisburg, PA 17101  
717-230-8807  
Fax 717-230-8808

**Wilmington**  
Community Service Building  
100 W. 10th St.  
Suite 704  
Wilmington, DE 19801  
302-691-0112 ext. 226

13

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

304710

00 APR -4 AM 8:08

APPLICATION OF PECO ENERGY :  
COMPANY, PURSUANT TO CHAPTERS :  
11, 19, 21, 22 AND 28 OF THE PUBLIC :  
UTILITY CODE, FOR APPROVAL :  
OF (1) A PLAN OF CORPORATE :  
RESTRUCTURING, INCLUDING THE :  
CREATION OF A HOLDING COMPANY :  
AND (2) THE MERGER OF THE NEWLY :  
FORMED HOLDING COMPANY :  
AND UNICOM CORPORATION :

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CLEAN AIR COUNCIL, et al's STATEMENT  
IN SUPPORT OF THE  
JOINT PETITION FOR SETTLEMENT

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By and through their counsel, Clean Air Council, et al, submits the following statement.

On November 22, 1999, PECO filed with the Public Utility Commission its Application for Restructuring and Merger with Unicom Corporation, of Illinois. PECO asserted that these actions would serve the public interest, primarily through sharing of "best practices," forestalling of future rate increases, and improvements in ability to meet customer demand.

Clean Air Council, Andrew Altman, Dennis Winters and Amy Hammersmith filed a protest and intervention against the Restructuring and Merger on December 20, 1999, on the grounds that a public benefit was not shown and that, to the contrary, the public would be exposed to unnecessary risks.

Clean Air Council has been an active party in this proceeding. The Council participated in the Prehearing Conference, successfully opposed a motion by PECO to eliminate the Administrative Law Judge's Recommended Decision from this proceeding, made discovery requests of PECO, and retained an expert witness to provide direct testimony.

The Council also entered good faith negotiations with PECO and other intervenors on March 1, 2000. Through concerted effort which involved substantial compromise on all sides, an agreement was reached which is embodied in the Joint Petition for Settlement, filed on March 23, 2000.

The Joint Petition for Settlement contains, inter alia: substantial value for consumers,

environmental benefits, improvements for the competitive market, and protection from financial risks and reliability reductions. The Council believes that with these changes or additions the Company's Application for Restructuring and Merger with Unicom will sufficiently serve the public interest to meet the legal standard by which it must be judged. The Council has signed the Joint Petition and supports its expedited approval without modification by the Commission.

Major components of the settlement bear mention. Consumers will enjoy \$200 million in rate reductions over five years across all customer classes. Additionally, the first \$50 million in excess costs for nuclear decommissioning will be borne by shareholders under this agreement, rather than by ratepayers. This is a tangible benefit, since historically decommissioning funding needs have been underestimated.

Environmental gains are substantial. Nearly \$25 million in new funding is provided for: wind power generation projects; a wind block sales marketing program; at least 450 rooftop solar photovoltaic installations; and renewable energy education. In addition, changes to Rate RS tariff and interconnection rules now make net metering more economically viable, encouraging environmentally advantageous self-generation.


The Council believes that these environmental commitments will lead to a cleaner energy future for Pennsylvania, an outcome which will provide better air quality for healthier lives. This is undoubtedly in the public interest.

**WHEREFORE**, Clean Air Council, et al, respectfully request that Administrative Law Judge Charles E. Rainey, Jr., and the Commission approve the Joint Petition for Settlement.

Respectfully submitted,

---

Joseph Otis Minott, Esquire  
Atty. ID# 36463  
Counsel for Protestants and Petitioners  
Clean Air Council  
135 S.19th St., Suite 300  
Philadelphia, PA 19103

  
Michael Fiorentino, Esquire  
Atty. ID# 73576  
Counsel for Protestants and Petitioners  
Clean Air Council  
105 N. Front St., Suite 106  
Harrisburg, PA 17101

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Application of PECO Energy Company, :  
Pursuant to Chapters 11, 19, 21, 22 and 28 of :  
the Public Utility Code, for Approval of (1) a :  
Plan of Corporate Restructuring, Including the :  
Creation of a Holding Company, and (2) the :       Application Docket  
Merger of the Newly Formed Holding :       No. A-110550F0147  
Company and Unicom Corporation :

**CERTIFICATE OF SERVICE**

I hereby certify that I have, this 1st day of April 2000, served a true and correct copy of the foregoing Protestants/Intervenors Clean Air Council, et al's Statement of Support for the Joint Petition for Settlement on the following parties of record by first-class mail:

The Honorable Charles E. Rainey  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
1302 Philadelphia State Office Building,  
1400 West Spring Garden St.  
Philadelphia, PA 19130

Kenneth L. Mickens, Esquire  
Pennsylvania Public Utility Commission  
PA Public Utility Commission  
Office of Trial Staff  
P.O. Box 3256  
Harrisburg, PA 17105-3265

David Kleppinger, Esquire  
Derrick Williamson, Esquire  
Charis M. Burak, Esquire  
McNees, Wallace & Nurick  
P.O. Box 1166  
Harrisburg, PA 17108-1166

Christopher B. Craig, Esquire  
Democratic Committee on Appropriations  
Room 545, Main Capitol Building  
Harrisburg, PA 17120

Irwin A. Popowsky/Tanya McCloskey, Esquire  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5th Floor  
Harrisburg, PA 17101

Paul R. Bonney, Esquire  
PECO Energy Co.  
2301 Market St.,  
P.O. Box 8699  
Philadelphia, PA 19101-8699

Daniel Clearfield, Esquire  
Wolf, Block, Schorr and Solis-Cohen LLP  
Locust Court Bldg., Suite 300  
Harrisburg, PA 17101

Gerald Gornish, Esquire  
Wolf, Block, Schorr and Solis-Cohen  
1650 Arch Street, 22nd Floor  
Philadelphia, PA 19103

Paul Russell, Esquire.  
Pennsylvania Power & Light Company  
Two North Ninth Street  
Allentown, PA 18101

Craig A. Doll, Esquire  
214 State Street  
Harrisburg, PA 17101

John L. Munsch, Esquire  
Allegheny Power  
800 Cabin Hill Drive  
Greensburg, PA 15601-1689

304711

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Michael L. Kessler, Esquire  
Vice President, General Counsel  
American Energy Solutions, Inc.  
1781 Duffield Lane  
Alexandria, VA 22307-1174

Philip Bertocci, Esquire  
Community Legal Services, Inc.  
1424 Chestnut Street, 5th Floor  
Philadelphia, PA 19102

Thomas Schmidt, III, Brian P. Downey,  
John A. Greenbaum  
Pepper Hamilton LLP  
200 One Keystone Plaza  
North Front and Market Streets  
P.O. Box 1181  
Harrisburg, PA 17108-1181

Eric Joseph Epstein, Pro Se  
4100 Hillsdale Road  
Harrisburg, PA 17112

John Hanger, Esquire  
212 Locust Court, Suite 410  
Harrisburg, PA 17101

Gregory J. Lawrence, Esquire  
Sutherland Asbill & Brennan LLP  
1275 Pennsylvania Avenue, N.W.  
Washington, DC 20004-2415

John Halsted, Esquire  
Gawthrop, Greenwood & Halsted  
119 North High Street  
West Chester, PA 19381

Peter Meadows Adels, Esquire  
Charles McPhedran, Esquire  
117 South 17th Street, Suite 1801  
Philadelphia, PA 19103

Amy Gold  
Shell Energy Services Co., L.L.C.  
P. O. Box 4402  
Houston, TX 77210

Donald A. Kaplan, Esquire  
Leanne M. Bober, Esquire  
Preston Gates Ellis & Rouvelas Meeds LLP  
Suite 500  
1735 New York Avenue, N.W.  
Washington, DC 20006

John Will Ongman, Esquire

Pepper Hamilton LLP  
6000 Fourteenth Street, NW  
Washington, DC 20005

Patricia J. Clark, Esquire  
Norbert J. Smith, Esquire  
Allegheny Energy Supply Company, LLC  
Roseytown  
RR 12, Box 1000  
Greensburg, PA 15601

Patricia McNamara  
6048 Ogontz Avenue  
Philadelphia, PA 19141

John Hall, Esquire  
Unruh, Turner, Burke & Frees  
P.O. Box 515  
West Chester, PA 19381-0515


James H. Cawley, Esquire  
Rhoads & Sinon - 12th Floor  
One South Market Street  
Harrisburg, PA 17108

Bernard A. Ryan, Jr., Esquire  
Office of Small Business Advocate  
Suite 1102, Commerce Bldg.  
300 North Second Street  
Harrisburg, PA 17101

Robert Jaffe, Esquire  
City Hall - Room 588  
Philadelphia, PA 19107

Greg Pastore  
619 Pemberton Street  
Philadelphia, PA 19147

Carville B. Collins, Esquire  
Piper, Marbury, Rudnick & Wolfe  
6225 Smith Avenue  
Baltimore, MD 21209-3600

  
Michael Fiorentino  
Attorney for Protestants

---

Joseph Otis Minott  
Attorney for Protestants



# PECO ENERGY

PECO Energy Company  
2301 Market Street  
PO Box 8699  
Philadelphia, PA 19101-8699  
Tel 215 641 5344  
Fax 215 568 3389

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**APR 03 2000**

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

A- 110550 F0147

James W. Durham  
Senior Vice President  
and General Counsel

Edward J. Cullen, Jr.  
Deputy General Counsel

Sandra H. Byrne  
Legal Administrator

Paul R. Bonney  
Ellen M. Cavanaugh  
Jessica N. Cone  
Todd D. Cutler  
Harvey B. Dikter  
Susan Sciamanna Foehl  
Viina Waldron Gaston  
Gregory Golazeski  
John C. Halderman  
Mary McFall Hopper  
Conrad O. Kattner  
Kristopher Keys  
Jeffrey J. Norton  
Mark B. Peabody  
Roslyn G. Pollack  
H. Alfred Ryan  
Wendy Schermer  
Richard S. Schlegel  
Jenny P. Shulbank  
Ward L. Smith  
Delia W. Stroud  
Ronald L. Zack  
Assistant General Counsel

## FEDEX

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
North Office Building, Room B-18  
Commonwealth Avenue and North Street  
Harrisburg, Pennsylvania 17105-3265

RE: Application of PECO Company, Pursuant to Chapters 11, 19, 21, 22 and 28 of the Public Utility Code, for Approval of (1) a Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) the Merger of the Newly Formed Holding Company and Unicom Corporation

Dear Secretary McNulty:

On behalf of the signatory parties, enclosed for filing are an original and three copies of additions to the Joint Petition for Settlement in the above-captioned matter, originally filed with the Commission on March 23, 2000.

The additions are as follows:

1. The signature of NewEnergy East, LLC.
2. A revised Appendix D, reflecting PECO's agreement to accelerate to June 1, 2000, the date by which it will begin supplying to competitive electric and gas suppliers the customer billing data as set forth in Section 46 of the Settlement.
3. A Joint Petition Regarding Issues Raised By Wallace Township And East Brandywine Township.

The Joint Petitioners concur in these additions and ask that the Commission approve items 2 and 3 above as part of the Settlement.

Sincerely,

*Paul R. Bonney*

Paul R. Bonney

DOCUMENT  
FOLDER

PRB/mbo

Enclosures

115

April 3, 2000

Page 2

cc: John M. Quain, Chairman  
Nora Mead Brownell, Commissioner  
Aaron Wilson, Jr., Commissioner  
Terrance J. Fitzpatrick, Commissioner  
Robert K. Bloom, Commissioner  
Administrative Law Judge Charles E. Rainey, Jr. (Via Hand Delivery)  
All parties to this proceeding and to PECO's Electric Restructuring  
Proceeding (per the Certificate of Service )

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

**ORIGINAL RECEIVED**  
APR 03 2000

APPLICATION OF PECO ENERGY :  
COMPANY, PURSUANT TO CHAPTERS :  
11, 19, 21, 22 AND 28 OF THE PUBLIC :  
UTILITY CODE, FOR APPROVAL :  
OF (1) A PLAN OF CORPORATE :  
RESTRUCTURING, INCLUDING THE :  
CREATION OF A HOLDING COMPANY :  
AND (2) THE MERGER OF THE NEWLY :  
FORMED HOLDING COMPANY AND :  
UNICOM CORPORATION :

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

APPLICATION  
DOCKET NO. A-110550F0147

**JOINT PETITION REGARDING ISSUES RAISED BY WALLACE TOWNSHIP AND  
EAST BRANDYWINE TOWNSHIP**

This Joint Petition Regarding Issues Raised By Wallace Township And East Brandywine Township ("Township Joint Petition") is submitted by the following parties in the above-captioned proceeding: Wallace Township ("Wallace"), East Brandywine Township (East Brandywine) (together, the "Townships"), and PECO Energy Company ("PECO" or the "Company").

The purpose of this filing is to describe a proposal to resolve issues between the Townships and PECO, and to request Commission approval and oversight of that proposal.

1. The Townships are intervenor parties in the instant proceeding. As set forth more fully in their intervention pleadings, the Townships are concerned that their residents have experienced unacceptable levels of electric service reliability in recent years, and intervened in this proceeding both to seek resolution of those concerns and to ensure that the merger does not

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further harm reliable electric service to its residents.

2. Since PECO's Application in this proceeding was filed in November, 1999, PECO and the Townships have had numerous conversations and other interactions regarding reliability of electric service in the Townships, during which PECO has represented that it will adequately remedy the concerns expressed by the Townships in their intervention pleadings. Among other things, PECO appeared at a joint public meeting of the Townships to hear and address resident concerns on reliability, and PECO provided a written response to all attendees of that meeting detailing the answers to the questions raised by residents at that meeting. In addition, PECO recently held an "open house" at the East Brandywine firehouse, in which the public was invited to attend a presentation by PECO of its plans to improve reliability in the Townships. During the open house, PECO presented a reliability enhancement plan (Attachment A), which contains 23 technical elements to improve reliability in the Townships. PECO has also committed to the Townships that it will continue to work with them to develop a reliability enhancement plan which is acceptable to the Townships and that it will keep the Townships and residents informed of progress under the reliability enhancement plan, as finally agreed upon. The Townships have retained an expert to review the proposed reliability enhancement plan that PECO submitted to the Townships, and PECO has committed to work with the Townships' experts to provide any additional information he may need to conduct his evaluation. Finally, PECO has committed to the Townships that PECO's performance in implementing the reliability enhancement plan agreed upon by PECO and the Township in the future is a matter that can be submitted to the Pennsylvania Public Utility Commission for oversight, review, and enforcement, as needed.

3. The Townships and PECO are satisfied that each of them is working in good faith to address the concerns raised in the Townships' interventions. Moreover, the Townships and PECO do not wish to cause any unnecessary delay in the Commission's evaluation of the PECO/Unicom merger. However, the reliability issues raised by the Townships in their interventions have not been fully resolved and may not be resolved for some months, as the parties reach and implement a final enhanced reliability plan. The Townships seek assurance in the instant proceeding that the alternative procedures that it has discussed with PECO will be available to them to resolve the aforementioned reliability issues.

4. To give effect to the above, PECO and the Townships have reached the following understanding. PECO and the Townships will continue to work toward a jointly acceptable written document that sets forth, among other things, a jointly acceptable enhanced reliability plan for improving reliability in the Townships (the "Township Settlement"). Once such a document has been completed, PECO and the Townships will jointly submit that document to the Commission in a newly constituted docket that deals solely with the Townships' reliability concerns. (For example, the parties may jointly file a Petition to open such a docket (pursuant to 52 Pa. Code § 5.41 et seq.), or the Townships may file a Complaint (pursuant to 52 Pa. Code § 5.21 et seq.). Once that proceeding is established, the parties will submit the Township Settlement to the Commission and request that the Commission take jurisdiction over and approve the Township Settlement as an enforceable commitment. PECO has no objection to the future proceeding incorporating any portion of the record from the instant PECO/Unicom merger proceeding which pertains to the Townships or the issues raised by the Townships.

5. If for some reason the parties are not able to reach settlement on some or all of the

reliability issues raised in their intervention, PECO agrees that the Townships have all rights provided to them under law, including the right to file a complaint with the Commission regarding those matters.

## CONCLUSION

WHEREFORE, the Joint Petitioners, respectfully request that the Commission (1) approve this Joint Petition as part of the Settlement of PECO Energy's merger proceeding, (2) confirm that it will accept for filing, in a then-constituted docket dealing solely with the Townships' reliability concerns, such Township Settlement as the parties may reach, and (3) confirm that the Townships have the right to file a complaint to address reliability concerns, in the event that they are unable to reach a Township Settlement with PECO.

Respectfully submitted,

---

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For Wallace Township



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For PECO Energy Company

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Andrew D. H. Rau  
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For East Brandywine Township

March 30, 2000

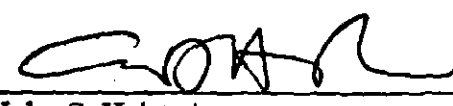
## CONCLUSION

WHEREFORE, the Joint Petitioners, respectfully request that the Commission (1) approve this Joint Petition as part of the Settlement of PECO Energy's merger proceeding, (2) confirm that it will accept for filing, in a then-constituted docket dealing solely with the Townships' reliability concerns, such Township Settlement as the parties may reach, and (3) confirm that the Townships have the right to file a complaint to address reliability concerns, in the event that they are unable to reach a Township Settlement with PECO.

Respectfully submitted,

  
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For PECO Energy Company

March 30, 2000

APPENDIX D

Electric Generation Supplier Coordination Tariff: Notwithstanding Section 69 of the Settlement, the Company agrees to revise its Electric Generation Supplier Coordination Tariff as provided below.

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5. DIRECT ACCESS PROCEDURES

5.1 Customer Enrollment

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

5.1.1 Generally. The selection of Customers eligible to obtain Competitive Energy Supply shall occur in accordance with the Commission's May 21, 1998, Enrollment Order. (Enrollment Procedures applicable to Electric Distribution Companies and Electric Generation Suppliers during the Phase In Implementation of Direct Access, Docket No. M-00960890f.0014), applicable Orders and Regulations.

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5.1.2 Provision of Customer Lists. Concurrent with the Company notifying Customers of their eligibility to select an EGS, the Company shall provide to all EGSs a complete list of eligible enrolled all Customer information in electronic format. Said list via the Success website or the successor thereto. shall include Pilot Customers. Said list shall be provided electronically, without charge, to licensed EGSs electronically on June 1, 2000, and shall be updated on August 1, 2000 and quarterly thereafter, until January 1, 2004, unless the Commission shall make a generic determination (whether by Secretarial Letter, Order, Rule or Regulation) that such program shall continue and, if so, under what terms. In the event, however, that the PECO/Unicom merger is not consummated by February 2, 2001, the Company will provide EGSs no additional lists hereunder, unless and until such time as the merger is consummated or the Commission makes the above-described generic determination, at which point the Company will continue to provide lists pursuant to the terms contained herein, and be made available on the same date Customers are notified that they have been enrolled. Said list shall include all of the information outlined in Rule 5.1.3(a), below, for Customers that consent to do not restrict the release of Customer information pursuant to applicable Commission Secretarial Letters, Orders, Rules or Regulations. The list shall be updated quarterly and shall include individual monthly electric usage and billing demand data at the customer account level for the most recent (12) twelve month period preceding the respective quarter, for which data is available. The lag time for this data shall not exceed (2) two billing cycles, and only the information identified in Rule 5.1.3(b), below, for Customers that do not so consent. If, after the final date for the enrollment period, less than 66% of the non-coincident peak load for residential and commercial rate classes (all rate classes except for Rates HT, PD, and EP) has been enrolled, the Company shall provide all licensed EGSs with a list of enrolled Customers in such rate classes to date. The Company will continue to enroll Customers and the list of enrolled Customers will be updated weekly until the loads of the enrolled Customers comprise at least 66% of the non-coincident peak load of each residential and commercial rate class or full Direct Access begins.

5.1.3 Data Exchange.

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(a) The list of enrolled Customers that the Company provides to all EGSs pursuant to Rule 5.1.2, above, shall be posted on the SUCCESS website and shall include, but is not limited to, the following information about customers that have ~~consented to not restricted~~ the release of Customer information.

- (i) PECO Energy Account Number
- (ii) Billing Route
- (iii) Customer Name
- (iv) Service Address
- (v) Service City
- (vi) Service State Zip
- (vii) Mailing Address
- (viii) Mailing City
- (ix) Mailing State Zip
- (x) Contact Name (applicable to industrial and large commercial Customers only)
- (xi) Contact Address (applicable to industrial and large commercial Customers only)
- (xii) Contact City, State, Zip (applicable to industrial and large commercial Customers only)
- (xiii) Unlisted Phone Number Code
- (xiv) Phone Number
- (xv) Rate Class 1
- (xvi) Rate Code 1
- (xvii) Strata 1
- (xviii) Rate Class 2
- (xix) Rate Code 2
- (xx) Strata 2
- (xxi) Rate Class 3
- (xxii) Rate Code 3
- (xxiii) Strata 3
- (xxiv) Total Rate 1 kWh
- (xxv) Registered Peak Demand
- (xxvi) Load Factor
- (xxvii) Rate 1 Average Monthly kWh
- (xxviii) Meter Use Code
- (xxix) Delivery Date
- (xxx) 12 Individual Months of billing demand (kW)
- (xxx) 12 Individual Months of Usage (kWh)

(b) The list of enrolled Customers that the Company provides to all EGSs pursuant to Rule 5.1.2, above, shall contain the following information about Customers that have ~~restricted not consented to~~ the release of ~~Customer information~~ load data:

- (i) PECO Energy Account Number
- (ii) Rate Class
- (iii) Customer Name
- (iv) Service Address

(c) Customers who restrict the release of all of their account information shall not be included in the above described customer list.



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**APPENDIX D**

**Gas Choice Supplier Coordination Tariff: Notwithstanding Section 69 of the Settlement, the Company will make the revisions indicated below to the Gas Choice Supplier Coordination Tariff filed by PECO in its Gas Restructuring Proceeding at Docket No. R-00994787:**

**6.0 CUSTOMER RELEASE OF INFORMATION AND SWITCHING**

**6.1 Provision of Customer Release of Information List.** On or before May 1, 2000, the Company will send Customer Choice Release of Information packets to all LVT Customers. Customers will be given the opportunity to authorize the release of their confidential account information in accordance with the Interim Customer Information Disclosure Order (Docket No. M-00991249F005). On or before June 1, 2000, the Company shall provide, without charge, to all licensed NGSs a complete list, in electronic format via the Success website, or the Successor thereto, of Customers, who as of that date, have authorized the release of information. Said list shall be provided at the customer account level and shall include all of the information outlined in Rule 6.2(a), below, for Customers that consent to do not restrict the release of Customer information pursuant to applicable Commission Secretarial Letters, Orders, Rules or Regulations, and; and only the information identified in Rule 6.2(b), below, for Customers that have restricted the release of their usage data. The list shall be updated on August 1, 2000 and quarterly thereafter and shall include individual monthly gas billing data for the most recent twelve (12) month period preceding the respective quarter, for which data is available. The lag time for this data shall not exceed two (2) billing cycles do not so consent. Customers who restrict the release of all of their confidential account information shall not be included in the above described Customer list. The Company will also provide, electronically, updated lists without charge, to licensed NGSs until January 1, 2004, unless the Commission shall make a generic determination (whether by Secretarial Letter, Order, Rule or Regulation) that such program shall continue and, if so, under what terms. In the event, however, that the PECO/ Unicom merger is not consummated by February 2, 2001, the Company will provide NGSs no additional lists hereunder, unless and until such time as the merger is consummated or the Commission makes the above-described generic determination, at which point the Company will continue to provide lists pursuant to terms contained herein on or before August 1, 2000, November 1, 2000, and February 1, 2001, unless the Commission directs otherwise

1 **6.2 Data Exchange.** The list of Customers that the Company provides to all NGSs pursuant to Rule  
2 6.1 above, shall be posted on the SUCCESS website, or its successor, and shall include the  
3 following:

4  
5 a. As to Customers who have not restricted ~~authorized~~ the release of all of their Customer  
6 information:

- 7  
8 (i) PECO Energy Account Number (including Billing Route)  
9 (ii) Customer Name  
10 (iii) Service Address  
11 (iv) Mailing Address  
12 (v) Rate Class  
13 (vi) Rate Sub-Class  
14 (vii) Customer usage data (i.e., strata, ~~aggregate of twelve (12)~~ individual months of  
15 historical usage)

16  
17 b. As to Customers who have restricted ~~not authorized~~ the release of their usage data:

- 18  
19 (i) PECO Energy Account Number (including Billing Route)  
20 (ii) Customer Name  
21 (iii) Service Address  
22 (iv) Mailing Address  
23 (v) Rate Class  
24 (vi) Rate Sub-Class

*David I. Fein*

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Certificate of Service

I hereby certify that I have this day served the foregoing document on the following in the matter of PECO Energy Company's Application For Approval of (1) A Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) The Merger of the Newly Formed Holding Company and Unicom Corporation by first class mail:

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UTILITY BUREAU

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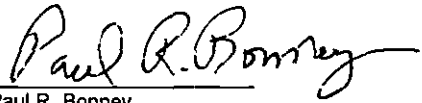
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Dated: April 3, 2000

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April 3, 2000

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Mr. Charles E. Rainey, Jr.  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
1302 Philadelphia State Office Bldg.  
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Philadelphia, PA 19130

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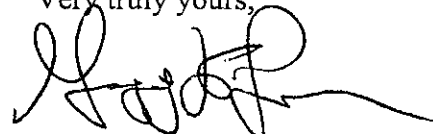
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**RE: Application of PECO Company, Pursuant to Chapters 11, 19, 21, 22 and 28 Of The Public Utility Code, For Approval of (1) A Plan of Corporate Restructuring, Including The Creation Of A Holding Company and (2) The Merger Of The Newly Formed Holding Company And Unicom Corporation, Docket No. A-110550F0147.**

Dear Mr. Rainey:

In regard to the above referenced proceeding, Shell Energy Services Co., L.L.C., an intervenor in this proceeding, takes no position regarding the settlement proposal filed by PECO Energy Company on March 24, 2000 and as modified on March 29, 2000.

Very truly yours,



Gregory K. Lawrence  
Attorney for  
*Shell Energy Services Co., L.L.C.*

cc: James J. McNulty, Secretary  
Service List

Mr. Charles E. Rainey  
April 3, 2000  
Page 2

**CERTIFICATE OF SERVICE**

In accordance with 52 Pa. Code § 5.75, I hereby certify that I have this day served a copy of the foregoing document upon each person to this proceeding as reflected on the list below:

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April 3, 2000  
Page 3

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April 3, 2000  
Page 4

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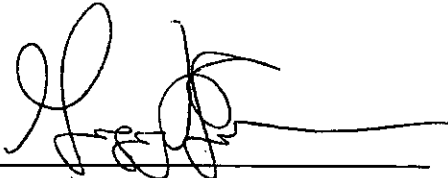
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Dated at Washington, D.C. this 3rd day of April, 2000.



Gregory K. Lawrence

**ALJ APPEARANCE SHEET**

**Hearing Report**

Docket No.	A-110550F0147	Check Those Blocks Which Apply:			
		Prehearing Held	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/> NO
Case Name	Application of PECO Energy	Hearing Held *	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/> NO
Company		Testimony Taken	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/> NO
		Transcript Due	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/> NO
		Hearing Concluded	<input type="checkbox"/>	YES	<input type="checkbox"/> NO
Location	York, PA	Further Hearing Needed	<input type="checkbox"/>	YES	<input type="checkbox"/> NO
Date	April 4, 2000	Estimated Add'l Days			
ALJ	Charles E. Rainey, Jr.	RECORD CLOSED	<input type="checkbox"/>	YES	<input type="checkbox"/> NO
Reporting Firm	Commonwealth Reporting	DATE	306456		
		Briefs to be Filed	<input type="checkbox"/>	YES	<input type="checkbox"/> NO
		DATE	306456		
		Bench Decision	<input type="checkbox"/>	YES	<input type="checkbox"/> NO
		REMARKS: *	<i>Public Input Hearing</i>		

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APR 13 2000

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00 APR 13 AM 9:10

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PLEASE PRINT CLEARLY  
Incomplete Information may Result in Delay of Processing

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*William J. Harst - CRC, Inc*  
Reporter

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Wendy Schermer  
Richard S. Schlegel  
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Ronald L. Zack  
Assistant General Counsel

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A-110550 FOI47

April 5, 2000

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SECRETARY'S BUREAU

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
North Office Building, Room B-18  
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Harrisburg, Pennsylvania 17105-3265

RE: Application of PECO Company, Pursuant to Chapters 11, 19, 21, 22 and 28 of the Public Utility Code, for Approval of (1) a Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) the Merger of the Newly Formed Holding Company and Unicom Corporation

Dear Secretary McNulty:

On April 3, 2000, PECO submitted to you a Joint Petition Regarding Issues Raised By Wallace Township And East Brandywine Township. We inadvertently omitted the attachment to that Joint Petition. Enclosed for filing are an original and three copies of a replacement document that contains the attachment. Our apologies for the inconvenience.

Sincerely,

Ward L. Smith

WLS/mbo

Enclosures

**DOCUMENT  
FOLDER**

cc: John M. Quain, Chairman  
Nora Mead Brownell, Commissioner  
Aaron Wilson, Jr., Commissioner  
Terrance J. Fitzpatrick, Commissioner  
Robert K. Bloom, Commissioner  
Administrative Law Judge Charles E. Rainey, Jr. (Via Hand Delivery)  
All parties to this proceeding and to PECO's Electric Restructuring Proceeding (per the Certificate of Service )

42

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

**ORIGINAL**

APPLICATION OF PECO ENERGY  
COMPANY, PURSUANT TO CHAPTERS :  
11, 19, 21, 22 AND 28 OF THE PUBLIC :  
UTILITY CODE, FOR APPROVAL :  
OF (1) A PLAN OF CORPORATE :  
RESTRUCTURING, INCLUDING THE :  
CREATION OF A HOLDING COMPANY :  
AND (2) THE MERGER OF THE NEWLY :  
FORMED HOLDING COMPANY AND :  
UNICOM CORPORATION :

APPLICATION  
DOCKET NO. A-110550F0147

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**JOINT PETITION REGARDING ISSUES RAISED BY WALLACE TOWNSHIP AND  
EAST BRANDYWINE TOWNSHIP**

This Joint Petition Regarding Issues Raised By Wallace Township And East Brandywine Township ("Township Joint Petition") is submitted by the following parties in the above-captioned proceeding: Wallace Township ("Wallace"), East Brandywine Township (East Brandywine) (together, the "Townships"), and PECO Energy Company ("PECO" or the "Company").

The purpose of this filing is to describe a proposal to resolve issues between the Townships and PECO, and to request Commission approval and oversight of that proposal.

1. The Townships are intervenor parties in the instant proceeding. As set forth more fully in their intervention pleadings, the Townships are concerned that their residents have experienced unacceptable levels of electric service reliability in recent years, and intervened in this proceeding both to seek resolution of those concerns and to ensure that the merger does not

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further harm reliable electric service to its residents.

2. Since PECO's Application in this proceeding was filed in November, 1999, PECO and the Townships have had numerous conversations and other interactions regarding reliability of electric service in the Townships, during which PECO has represented that it will adequately remedy the concerns expressed by the Townships in their intervention pleadings. Among other things, PECO appeared at a joint public meeting of the Townships to hear and address resident concerns on reliability, and PECO provided a written response to all attendees of that meeting detailing the answers to the questions raised by residents at that meeting. In addition, PECO recently held an "open house" at the East Brandywine firehouse, in which the public was invited to attend a presentation by PECO of its plans to improve reliability in the Townships. During the open house, PECO presented a reliability enhancement plan (Attachment A), which contains 23 technical elements to improve reliability in the Townships. PECO has also committed to the Townships that it will continue to work with them to develop a reliability enhancement plan which is acceptable to the Townships and that it will keep the Townships and residents informed of progress under the reliability enhancement plan, as finally agreed upon. The Townships have retained an expert to review the proposed reliability enhancement plan that PECO submitted to the Townships, and PECO has committed to work with the Townships' experts to provide any additional information he may need to conduct his evaluation. Finally, PECO has committed to the Townships that PECO's performance in implementing the reliability enhancement plan agreed upon by PECO and the Township in the future is a matter that can be submitted to the Pennsylvania Public Utility Commission for oversight, review, and enforcement, as needed.

3. The Townships and PECO are satisfied that each of them is working in good faith to address the concerns raised in the Townships' interventions. Moreover, the Townships and PECO do not wish to cause any unnecessary delay in the Commission's evaluation of the PECO/Unicom merger. However, the reliability issues raised by the Townships in their interventions have not been fully resolved and may not be resolved for some months, as the parties reach and implement a final enhanced reliability plan. The Townships seek assurance in the instant proceeding that the alternative procedures that it has discussed with PECO will be available to them to resolve the aforementioned reliability issues.

4. To give effect to the above, PECO and the Townships have reached the following understanding. PECO and the Townships will continue to work toward a jointly acceptable written document that sets forth, among other things, a jointly acceptable enhanced reliability plan for improving reliability in the Townships (the "Township Settlement"). Once such a document has been completed, PECO and the Townships will jointly submit that document to the Commission in a newly constituted docket that deals solely with the Townships' reliability concerns. (For example, the parties may jointly file a Petition to open such a docket (pursuant to 52 Pa. Code § 5.41 et seq.), or the Townships may file a Complaint (pursuant to 52 Pa. Code § 5.21 et seq.). Once that proceeding is established, the parties will submit the Township Settlement to the Commission and request that the Commission take jurisdiction over and approve the Township Settlement as an enforceable commitment. PECO has no objection to the future proceeding incorporating any portion of the record from the instant PECO/Unicom merger proceeding which pertains to the Townships or the issues raised by the Townships.

5. If for some reason the parties are not able to reach settlement on some or all of the

reliability issues raised in their intervention, PECO agrees that the Townships have all rights provided to them under law, including the right to file a complaint with the Commission regarding those matters.

CONCLUSION

WHEREFORE, the Joint Petitioners, respectfully request that the Commission (1) approve this Joint Petition as part of the Settlement of PECO Energy's merger proceeding, (2) confirm that it will accept for filing, in a then-constituted docket dealing solely with the Townships' reliability concerns, such Township Settlement as the parties may reach, and (3) confirm that the Townships have the right to file a complaint to address reliability concerns, in the event that the are unable to reach a Township Settlement with PECO.

Respectfully submitted,

---

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Andrew D. H. Rau  
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For Wallace Township

For East Brandywine Township



---

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For PECO Energy Company

March 30, 2000

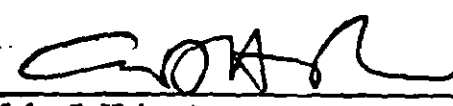
**CONCLUSION**

WHEREFORE, the Joint Petitioners, respectfully request that the Commission (1) approve this Joint Petition as part of the Settlement of PECO Energy's merger proceeding, (2) confirm that it will accept for filing, in a then-constituted docket dealing solely with the Townships' reliability concerns, such Township Settlement as the parties may reach, and (3) confirm that the Townships have the right to file a complaint to address reliability concerns, in the event that they are unable to reach a Township Settlement with PECO.

Respectfully submitted,

  
\_\_\_\_\_  
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For Wallace Township

  
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For East Brandywine Township

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For PECO Energy Company

March 30, 2000



## *How does PECO plan to enhance service quality and reliability?*

The East Brandywine and Wallace Townships reliability enhancement plan will improve the service quality and electrical reliability for our customers. Technical elements of this action plan include:

1. Install additional fusing to reduce exposure to a problem
  - ◆ *Manor Rd. South of Monacy Rd. – Status - Complete*
2. Reestablish line configuration due to bridge work near Cornog Inn
  - ◆ *Status - Complete*
3. Install various additional automatic sectionalizing devices (smart switches)
  - ◆ *Status - Through July*
4. Complete advanced tree trimming & removals
  - ◆ *Status - Through June*
5. Osborn Road - Install tree protection on existing conductors
  - New technology
    - ◆ *Status - Reviewing feasibility now*

6. Osborn Road - Install aerial cable if #5 above is not feasible
7. Install additional lightning protection on 34,000 volt system
  - ◆ *Status - Working through end of year*
8. Transfer block of load to adjacent circuit (near Route 340 and Bypass)
  - ◆ *Status - Complete*
9. Complete circuit patrols and complete associated maintenance
  - ◆ *Status - Ongoing (75% complete)*
10. Complete thermography patrols and complete associated repairs
  - ◆ *Status - Start 4/23 through 6/18*
11. Complete annual recloser inspection and repairs
  - ◆ *Status - Inspections Complete, repairs scheduled through May*
12. Complete various substation inspections and maintenance programs
  - ◆ *Status - Scheduled through year*
13. Revising storm philosophy regarding duration of interruptions
  - ◆ *Status - Ongoing*
14. At 12 locations, transfer electric facilities to new Bell Co. poles
  - ◆ *Scheduled based on reliability impact*

15. Replace hardware (insulators, crossarms, guywire, etc.) - 21 locations
  - ◆ *Status - 9 complete, 12 scheduled*
16. Replace 7 Westinghouse fuses (have been a chronic problem)
  - ◆ *Status - Scheduled through April*
17. Replace tree-damaged recloser - Norwood Rd.
  - ◆ *Status - Scheduled for week of 4/17*
18. Highspire Rd. west of Green Pond Ln. - Replace pole
  - ◆ *Status - Scheduled for 4/11*
19. Several locations - Replace temporary jumpers with permanent
  - ◆ *Status - Complete*
20. Pennypacker Rd. south of Milford - Remove slack from conductors
  - ◆ *Status - Complete*
21. Replace underground cable in Hedgerow Development
  - ◆ *Status - Working*
22. Replace underground cable at Glen Manor and Indian King Rd.
  - ◆ *Status - Working*
23. Inspect and repair all capacitors
  - ◆ *Status - Scheduled for April and May*

Certificate of Service

I hereby certify that I have this day served the foregoing document on the following in the matter of PECO Energy Company's Application For Approval of (1) A Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) The Merger of the Newly Formed Holding Company and Unicom Corporation by first class mail:

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Dated: April 5, 2000

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**ORIGINAL**

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April 6, 2000

Via Messenger Delivery

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Post Office Box 3265  
North Office Building, Room B20  
Harrisburg, PA 17105-3265

**DOCKETED**  
APR 07 2000

RECEIVED  
00 APR -6 PM 12:31  
P.A.P.U.C.  
SECRETARY'S BUREAU

Re: Application of PECO Energy Company, Pursuant to Chapters 11, 19, 21, 22 and 28 of the Public Utility Code, for Approval of (1) a Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) the Merger of the Newly Formed Holding Company and Unicom Corporation; Application Docket No. A-110550F0147

Dear Mr. McNulty:

The National Railroad Passenger Corporation ("Amtrak") is a signatory to the Joint Petition for Settlement that was filed with the Pennsylvania Public Utility Commission (the "Commission") on Friday, March 24, 2000. This proposed settlement between PECO Energy Company ("PECO") and all or nearly all of the intervenors provides substantial benefits for PECO's customers, including Amtrak. Amtrak therefore supports the settlement and urges the Commission to approve it as soon as possible.

Sincerely,



Marc D. Machlin

**DOCUMENT  
FOLDER**

cc: The Honorable Charles E. Rainey, Jr.  
All Parties of Record

47

HANGLEY ARONCHICK SEGAL & PUDLIN

ATTORNEYS AT LAW • A PROFESSIONAL CORPORATION

ORIGINAL

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DAVID B. PUDLIN  
ALAN KLEIN  
MYRON A. BLOOM  
JOSEPH A. DWORETZKY  
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April 7, 2000

Of Counsel  
ANDREW SISLO  
JOYCE COLLIER BRONG

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FOLDER

Secretary James McNulty  
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Harrisburg, PA 17105-3265

DOCKETED

APR 12 2000

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SECRETARY'S BUREAU

00 APR 10 AM 8:48

Re: **Application of PECO Energy**  
**Docket No. A-110550F0147**

Dear Secretary McNulty:

I submit this letter to the Commission in support of the Joint Petition for Settlement in the above-captioned proceeding as counsel for the Mid-Atlantic Power Supply Association ("MAPSA"). MAPSA is a trade association whose membership includes Electric Generation Suppliers ("EGSs") licensed to operate in the Commonwealth of Pennsylvania. MAPSA's members sell retail electricity to numerous businesses and residential customers in PECO's service territory.

MAPSA intervened in this proceeding in order to ensure that the proposed restructuring and merger result in a benefit to competition in the market for retail electrical services. MAPSA engaged in extensive negotiations with PECO and the other parties to this proceeding, ultimately resulting in the Joint Petition for Settlement. MAPSA hereby expresses its support for the Settlement. In addition, because of MAPSA's particular interest in the competitive market, I will briefly comment on the particular provisions of the settlement relating to electric competition.

45

EEF

Secretary James McNulty  
April 7, 2000  
Page 2

Paragraph 45 of the Settlement (“Access to Install Capacity (‘ICAP’)”) provides an initial step towards remedying the detrimental impact of the installed capacity requirement on electric competition. PJM currently requires that all load serving entities contract for a specified amount of capacity, in addition to the firm energy the entity must purchase. This requirement, coupled with an ICAP market that is subject to the exercise of market power, has inhibited the development of a robust market for retail electrical services in Pennsylvania. Accordingly, one of MAPSA’s goals in this proceeding was to ensure that the proposed restructuring and merger provides some remedy for this problem. While Paragraph 45 does not solve the problem, it represents a first step towards such a remedy, by providing EGSs an option to purchase a guaranteed quantity of ICAP at a fixed price.

Paragraph 46 of the Joint Petition (“Release of Customer Historical Billing Data”) will also encourage competition in the retail electrical services market. Section (a) ensures that, in addition to the information currently provided, EGSs will receive twelve individual months of usage and twelve individual months of billing demand for all customers who have not restricted the release of this information. In addition, the customer lists will be updated quarterly, and will be provided until at least 2004. As a result, EGSs and customers will have access to substantially more and more accurate information, and will therefore be better able to participate in the market. Furthermore, section (b) ensures that, for individual, customer-authorized requests for account information, PECO will respond in a timely manner. MAPSA believes Paragraph 46 and the accompanying changes to PECO’s Supplier Coordination Tariff will provide a model for the development of competition throughout Pennsylvania and the nation.

Paragraph 48 (“Customer Load Profile Revisions”) is another step toward the improvement of the competitive market. EGSs are required to use EDC-supplied load profiles for their non-interval metered customers, even when such load profiles are known to be inaccurate. As a result, EGSs cannot necessarily schedule the correct amount of energy for the customers’ energy requirements, and are forced to rely on the hourly energy market to balance their supply against their customers’ requirements. This increases the risks and costs that EGSs must bear in serving retail customers; these costs are ultimately born by the customers themselves. Paragraph 48 attempts to remedy this situation, by providing a mechanism whereby EGSs will be able to obtain revised, and hopefully more accurate, prospective customer load profiles.

Paragraph 49 (“EDI”) ensures that PECO will comply with all of its electronic data interchange (“EDI”) standards and protocols. In the past, EGSs have had some difficulty in maneuvering through the EDI system as implemented and used by PECO. Paragraph 49 embodies a commitment by PECO to comply with all of its EDI obligations, and provides a mechanism for the resolution of any problems that may arise.

Secretary James McNulty  
April 7, 2000  
Page 3

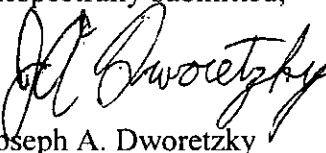
Paragraph 50 ("Dispute Resolution"), and the accompanying Appendix E, provide an effective mechanism for the resolution of any problems that may arise with PECO relating to electric competition. It creates a speedy dispute resolution mechanism involving mediation and/or arbitration before an ALJ, along with faster submission of any disputes that cannot be resolved through this mechanism to the Commission. Likewise, Paragraph 55 of the Joint Petition ("Information Reporting") will also protect the nascent retail electrical services market by enabling competitive EGSs to ensure that PECO is complying with its various code-of-conduct obligations.

Paragraph 51 ("PLR Marketing") is an additional measure to promote competition in the market for retail electrical services. PECO has agreed not to market, advertise, or promote its Provider of Last Resort ("PLR") service. This measure will enhance the development of a robust market for retail electrical services.

Paragraph 52 of the Joint Petition (Competitive Default Service) revises certain features of the Competitive Default Service (CDS) auction for the initial year of CDS. In particular, the settlement provides that for the initial year, 2001, the service will include only electric generation supply and capacity. This change may make it easier for EGSs to participate in the initial year of CDS. MAPSA reserves the right to comment on the RFP when issued by PECO and on the results of the CDS process when submitted to the Commission for approval, particularly with regard to the importance of CDS in facilitating the development of the competitive retail market in Pennsylvania consistent with the Commission's policies.

As set forth above, MAPSA believes that the Joint Petition for Settlement represents appropriate modifications to the proposed restructuring and merger that are in the public interest, particularly with respect to the promotion of electric competition. The provisions of the Settlement concerning the retail market will promote competition within PECO's service area. In addition, certain of them will provide a model for the market throughout Pennsylvania and the nation. For these reasons, MAPSA endorses the Joint Petition for Settlement and requests that the Commission approve the Settlement expeditiously.

Respectfully submitted,

  
Joseph A. Dworetzky

JAD/tg

cc: The Hon. Charles E. Rainey, Jr.  
Service List

Secretary James McNulty  
April 7, 2000  
Page 4

bc: Suzanne Daycock  
Matthew A. Hamermesh, Esquire

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

In re: Application of PECO Energy Company, :  
Pursuant to Chapters 11, 19, 21, 22 and 28 of :  
the Public Utility Code, for Approval of (1) a :  
Plan of Corporate Restructuring, Including the :  
Creation of a Holding Company, and (2) the : Application DocRet  
Merger of the Newly Formed Holding : No. A-110550F0147  
Company and Unicom Corporation :

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56  
48

CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2000, I served a true and correct copy of the foregoing letter in support of the Joint Petition for Settlement on the following active participants and parties of record by first-class mail, postage prepaid:

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00 APR 10 AM 8:48  
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A handwritten signature in black ink, appearing to read 'M. Hamermesh', written over a horizontal line.

Matthew A. Hamermesh

The Consumer Advisory Council

The Pennsylvania Public Utility Commission

ORIGINAL

DOCUMENT  
FOLDER

April 10, 2000

Commonwealth of Pennsylvania  
Public Utility Commission  
P.O. Box 3265  
Harrisburg PA 17105

DOCKETED

APR 14 2000

PA.P.U.C.  
SECRETARY'S BUREAU

00 APR 12 PM 3:02

RECEIVED

Attention: Secretary McNulty

Re: Application of Peco Energy Company, Pursuant to Chapters 19, 21, 22 and 28 of the Public Utility Code, for Approval of (1) a Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) the Merger of the Newly Formed Holding Company and Unicom Corporation  
A-110550F0147

Dear Mr. McNulty:

The Consumer Advisory Council wishes to submit the attached statement for the file for the above referenced proceeding.

Thank you for your attention to this matter.

Yours Truly.

Katherine Newell, Esq.  
Chair

cc: Administrative Law Judge Charles E. Rainey, Jr.

47

The Consumer Advisory Council

The Pennsylvania Public Utility Commission

ORIGINAL

DOCUMENT  
FOLDER

DOCKETED

APR 14 2000

**Statement on the Peco Energy – Unicom Merger Proposal  
A-110550F0147**

The PUC Consumer Advisory Council met in Harrisburg on March 28, 2000 and, by motion, agreed to submit this statement to the Commission re: the Peco Energy proposal to merge with Unicom Corporation.

The Council has discussed the merger proposal and recommends that the Commission consider the following in determining whether the PECO Energy proposal to merge with Unicom is in the public interest.

- **Savings Produced by the Merger:** Peco Energy, in their filing, claims that this merger will produce cost savings. The Council believes that consumers should share and receive the benefit of these savings.
- **Service Reliability:** The Council recommends that mechanisms be implemented to ensure that Peco Energy service reliability is sufficient and does not deteriorate as the result of this merger.
- **Impact on the Competitive Market:** The Council recommends mechanisms to ensure that this merger does not harm the competitive electric generation market.
- **Customer Service:** Peco Energy customer service functions (call center, dispute handling, service connections and reconnections, etc.) should be sufficient and should not be adversely affected as the result of this merger.
- **Community Involvement:** The Council is concerned that the merger may result in less community involvement by Peco Energy (charitable aid, economic development assistance, etc.). Peco Energy's level of community involvement and contributions should not be adversely affected as a result of the merger. The Commission should explore mechanisms, such as the endowment of a trust fund, that could be created to avoid such deterioration. The Council is also concerned with the impact on employment and the retention of jobs in Pennsylvania.

- **Assistance and Conservation Programs:** Universal service and energy conservation programs should be provided in a manner which appropriately supports the community and should not be adversely affected by the merger. The needs of low-income customers and those with medical necessities, who are unable to meet the CAP II payment schedule, should be addressed expeditiously through a safety-net structure adequate to ensure affordable payments and continued service.

The Council appreciates the opportunity to submit a statement on this important matter and thanks the PUC for its consideration.



CITY OF PHILADELPHIA  
CITY COUNCIL

DAVID COHEN  
Room 588 City Hall  
Philadelphia, Pennsylvania 19107  
686-3446-3447  
Fax No. 686-1927  
COUNCILMAN-AT-LARGE

April 12, 2000

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COMMITTEES  
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Law & Government  
Vice Chairman  
Streets and Services  
Member  
Rules  
Labor and Civil Service  
Transportation and Public Utilities  
Public Safety  
Education  
Ethics

APR 12 2000

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

By Federal Express

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Room 206  
North Office Building  
Harrisburg, Pennsylvania 17120

ORIGINAL

**Re: Application of PECO Energy, For Approval of (1) a Plan of Corporate Restructuring including the Creation of a Holding Company and (2) the Merger of the Newly formed Holding Company and Unicom Corporation**

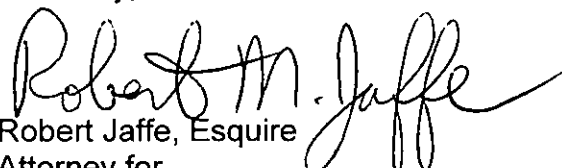
**Docket # A110550F0147**

Dear Secretary McNulty:

Please find enclosed an original and three (3) copies of Comments and Objections to the proposed Joint Petition for Settlement with a request to continue litigation in the above referenced matter.

Copies are served upon all parties of record as indicated on the attached Certificate of Service.

Sincerely,

  
Robert Jaffe, Esquire  
Attorney for  
Councilman David Cohen

cc: Service List  
Honorable Charles Rainey

DOCUMENT  
FOLDER

SRB

58

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

APR 12 2000

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Application of PECO Energy Company, :  
Pursuant to Chapters 11, 19, 21, 22 :  
and 28 of the Public Utility Code for :  
Approval of (1) a Plan for Corporate :  
Restructuring, Including the Creation :  
of a Holding Company and (2) the :  
Merger of the Newly Formed Holding :  
Company and Unicom Corporation :

Docket No. A-110550F0147

ORIGINAL

COMMENTS AND OBJECTIONS OF PHILADELPHIA CITY COUNCILMAN  
DAVID COHEN AS TO THE PROPOSED SETTLEMENT AGREEMENT

Councilman David Cohen files the following objections to the Proposed Settlement Agreement of the Joint Petitioners in the above matter and requests that said objections be fully litigated.

I. INTRODUCTION

Although there are many good aspects to the Settlement Agreement, the merger, raises many serious issues that are not adequately addressed.

In the first instance, the merger would create a much larger entity with the financial wherewithal to fulfill a stated intention to "buy-up" a large number of existing nuclear power plants -- in addition to the many PECO and UNICOM own already -- to become the nation's premier operator of nuclear plants (with the attendant economic, reliability and safety issues which may weigh heavily on consumers in PECO/UNICOM service territories). **The Settlement Agreement should include a commitment by PECO not to extend the useful lives of its current and future mix of nuclear facilities beyond the roughly 30 year period during which they were originally intended to operate.**

**Further, PECO should commit to early retirement of any nuclear facility found to be unsafe and should commit to restrictions in its nuclear plant acquisitions.** My interest is in promoting renewable energy resources and safeguarding consumers in this area which has been promised more efficient technologies with the advent of deregulation -- not the prospect of buying used nuclear facilities with all of their attendant risks.

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APR 13 2000

**In addition, consumers should not be asked to pay any more for decommissioning expenses than they already are.** I am concerned that nuclear decommissioning costs will be much higher than reflected in current rates and consumers should not be expected to pay up to 95% of additional costs (after an initial contribution of \$50 Million by PECO) as the Settlement Agreement would permit.

The proposed merger also raises the prospect of the loss of additional jobs in the local economy. The Settlement Agreement only commits PECO to keep in their employ 1,250 workers through 2003. It also only commits PECO to maintain its Philadelphia corporate headquarters for distribution utility functions through 2005. **I believe that the Settlement Agreement short-changes Philadelphia in terms of maintaining jobs in our local economy.** It is wholly unacceptable that jobs should be lost here when residents will need the same level of service quality they have today and will need local workers to maintain these functions which will not disappear after the proposed merger.

**In addition, the Agreement provides inadequate rate relief to Philadelphia area customers.** The rate relief proposed in the Joint Petition should be at least doubled in light of the enormous profits likely to be recovered by PECO as a result of this merger. Furthermore, PECO can well afford to substantially enlarge the benefits it has promised respecting a wide variety of other concerns dealt with in the Settlement Agreement, as well as take several steps in areas not covered in the Joint Petition to assure that its customers are fully informed of their electric choice options, are able to protect themselves with expert help in future PECO-related matters that come before this body, and obtain enhanced economic opportunities as residents of the City.

## **II. CONSUMERS SHOULD NOT BE FURTHER BURDENED WITH THE COSTS OF NUCLEAR FACILITIES**

Section B of the Settlement Agreement focuses on various issues related to nuclear power. I have misgivings with regard to several of the paragraphs in this Section which are addressed below; and one over-riding concern (that I will address first) that escapes the Joint Petitioners altogether:

The Settlement Agreement should include a commitment by PECO to track health measures sensitive to radioactivity (cancer, infant deaths, etc.) and share the results with the public. **Since the first electrical-producing nuclear reactor began in 1957, no operating utility has voluntarily performed a study tracking potential health effects of radioactive exposures to local residents.** Federal regulators and state/county health departments have also failed to examine this critical issue. The belief of all these agencies appears to be that if emission levels fall below national standards, there will be no adverse health effects. Even the partial meltdown at Three Mile Island resulted in no

official health studies. **If there is to be a merger of the order of PECO and UNICOM, consumers should, at a minimum, extract a guarantee that there will be local health studies examining measures sensitive to radioactivity and comparing them to radioactive releases.**

*Paragraph 12.* In this paragraph, PECO agrees that it will not seek to recover through Pennsylvania retail distribution rates, the costs of ownership and operation of any nuclear generating plants (or any fractional interests in such capacity) that it did not hold on December 31, 1999. This provision seems to offer nothing new to ratepayers. However, the provisions in this paragraph do permit PECO to recover unlimited amounts of nuclear plant costs through market based purchases of nuclear power, as long as they do not conflict with the distribution rate cap. **It is in the consumer interest to reduce commitments to nuclear facilities and their attendant costs which will likely further burden consumers unless commitments are made now to diminish our reliance on old technologies so that we can realize all of the advantages of a “renewable future.”** The amount of nuclear power serving PECO's generation customers should be capped and, in fact, should be phased out.

*Paragraph 13.* This paragraph proposes a “sharing” of decommissioning expenses above the baseline of roughly \$29 Million. Per the Settlement Agreement, PECO would pay the first \$50 Million of the increase in total decommissioning cost obligations. This is a clear short-coming in the Settlement Agreement. **Consumers should not have to pay any of these additional costs.**

*Paragraph 15.* This paragraph applies to the unlikely situation whereby the existing amount of decommissioning funds being collected for PECO's existing nuclear units prove to exceed the level of decommissioning funds required. The sharing provision of this paragraph is designed to mirror the sharing provision under paragraph 13 of this Section. No sharing of decommissioning funds should be allowed, however. Pennsylvania's restructuring law does not require it. As such, this payment would become an additional burden on ratepayers for stranded costs that never actually existed.

*Paragraph 16.* Per the discussion concerning paragraph 12 above, the amount of nuclear power that PECO purchases as a distribution utility should be reduced and, ideally, phased-out, rather than allowed to increase, as would be consistent with this paragraph. **PECO should commit to limit its use of nuclear power at the retail level using 1999 as a benchmark.**

### **III. PHILADELPHIA SHOULD NOT BE SHORT-CHANGED ON JOBS FOR THE LOCAL ECONOMY**

Section H of the Settlement Agreement deals with issues affecting PECO's continuing commitment to the Philadelphia region. Per my comments below, I am concerned PECO's commitment as memorialized in the Settlement Agreement be significantly strengthened, particularly with regard to maintaining jobs in Philadelphia.

*Paragraph 64.* This paragraph only commits PECO to employ no less than 1,250 employees at 2301 Market Street through 2003; and to maintain its corporate headquarters for its distribution business in Philadelphia through 2005. Certainly during the transition to more competition customers may need even more assistance from PECO than they are currently getting. For example, customers are almost certain to have more and new kinds of questions about their bills, given the unbundling of services, as well as a need to learn how to obtain their generation from an alternative generation provider, if they so desire. In addition, the Agreement commits PECO to perform at higher than current levels with respect to system reliability and customer service. Thus, it is likely that more, not fewer, employees will be needed in the Philadelphia area over the foreseeable future. Thus, while we all want PECO to operate as efficiently as possible, the Company should commit to maintaining at least its current 1,440 staff at 2301 Market Street for as long as it owns the distribution system.

*Paragraph 66.* This paragraph only commits PECO to maintain its current levels of charitable and civic giving and economic and community development through 2003. It is hardly a commitment at all. It appears to be notice that PECO's commitments in the future will be elsewhere, even if post merger profits are higher. I believe PECO should commit to a long-term charitable and civic role in Philadelphia as has historically been the case. This commitment should be tied to its profitability and should increase (not decrease in real terms) over time as its profits rise.

#### **IV. THE SETTLEMENT'S RATE PROVISIONS PROVIDE ONLY MARGINAL BENEFITS TO CONSUMERS AND SHOULD BE SUBSTANTIALLY IMPROVED.**

The distribution rate cap provided in paragraph 11 should be lengthened at least five years, and the dollar rate reductions offered in paragraph 10 through 2005 should be at least doubled, and then maintained at the lowest level established in the year 2005 for another five years. PECO has the highest rates in the Commonwealth, and one of the highest rate structures in the nation. In view of the great sacrifices Philadelphia-area consumers have been required to make over the years to support this rate structure, PECO should now be asked to share with those consumers the high profits it will recover through the proposed merger. I certainly commend the savings already negotiated by the public interest groups. However, those savings are based upon PECO's estimated "shared-cost" savings. The actual dollar benefit of the proposed merger is far greater to PECO through both revenue growth and stock appreciation. Therefore, in the absence of PECO's willingness to

substantially increase its rate reductions, the Commission should withhold its approval of the petition pending a determination of the full extent of the profit outlook that will result from this merger.

Furthermore, PECO's rates are at their present high level only because of the indulgence of this Commission in allowing the company to recover payment from current customers for the unwise decisions PECO made decades ago to heavily invest in nuclear energy. The Commission's decision was based, in part, on the likelihood that a new era of robust competition would enable consumers to find substantially cheaper alternatives to PECO's high rates, notwithstanding PECO's ability to recover its "stranded costs." With experience, it is now becoming clear that this promise has not become widely realized. The joint petition does include provisions which will hopefully make that potential more of a reality. Those provisions by no means guarantee success, however, and the Commission should, as a condition to the merger, reserve to itself the right to further reduce PECO's distribution rates in the absence of real price competition emerging over the next several years.

**V. A VARIETY OF OTHER PROVISIONS IN THE AGREEMENT SHOULD BE IMPROVED, AND NEW FEATURES ADDED**

As noted in the Introduction to my comments, I believe that PECO can do more in a variety of other areas. Within those areas covered in some way by the Settlement Agreement, PECO can and should:

1. "Green-e Certify fifteen per cent of the electricity PECO Energy sells to the City of Philadelphia." This is in keeping with Governor Ridge's pledge to get 5 % of the State of Pennsylvania's electricity from "Green-e Certified" generators. PECO has generation now, which, only for lack of certification, could be "Green-e." The City of Philadelphia should be able to purchase this electricity at the same rate as the standard electricity it buys.

2. be required to have ongoing educational materials contained within its customer bills or on bill stuffers, concerning the Matching Energy Assistance Fund (MEAF). This educational material should require PECO to incorporate input from the Universal Energy Service Fund staff. This program can only work successfully with an ongoing educational program, and renewal and reminder program. It is too important to let fade away and it is as much a benefit to PECO Energy as it is to the low income rate payers, since it preserves their customer base.

3. PECO Energy should immediately increase the number of kilowatt hours ("kwh's") per month from 500 to 600 that are billed at the Customer Assistance

Program (CAP) rates. 500 kilowatt hours is too far below the average PECO Energy residential rate payer average usage of 680 kilowatt hours. 600 kwh's allows for a much more realistic customer consumption allowance and thus far better meets the real need.

4. PECO Energy should regularly (four times each year) educate its rate payers about the Customer Assistance Program (CAP) and about the utility Emergency Services Fund ("UESF"). This should be done through notices contained within its customer bills, on bill stuffers, and through public service announcements (PSA's), at a minimum. Programs which contain economic eligibility guidelines are always vastly underused and require constant education and notification to keep up levels of participation.

5. The Utility Emergency Services Fund assists the special needs customer group, whose income is below 50% of the federal poverty guideline, for whom the Customer Assistance Program ("CAP") rate of 50% discount still leaves electricity unaffordable, given all the other bills families have. PECO Energy should increase its donation to the UESF from \$1.3 million each year for three years to \$4 million annually indefinitely. This an extremely small charitable request given that PECO Energy is not even increasing its annual Philadelphia area donations to keep pace with inflation.

The UESF channels about 70% of its funds to the special needs group. The remaining 30% goes to families whose incomes are between 50% and 150% of the federal poverty guidelines. The suggested increase is reported by the Fund to be the amount necessary to overcome the deficiencies in the CAP program's ability to serve PECO's neediest customers.

Finally, PECO should take a variety of steps to share the benefits of this merger in areas of concern that the company can well afford to address, but which are not addressed in any way in the Settlement Petition:


1. The Company should be asked to explain why it has chosen Chicago as its overall corporate headquarters, and how this is in the economic interests of the region. If not satisfactorily explained, the Commission should explore whether some additional portions of the corporate structure should be required to locate here.

2. PECO should, through an endowment or otherwise, provide payment for the salaries of at least two attorney positions at the Community Legal Services Utility Unit and provide to that Unit an amount up to at least \$150,000 annually to hire experts, as needed, for research and testimony in PECO-related regulatory matters.

3. PECO should be required to offer a special tariff providing a 20% discount to small start-up technology businesses which stay in Philadelphia for at least five years. Eligible companies not meeting the five year requirement would be required to return the discount to PECO upon their departure from the City. The discount should not be collectible from the company's customers, since PECO will ultimately more than recover its costs through additions to its customer base, and because PECO will otherwise be able to easily afford the costs of the discount from the value received through the merger.

#### IV. CONCLUSION

The Settlement Agreement should be improved by addressing all of the above concerns. Philadelphia consumers need for PECO to demonstrate a stronger commitment to renewable energy and Philadelphia jobs. The promise of deregulation (which must be enhanced by the Settlement Agreement) should yield far greater savings to consumers than have been realized to date and should logically lead to innovation and new technologies. For these reasons, I submit the enclosed comments and objections and demand full litigation of this matter.

  
Honorable David Cohen  
Councilman-at-Large

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Application of PECO Energy Company :  
Pursuant to Chapters 11, 19, 21, 22 and 28 :  
of the Public Utility Code For Approval :  
of (1) a Plan of Corporate Restructuring, : Docket # A110550F0147  
including the Creation of a Holding :  
Company and (2) the Merger of the Newly :  
Formed Holding Company and :  
Unicom Corporation :**

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**Certificate of Service**

I hereby certify that I have this day had served a true and correct copy of Comments and Objections to the proposed Joint Petition for Settlement Agreement with a request to continue litigation, on the following active participants and parties of record by first class mail, postage paid.

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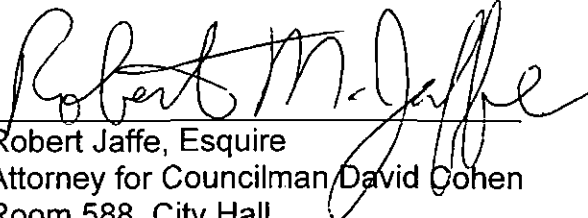
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Dated: 4-12-00

ORIGINAL

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DOCUMENT  
FOLDER

April 12, 2000

RECEIVED

APR 12 2000

VIA FEDERAL EXPRESS

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
North Office Building, Room B-18  
Commonwealth Avenue and North Street  
Harrisburg, Pennsylvania 17105-3265

RE: Application of PECO Energy Company, Pursuant to Chapters 11, 19, 21, 22 and 28 of the Public Utility Code, for Approval of (1) A Plan of Corporate Restructuring, including the creation of a Holding Company and (2) the Merger of the Newly Formed Holding Company and Unicom Corporation, Docket No. A-110550 F0147

Dear Secretary McNulty:

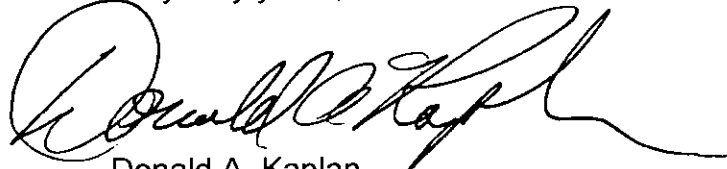
Pursuant to Administrative Law Judge Charles E. Rainey, Jr.'s March 28, 2000 Order Revising Procedural Schedule in the above-captioned case, enclosed for filing are an original and three (3) copies of the Objections of PPL Electric Utilities Corporation to the Joint Petition for Settlement.

Pursuant to 52 Pa. Code § 1.11, the enclosed document is to be deemed filed on April 12, 2000, which is the date it was deposited with an overnight express delivery service as shown on the delivery receipt attached to the mailing envelope.

In addition, please date and time-stamp the enclosed extra copies of this filing and return them to me in the envelope provided.

If you have any questions regarding the enclosed, please call.

Very truly yours,



Donald A. Kaplan

Enclosures

cc: John M. Quain, Chairman  
Nora Mead Brownell, Commissioner  
Aaron Wilson, Jr., Commissioner  
Terrance J. Fitzpatrick, Commissioner  
Robert K. Bloom, Commissioner  
Administrative Law Judge Charles E. Rainey, Jr.  
All parties to this proceeding and to PECO's Electric Restructuring Proceeding  
(per the Certificate of Service)

**ORIGINAL**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

APR 12 2000

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Application of PECO Energy Company, Pursuant :  
to Chapters 11, 19, 21, 22 and 28 of the Public :  
Utility Code, for Approval of (1) A Plan of :  
Corporate Restructuring, including the creation of :  
a Holding Company and (2) The Merger of the :  
Newly Formed Holding Company and Unicom :  
Corporation :

Docket No. A-110550 F0147

**ORIGINAL**

**DOCUMENT  
FOLDER**

**OBJECTIONS OF PPL ELECTRIC UTILITIES CORPORATION  
TO THE JOINT PETITION FOR SETTLEMENT**

**DOCKETED**

APR 13 2000

Pursuant to the Order Revising Procedural Schedule dated March 28, 2000 of Administrative Law Judge Charles E. Rainey, Jr. ("ALJ Rainey"), PPL Electric Utilities Corporation (formerly PP&L, Inc.) ("PPL"), a party to the above captioned case,<sup>1</sup> hereby submits its Objections to the Joint Petition for Settlement ("Joint Petition") submitted by PECO Energy Company ("PECO" or the "Company") along with various other Intervenors in the above-captioned case (all such parties collectively referred to as the "Joint Petitioners")<sup>2</sup> on March 23, 2000, as amended on April 3, 2000 and April 5, 2000.

<sup>1</sup> PPL became a formal party to the case pursuant to the Prehearing Order dated January 28, 2000 in which ALJ Rainey granted PPL's Motion to Intervene. See Jan. 28, 2000 Prehearing Order of ALJ Rainey, at 2.

<sup>2</sup> The other signatories to the Joint Petition for Settlement are: the Office of Trial Staff ("OTS"); the Office of Consumer Advocate ("OCA"); the Office of Small Business Advocate ("OSBA"); Citizens of Pennsylvania's Future and the ten named individuals that joined in its Protest and Petition to Intervene (collectively, "PennFuture"); Senator Vincent J. Fumo; the City of Philadelphia; Clean Air Council and the three named individuals that joined in its Protest and Petition to Intervene ("CAC"); the Consumers Education and Protective Association *et al.* ("CEPA") (which includes the Association of Community Organizations for

## I. SUMMARY OF ARGUMENT

1. PPL urges the Commission to reject the Joint Petition on the grounds that the Joint Petitioners have failed to demonstrate that it is consistent with applicable law, supported by substantial evidence in the record, and in the public interest. In fact, the only evidence submitted in this proceeding was in support of the original Application of PECO Energy Company for approval of its proposed restructuring and merger with Unicom Corporation ("Unicom") (hereinafter, "Merger Application"), which the Joint Petition substantially supplements and modifies. A number of provisions of the Joint Petition have no obvious nexus to the transactions described in the Merger Application and clearly require further explanation and justification before the Commission can approve them. No additional legal and evidentiary support, however, was submitted with the Joint Petition to demonstrate that it is lawful and in the public interest. In the absence of such support, and in the face of opposition to the Joint Petition, the Commission has no choice but to reject the Joint Petition.

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Reform Now ("ACORN") and the Tenants' Action Group ("TAG"); Enron Energy Services, Inc. ("Enron"); the Philadelphia Industrial Energy Users Group ("PAIEUG"); the Industrial Energy Consumers of Pennsylvania ("IECPA"); Conectiv Energy ("Conectiv"); Eric Joseph Epstein; Patricia McNamara; the National Railroad Passenger Corporation ("Amtrak"); and the Mid-Atlantic Power Supply Association ("MAPSA"). NewEnergy East, LLC ("NewEnergy") subsequently agreed to sign the Joint Petition. See April 3, 2000 Filing of PECO (containing signature page of NewEnergy). Also in PECO's April 3, 2000 filing was a Joint Petition regarding Issues Raised by Wallace Township and East Brandywine Township that independently addressed the concerns of those parties. See *id.* Shell Energy Services Co. L.L.C. ("Shell") submitted a letter to the Commission on April 3, 2000 stating that it takes no position regarding the settlement proposal, and was not a signatory to the Joint Petition. See Apr. 3, 2000 Filing of Shell. In addition, Allegheny Energy, Inc. and Allegheny Energy Supply (collectively, "Allegheny") submitted a letter to the Commission on March 27, 2000 stating that they would not oppose the Joint Petition but also would not become signatories. See Mar. 27, 2000 Filing of Allegheny.

2. PPL also requests that any approval of the Joint Petition be conditioned on the agreement of the parties that no signatory to the Joint Petition will propose that a provision of the Joint Petition be adopted in any other proceeding based on the fact that such provision was included in the Joint Petition, and that no party to the Joint Petition will seek to reopen another Pennsylvania public utility's settlement of its retail restructuring proceeding under the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. § 2801, *et seq.* (hereinafter "Electric Competition Act") to modify any provision of such settlement in order to make it consistent with a provision of the Joint Petition. Given the increased reliance of the Commission on settlements to resolve important and complex litigation, and the use by various interest and advocacy groups of settlement provisions in subsequent proceedings, such a condition is necessary to protect the rights of other Pennsylvania utilities.

3. PPL notes that ALJ Rainey has required parties to state in their Objections whether they desire to continue to litigate the case. March 28, 2000 Order Revising Procedural Schedule of ALJ Rainey, at 2.<sup>3</sup> Accordingly, PPL requests the continuation of the litigation with respect to the legality and the necessity for evidentiary support of the provisions of the contested Joint Petition. PECO's Merger Application as filed is no longer before the Commission in its

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<sup>3</sup> See also 52 Pa. Code § 69.406 ("Parties objecting to a proposed settlement or stipulation are encouraged to set forth facts, affidavits, argument and relevant legal analysis and, if desired, a specific request to continue to litigate. A request to litigate should be supported by appropriate information and legal argument concerning the implication of denial of a continued opportunity to litigate the matter.").

original form, but has been effectively and substantially amended by the Joint Petition. PPL sets forth below the analysis and legal argument supporting its opposition to the Joint Petition, as well as the implications for PPL and other Pennsylvania utilities if the Commission approves of the Joint Petition.

## II. BACKGROUND

### A. PECO's Application for Approval of the Proposed Restructuring and Merger

4. On November 22, 1999, PECO filed its Merger Application pursuant to Chapters 11, 19, 21, 22 and 28 of the Public Utility Code ("Code"), for approval of the transactions associated with (1) a plan of corporate restructuring, including the formation of a holding company, and (2) the merger of the newly formed holding company and Unicom.

5. Under Chapter 11 of the Code, PECO seeks a certificate of public convenience pursuant to Section 1102(a)(3), 66 Pa. C.S. § 1102(a)(3), to "acquire from, or transfer to, . . . the title to, or the possession or use of, any tangible or intangible property used or useful in the public service." Merger Application at 8-9. PECO also seeks such a certificate pursuant to Section 1103(a), which provides that such a certificate shall be issued only upon a showing that its granting is "necessary or proper for the service, accommodation, convenience, or safety to the public." Merger Application at 9. PECO asserts that the share exchange in the restructuring between PECO and NewCo., by effecting a "change in control," will be a transfer under Section 1102(a)(3). Merger Application at 9-10. PECO submits that its Merger Application demonstrates that the proposed restructuring is in the public

interest and therefore a certificate of public convenience should be issued.<sup>4</sup> Merger Application at 10.

6. PECO also requests that the Commission take the ministerial step to issue any necessary certificates of public convenience pursuant to Section 1102 to transfer generating assets and liabilities in accordance with the Commission's May 14, 1998 Order approving PECO's Restructuring Settlement (hereinafter "1998 Restructuring Settlement").<sup>5</sup> Merger Application at 10-11.

7. In addition, PECO seeks approval for the transfer by PECO to NewCo., ServeCo. and VenturesCo. of various assets that will be utilized by them in furnishing "miscellaneous business services (e.g., accounting, legal, human resources, finance, information technology)." Merger Application at 11. PECO requests that the Commission pre-approve the transfer, with the understanding that PECO will file with the Commission an itemized list of such assets and liabilities once the transfers have been completed. Merger Application at 11.

8. PECO requests that the Commission issue any necessary approvals pursuant to Section 1901 of the Code, 66 Pa. C.S. § 1901, to the extent that the assignment of debt obligations as part of the transfer of generating assets and liabilities triggers the requirements of Section 1901. Merger Application at 12.

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<sup>4</sup> To the extent necessary, PECO also seeks approval for the concomitant change in control over PECO's 50% interest in PECO Hyperion Telecommunications. See Merger Application at 10, n.10.

<sup>5</sup> See *Re PECO Energy Co.*, R-00973953, P-00971265, 186 PUR 4<sup>th</sup> 105, 1998 WL 420175 (Pa. PUC May 14, 1998).

9. PECO requests Commission approval pursuant to Section 2102(b), 66 Pa. C.S. § 2102(b), of several contracts among affiliated interests resulting from the proposed restructuring and merger. Merger Application at 12. Specifically, PECO seeks approval of a form of affiliated services contract to control the provision of non-power goods and services from ServeCo. to all entities in the corporate family, including PECO. Merger Application at 12-13. In addition, PECO seeks approval of a contract in which entities within the corporate group provide or receive non-power goods and services from PECO, including transactions involving PECO and any affiliated electric generation supplier. Merger Application at 13. PECO also submits a wholesale purchased power agreement between PECO and GenCo., and acknowledges its obligations pursuant to the 1998 Restructuring Settlement to continue to abide by the comparable treatment/non-discrimination features set forth in the Competitive Safeguards (Appendix G) and the Interim Code of Conduct (Appendix H) attached to the 1998 Restructuring Settlement. Merger Application at 13-14.

10. PECO also seeks the requisite approvals under both Chapters 22 (Natural Gas Choice and Competition Act ("Gas Competition Act")), 66 Pa. C.S. § 2201, et seq., and 28 (Electric Competition Act), 66 Pa. C.S. § 2801, et seq., which require the Commission to consider whether a proposed merger, consolidation, acquisition or disposition "is likely to result in anticompetitive or discriminatory conduct, including the unlawful exercise of market power, which will prevent retail [gas] [electricity] customers in this Commonwealth from obtaining the benefits of a properly functioning and workable competitive retail [natural gas] [electricity]

market.” 66 Pa. C.S. §§ 2210(A)(1) (Gas Competition Act), 2811(E) (Electric Competition Act).

11. Finally, PECO states that while it does not plan to seek Exempt Wholesale Generator (“EWG”) status for GenCo. from the Federal Energy Regulatory Commission (“FERC”) at this time, that situation may change in the future, and therefore it requests that the Commission make the findings required by Section 32(c) of the Public Utility Holding Company Act (“PUHCA”) (15 U.S.C. § 793-5a(c)) that the transfer of generating assets, liabilities and wholesale power contracts to a newly formed corporate subsidiary (1) will benefit customers, (2) is in the public interest, and (3) does not violate state law. Merger Application at 15. In addition, PECO requests that the Commission’s Order include the findings required by Section 32(k) of PUHCA (15 U.S.C. § 793-5(a)(k)) with respect to purchases of power from GenCo., i.e., that (1) the Commission possesses sufficient regulatory authority, resources and access to books and records of PECO and any relevant associate, affiliate or subsidiary company to exercise its duties under Section 32(k), and (2) the purchase by PECO of energy and capacity from an affiliated EWG will benefit customers, does not violate state law, would not provide the EWG an unfair competitive advantage, and is in the public interest. Merger Application at 15-16.

**B. Evidence Submitted In Support of the Merger Application**

**1. Written Testimony and Exhibits**

12. Along with its Merger Application, PECO submitted the written testimony and supporting exhibits of five witnesses that comprise its case-in-chief. The first three witnesses are officers of PECO Energy: (1) Kenneth G. Lawrence,

who describes how the proposed restructuring and merger will not adversely affect PECO's regulated operations, the employees who staff those operations or the local communities and organizations that have enjoyed PECO's support; (2) Richard G. White, who describes the proposed restructuring and merger and identifies the principal factors that PECO considered in deciding to pursue a merger with Unicom; and (3) Thomas P. Hill, Jr., who describes PECO's commitment to continue to honor its 1998 Restructuring Settlement and explains how provisions of that Settlement will apply following consummation of the proposed restructuring and merger, and the impact of merger-related synergies on future regulated rates.

13. The fourth piece of testimony is by Thomas J. Flaherty of Deloitte & Touch Consulting Group LLC, who presents the results of a study that he conducted to assist PECO and Unicom in identifying and quantifying the potential cost savings in regulated operations that will likely arise from the proposed merger. Mr. Flaherty finds that the proposed merger will likely result in over \$330 million in cost savings to regulated public utility transmission and distribution operations. These estimated savings are net of costs to achieve (over \$185 million) and pre-merger initiatives (over \$40 million) for the combined entity over the first five years after the close of the merger. A substantial portion of this \$330 million in cost savings is, of course, likely attributable to Unicom.<sup>6</sup>

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<sup>6</sup> For example, if one-half of the \$330 million were attributable to each company's regulated operations, the cost savings attributable to PECO's Pennsylvania regulated operations would be approximately \$165 million.

14. The fifth piece of testimony is a market power study, conducted by Dr. William H. Hieronymus of PHB Hagler Bailly, Inc., consistent with the Competitive Analysis Screen described in Appendix A to FERC's Merger Policy Statement, concluding that the Merger will have no adverse competitive impact on Pennsylvania's retail energy markets.

## **2. Additional Supporting Data**

15. Additional supporting data submitted with the Merger Application include: (1) diagrams of PECO's and Unicom's existing corporate structures; (2) PECO's Plan of Restructuring; (3) Agreement and Plan of Exchange and Merger; (4) diagrams of NewCo.'s Post Merger Corporate Structure; (5) schedule setting forth the net book value of assets and liabilities to be transferred to GenCo.; (6) preliminary representation of assets and liabilities to be transferred to NewCo., ServeCo., and VenturesCo.; (7) Affiliated Interests Agreement and Purchased Power Agreement; (8) statements of the original cost of PECO's electric and natural gas plant in service, by primary account, together with the associated reserve for depreciation, as of December 31, 1998; (9) consolidated balance sheets and income statements for PECO and NewCo.; (10) listing of number of electric and natural gas customers of PECO as of June 30, 1999; (11) PECO's 1998 annual report; (12) Unicom's 1998 annual report; and (13) statement that all annual reports, tariffs, certificates of public convenience, applications, securities certificates, and similar documents previously filed by PECO are made a part of the record by reference.

16. On February 2, 2000, PECO submitted the Supplemental Direct Testimony of Richard G. White regarding the restatement of the Merger Agreement, with the restated Merger Agreement attached. In addition to the supplemental testimony, PECO provided copies of affiliate contracts that were submitted to FERC after PECO's Application was filed with the Commission.

**C. The Record and Proceedings Before ALJ Rainey**

17. A Notice of Filing of PECO's Application appeared in the Pennsylvania Bulletin on December 4, 1999, setting December 20, 1999 as the date for petitions to intervene and protests. 29 Pa. B. 6208. To date, twenty-seven parties, including PPL, have been permitted to intervene.<sup>7</sup> In addition, the Office of Trial Staff entered its appearance.

18. A Prehearing Conference Order was issued by ALJ Rainey on December 28, 2000, directing the parties to submit prehearing conference memoranda by January 13, 2000, and scheduling a prehearing conference for January 20, 2000. Issues on which ALJ Rainey ordered the parties to report included: (1) the status of any settlement discussions; (2) the status of and proposed procedural rules for discovery; (3) the issues to be addressed in the case; and (4) other procedural issues. After the Prehearing Conference, the Commission issued a Hearing Notice on January 21, 2000, scheduling evidentiary hearings for Tuesday, April 25, 2000 through Friday, April 28, 2000. In addition, ALJ Rainey

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<sup>7</sup> The Department of the Navy ("Navy") filed a Notice to Intervene, Out of Time, on March 13, 2000, which was granted by ALJ Rainey on March 24, 2000. However, Navy subsequently withdrew its intervention on March 27, 2000.

issued a Prehearing Order dated January 28, 2000 adopting various procedural rules, and setting a hearing and briefing schedule providing for: (1) the submission of Intervenor Direct Testimony on March 24, 2000; (2) the submission of PECO/Unicom Rebuttal Testimony on April 10, 2000; and (3) the submission of Intervenor Surrebuttal Testimony on April 21, 2000.<sup>8</sup> As a result of the submission of the Joint Petition, however, ALJ Rainey on March 28, 2000 issued an Order Revising Procedural Schedule suspending both the briefing and evidentiary hearings. Pursuant to the March 28, 2000 Order, the Public Input hearings, however, were held between March 27, 2000 and April 4, 2000.

19. On January 21, 2000, PECO had submitted a Petition for Certification of the Record to the Commission, requesting that the Commission exercise authority under 66 Pa. C.S. § 335(a) to dispense with an initial decision and certify the record for final decision. On March 3, 2000, the Commission entered an Order denying PECO's request, asserting that PECO had "failed to show why the circumstances in the present matter are so compelling as to warrant the use of an alternative administrative procedure." March 3, 2000 Order, at 6. In a Statement attached to the Order, Chairman John M. Quain encouraged the parties to reach an amicable resolution of the matter, or in the alternative, that:

we expect the Judge and the parties to present this Commission with a complete record, including public input hearings, an initial decision, and any exceptions and reply exceptions as expeditiously as possible.

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<sup>8</sup> On March 19, 2000, the parties submitted a letter to ALJ Rainey stating that the parties and PECO had agreed, in light of the settlement discussions, that the due date for filing testimony would be extended by two business days, from March 24, 2000 to March 28, 2000. See Mar. 19, 2000 Letter from T. McCloskey to ALJ Rainey.

The completed case should be submitted in time for this Commission to address and resolve this matter by late August or early September of this year.

20. Prior to the submission of the Joint Petition, several intervenors and PECO conducted discovery through multiple interrogatories and requests for documents. However, such discovery is not part of the official record of the case.

**D. The Joint Petition for Settlement**

21. Subsequent to several scheduled settlement conferences, the Joint Petition for Settlement at issue herein was executed by PECO and some, but not all of, the intervenors.<sup>9</sup> The Joint Petition contains concessions and benefits from PECO that have absolutely no relation to the proposed restructuring and merger, that bear little or no relationship to PECO's Merger Application, and have no support in the record to demonstrate that if adopted they would be in the public interest. In fact, and as discussed below, several of the provisions appear on their face to be contrary to Commission policy and/or applicable law. Specifically, the Joint Petition provides:

- Speculative and unsubstantiated distribution rate reductions, contrary to Commission policy with respect to merger proceedings;
- An extension of the rate cap that may be inconsistent with PECO's PJM Interconnection, LLC ("PJM") and reliability obligations;
- Reliability enhancements unrelated to the merger and potentially inconsistent with the rate reductions and rate cap extension;
- Limitations on the level of recovery of preexisting nuclear decommissioning costs;

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<sup>9</sup> See *supra*, n.2.

- Funding of a private nuclear monitoring group;
- Direct grants to a specific environmental organization;
- Commitment to the Sustainable Development Fund (“SDF”) to construct and fund specific types of renewable energy sources outside of the process approved in the 1998 Restructuring Settlement;
- A substantial change in Competitive Default Service (“CDS”) bidding rules and the character of CDS service; and
- Special arrangements with specific large customers that have not been demonstrated to be just and reasonable and non-discriminatory.

**E. The Use of Settlements in Recent Public Utility Proceedings**

22. As a Pennsylvania public utility, PPL has become subject to the precedential effect of settlements in major cases with other Pennsylvania utilities. While most settlements, including the Joint Petition, provide that they cannot be cited as precedent in later cases, in practice the intervenors in subsequent cases routinely use the terms of a prior settlement to require other utilities to defend against the relief proposed simply on the basis that it would be consistent with that prior settlement. Even a cursory examination of the electric utility restructuring settlements demonstrates their substantial similarity, to the point that the initial settlement in the series — in the case of the restructuring settlements, the PECO settlement of May 14, 1998 — became the default as if it were Commission precedent or a statement of Commission policy. This is the case even though the specific provisions were never subjected to the process of considered Commission decisionmaking based either on record evidence or an opportunity for public comment and replies. As a result, because settlements have taken on such

increased importance, PPL has been required to intervene in other utilities' cases simply to protect its interests.

**III. DECISIONS ON CONTESTED SETTLEMENTS, AS WITH CONTESTED CASES, MUST BE CONSISTENT WITH LAW, BASED UPON SUBSTANTIAL EVIDENCE IN THE RECORD, AND IN THE PUBLIC INTEREST.**

23. The Commission reviews contested settlements such as the Joint Petition consistent with the processes and standards for deciding a contested case. Thus, in order to approve the settlement, the Commission must find that each provision is in the public interest, consistent with applicable law, and supported by substantial evidence in the record. The Commission explained this standard in a December 23, 1997 Order on PECO's retail restructuring plan in which it considered a contested Partial Settlement:

[s]ome clarification is in order about how this Commission treats agreements among some but not all parties compared to settlements supported, or not opposed, by all parties. . . .

When a settlement document is filed with this Commission that is supported, or not opposed, by all parties, evidentiary hearings or adversarial processes are generally not utilized. In such cases, the Commission's practice is to review the proposed settlement to ensure that it is in the public interest and does not violate applicable laws.

This Commission, however, distinguishes between those settlements that enjoy the support of all parties and those agreements among some parties that are opposed by other parties. Despite the hard work of the Joint Signatories, the Partial Settlement is actively opposed by some parties to this case. Consequently, *this Commission's review of the Partial Settlement must be consistent with processes and standards for deciding a contested case.*"

*Re PECO Energy Co.*, R-00973953, P-00971265, 181 PUR 4<sup>th</sup> 517, 1997 WL 824004 (Pa. PUC Dec. 23, 1999) (emphasis added). Therefore, in order to

understand the standards for approval of the Joint Petition, it is necessary to examine the standards the Commission applies in contested cases.

24. In a contested case, the burden of proof is on the proponent of an order to show that its approval would be in the public interest. 66 Pa. C.S. § 315 (burden of proof to show that proposed rate is just and reasonable is on the public utility); 66 Pa. C.S. § 332(a) (except as provided in section 315, the proponent of a rule or order has the burden of proof). To make such a finding, the Commission must find substantial evidence in the record supporting its decision, and the decision must otherwise be in accordance with law. See 66 Pa. C.S. § 332(b) (“No sanction shall be imposed or rule or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party *and as supported by and in accordance with the reliable, probative and substantial evidence.*”) (emphasis added); 2 Pa. C.S. § 704 (on judicial review, a court should uphold the findings of the PUC unless the adjudication is in violation of constitutional rights, is not in accordance with law, or is not supported by substantial evidence); see also *Popowsky v. Pennsylvania Pub. Util. Comm’n*, 706 A.2d 1197, 1201 (Pa. 1997) (standard of review of appellate courts is whether there is substantial evidence to support the findings of the agency); accord *Barasch v. Pennsylvania Pub. Util. Comm’n*, 490 A.2d 806, 809 (Pa. 1985). Substantial evidence is defined “as such *relevant evidence* as a reasonable mind might accept as adequate to support a conclusion.” *Republic Steel Corp. v. Workmen’s Comp. Appeal Bd.*, 421 A.2d 1060, 1062 (Pa. 1980) (citing *Shenandoah Suburban Bus Lines*, 50 A.2d 301 (Pa. 1947))(emphasis added).

25. Normally, in a merger proceeding the Commission would look to the Merger Application and apply the relevant standards to determine whether a settlement reached concerning the merger is in the public interest.<sup>10</sup> Where, as here, however, the settlement contains provisions not addressed by and which are unrelated to the Merger Application, those provisions must be independently supported by substantial evidence and argument that they are consistent with applicable law and in the public interest. Again, the burden of proof of such provisions would be on the proponents of an order approving of the provisions, *i.e.*, the Joint Petitioners.

26. At this stage of the proceeding, no evidentiary hearings have been held and no testimony has been submitted, other than that submitted by PECO in support of the Merger Application. Thus, the Commission has no record evidence upon which to base a decision that provisions of the Joint Petition that differ from those submitted by PECO in the Merger Application are in the public interest. Indeed, where contested settlements have been submitted for approval in cases at a similar procedural stage, the Commission has ordered evidentiary hearings and required briefing. *See Popowsky v. Philadelphia Elec. Co.*, 82 Pa. PUC 26, 1994 WL 577896 (1994) (following the submission of a Joint Petition for Partial

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<sup>10</sup> *See City of York v. Pennsylvania Pub. Util. Comm'n*, 295 A.2d 825, 828 (Pa. 1972) (the proponent of a merger has the burden to show that the merger will affirmatively promote the public interest); *Middletown Township v. Pennsylvania Pub. Util. Comm'n*, 482 A.2d 674, 682 (Pa. Comm. Ct. 1984) (the benefits and detriments of the merger will be measured under the public interest test as they impact on "all affected parties"); *see also Re Bell Atlantic Corp.*, 1999 WL 1565855, slip op. at 4 (Pa. PUC 1999) (stating that in a merger proceeding the Commission "must find that the proposed transaction is in the public interest, convenience, and necessity").

Settlement, ALJ held an evidentiary hearing, accepted testimony and exhibits, and required main and reply briefs from the parties in light of the opposition of one party to the Settlement); see also *Pennsylvania Pub. Util. Comm'n v. Pennsylvania Gas and Water Co.*, 74 Pa. PUC 569, 1991 WL 476322 (1991) (recognizing that while the Joint Petition for Settlement was not signed by all parties, the case had been fully litigated before settlement, and therefore all parties had their opportunity to provide evidence of record and had their due process rights protected). Indeed, contested settlements submitted prior to the submission of intervenor evidence should be treated as merely amended applications.

27. ALJ Rainey recognized in his March 28, 2000 Order the possibility of the need for evidentiary hearings and the filing of written testimony. See March 28, 2000 Order Revising Procedural Schedule of ALJ Rainey, at 2 ("After the filing of Replies to Objections or Comments, the presiding officer will determine whether it is necessary to hold evidentiary hearings. A second prehearing conference may be held, if necessary, for the purpose of establishing a new schedule for the filing of written testimony and holding evidentiary hearings."). As discussed below, because the record, and in some cases the law, fails to support finding that the Joint Petition is in the public interest, the Commission must either reject the Joint Petition or direct the Joint Petitioners to demonstrate through the submission of substantial evidence that the proposed Settlement is lawful and in the public interest.

**IV. THE JOINT PETITIONERS HAVE FAILED TO DEMONSTRATE THAT THE SETTLEMENT IS CONSISTENT WITH APPLICABLE LAW, SUPPORTED BY SUBSTANTIAL EVIDENCE IN THE RECORD, AND IN THE PUBLIC INTEREST.**

28. In this case, the only evidence in the record is in support of the Merger Application as filed. No evidence was submitted with the Joint Petition. In addition, the procedural schedule of the proceeding has not advanced sufficiently to permit the submission of evidence in response to the Merger Application or supporting the positions asserted in the protests and prehearing memoranda submitted by the intervenors.<sup>11</sup> Thus, the Commission does not even have a body of evidence responsive to the Merger Application that it can weigh against that submitted with the Merger Application to determine if the provisions of the Joint Petition represent a reasonable accommodation of the parties' positions.<sup>12</sup> The Commission has here, in effect, a bare request for relief by some, but not all, parties to a proceeding that it cannot impose over the objections of the dissenting parties "except upon consideration of the whole record or such portions thereof as may be cited by any party and *as supported by and in accordance with the reliable, probative and substantial evidence.*" 66 Pa. C.S. § 332(b)(emphasis added).

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<sup>11</sup> Indeed, the parties sought and received from ALJ Rainey extensions of the procedural schedule to postpone the submission of intervenor evidence citing the pendency of settlement discussions. *See supra*, n. 8.

<sup>12</sup> Of course, even in a fully litigated case, a contested settlement provision that differs substantially from either the relief requested in the Merger Application or proposed by intervenors cannot be approved, where nothing in the record suffices as "substantial evidence" to justify such a provision. Rather, before such a provision can be approved by the Commission, it must be supported independently by evidence submitted with or in response to the contested settlement.

29. In addition to lacking any evidentiary support, a number of the provisions of the Joint Petition are wholly unrelated to the proposed restructuring or merger. While some of these provisions may be consistent with intervenors' litigation positions, as evidenced by their protests and prehearing memoranda, that, by no means, renders them lawful or in the public interest. Indeed, PECO recognized the nature of some of these demands in the early stages of the proceeding, when it stated in its prehearing memorandum that:

The parties' Protests and Petitions enumerate various concerns and desires. PECO is confident that many of those concerns reflect a misunderstanding of the facts or PECO's intentions, or both, and can be amicably resolved through stipulation. As important, certain parties seem determined to inject wholly tangential 'issues' into the mix for the sole purpose of extracting concessions that have little or nothing to do with the Restructuring or the Merger. On that point, however, the Commission has spoken: matters that 'do not affect whether [the] merger will have an anti-competitive effect or will impair the technical, managerial or financial fitness of [the public utility and its ability] to continue to provide adequate service at just and reasonable rates' will not be heard. *Joint Application of PG Energy, Inc., et al.*, Docket No. A-3102200F002 (Order entered September 15, 1999, p. 7). Simply put, issues which are merely speculative, which can be raised in other Commission proceedings, or which are unrelated to the merger may not be raised in merger cases.

Jan. 13, 2000 Prehearing Conf. Mem. of PECO, at 6-7. However, as discussed below, the Joint Petitioners, including PECO, agreed in the Joint Petition on numerous provisions that have absolutely no support in PECO's Merger Application, which are wholly tangential to the proposed restructuring and merger, and which, absent further evidence and consideration regarding their potential effects, cannot be found to be in the public interest and accordingly must be rejected.

**A. Rate and Reliability Provisions**

30. The Settlement contains substantial rate reductions, and an extension of the cap on PECO's retail transmission and distribution charges, which are speculative and unsubstantiated.<sup>13</sup> See Joint Petition at 8-10. Such rate reductions in the context of this proposed restructuring and merger are contrary to Commission policy. In *PG Energy, Inc.*, 1999 WL 1036580, slip op. (Pa. PUC 1999) (citing cases), the Commission restated its policy in merger proceedings that requests for reductions in rates and for pass-throughs and allocation of merger savings to ratepayers "does not address whether the merger itself is in the public interest but rather, . . . , is more properly addressed in a future ratemaking case when the savings are real and not speculative as they are now." Thus, the Commission rejected the OCA's "attempts to obtain future ratemaking concessions in a merger application proceeding instead of in a rate case." *Id.*

31. While the OCA here praises the \$200 million in rate reductions for customers' distribution rates from 2002 through 2005 that are "[o]f particular importance to the OCA[,]"<sup>14</sup> OCA offers no evidence that such reductions are warranted or, even if such rate reductions were permissible under Commission

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<sup>13</sup> As stated in the Joint Petition, PECO has agreed to reduce its retail electric distribution rates by \$60 million annually beginning on January 1, 2002. See Joint Petition at 8. The Commission had previously approved of a \$60 million reduction for the duration of 2001. *Id.* Such \$60 million decrease will remain in effect until January 1, 2004, when the annual rate decrease will become \$40 million. *Id.* PECO will also extend the cap on its retail transmission and distribution charges agreed upon in PECO's 1998 Restructuring Settlement, which would otherwise expire on June 30, 2005, for an additional eighteen months, or through December 31, 2006. *Id.* at 10.

<sup>14</sup> Statement in Supp. of the Office of Consumer Advocate, at 3 (filed Mar. 29, 2000).

policy, that they bear any relation to the only evidence in the case on merger savings.<sup>15</sup> With no evidence in the record concerning the effect of the substantial rate reductions proposed in the Joint Petition, the Commission has no way of determining the effect such rate reductions could have on the level of service provided by PECO, or whether such reductions are based upon wholly speculative claims of savings associated with the merger with Unicom.

32. In addition, the Joint Petition establishes a complex set of reliability and service standard improvements that would appear more appropriate for a specific Commission investigation or rulemaking addressed to reliability and service standards, rather than a restructuring and merger proceeding. See Joint Petition at 13-18. PECO customers and other parties interested in reliability and service issues had no notice that these subjects would be addressed in this proceeding, nor is there any basis for the Commission to determine if the standards agreed to in the Joint Petition are appropriate. The relationship of these commitments to the transactions proposed in the Merger Application are wholly unexplained.

33. Moreover, the Joint Petition's rate cuts and rate cap extensions are facially inconsistent with these commitments to improve reliability and service standards. Even if they did bear some relation to the proposed restructuring and merger, the record contains no evidence as to how these commitments will be met, their cost, and whether these commitments are made to the detriment of other customer service functions. The Joint Petition leaves unexplained how it reduces

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<sup>15</sup> See Merger Application, PECO Statement No. 4 (Direct Testimony of T. Flaherty "Regarding Estimated Regulated Cost Savings").

PECO's distribution revenues by \$200 and freezes them for a total of 10 years (measuring from the effective date of the Electric Competition Act), yet leaves PECO with sufficient revenue to fund substantial reliability and service commitments. Nor does the Joint Petition provide the Commission with any basis for determining if some other tradeoff between rate reductions and service improvements is in the public interest.

34. Finally, the extension of the rate cap may be inconsistent with PECO's reliability obligations and its obligations to the PJM. In extending the rate cap, the Joint Petition may be placing more at risk than the profits of PECO's shareholders. FERC has specifically identified the need to construct additional transmission both to maintain reliability and to accommodate the increase in wholesale and retail competition.<sup>16</sup> In addition, under the PJM Operating Agreement and the Transmission Owners Agreement, PECO, like all other transmission owners in the PJM, has an obligation to pay for and construct transmission facilities determined to be necessary by the PJM Office of Interconnection.<sup>17</sup> Without further evidence concerning the effect of the rate cap extension on PECO's obligations, the Commission cannot find that such a rate cap extension is in the public interest.

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<sup>16</sup> See Regional Transmission Organizations, Order No. 2000, 65 Fed. Reg. 810, 813-15 (Jan. 6, 2000) (detailing the stresses on the transmission grid as a result of increased wholesale and retail competition).

<sup>17</sup> See Amended and Restated Operating Agreement of PJM Interconnection, LLC, as amended, Schedule 6, § 1.7; *see also* PJM Transmission Owners Agreement, as amended, § 7.

## **B. Nuclear Provisions**

35. The Joint Petition also provides for limitations on the level of recovery through retail electric distribution rates of PECO's preexisting nuclear decommissioning costs. See Joint Petition at 10-13. PECO agreed in the Joint Petition that when it seeks to increase its annual nuclear decommissioning expense allowance above the base \$29.162 million annual accrual level used for the purpose of calculating its Nuclear Decommissioning Cost Adjustment Charge, it will under certain circumstances voluntarily forego recovery of \$50 million of its total decommissioning cost obligations, plus 5% of any additional increase in the annual accrual level above the base \$29.162 annual accrual level. See Joint Petition at 11. However, no evidence has been submitted to demonstrate the effect of such a concession on PECO's ability to decommission fully and safely the various nuclear facilities that are subject to this provision. The Commission cannot approve this provision unless it considers carefully whether the provision represents a correct balance between protecting consumers from the costs of nuclear decommissioning and protecting society (including some of these same consumers) from the dangers and (long-run costs) of an incomplete or under-financed decommissioning effort. There is no evidence in the record that the Joint Petitioners have chosen the correct balance. Until the parties have provided the Commission with an evidentiary basis for adopting the Joint Petitioners' proposal, it cannot be accepted.

36. In addition, PECO has agreed to fund a private nuclear monitoring group through its "Nuclear Monitoring and Waste Storage Agreement" entered into

with Eric J. Epstein.<sup>18</sup> See Joint Petition at 12-13, and Appendix B. PECO has agreed not only to provide specific information and to provide several benefits to the EFMR Monitoring Group at its nuclear power plant, Peach Bottom Atomic Power Station, but has also agreed to provide funding to the group in terms of an "annual budget" of \$13,000. The Joint Petitioners, however, have provided no information concerning this group, why this group is entitled to information concerning PECO's nuclear operations that other citizens may or may not be privy to, or why this group was selected instead of any other group for the same purpose. It is therefore unclear from the record whether such funding and the provision of such information is in the public interest.

### **C. Environmental Provisions**

37. Through the Joint Petition, PECO has agreed to provide a direct grant of \$3.5 million to one environmental organization, Community Energy, Inc., "for its Pennsylvania Wind Energy Program." Joint Petition at 22-23. In addition, PECO has agreed to contribute \$16 million to the Sustainable Development Fund ("SDF") to construct and fund specific types of renewable energy sources outside of the process approved in the 1998 Restructuring Settlement, including \$12 million for new Pennsylvania wind facilities. See Joint Petition at 22-26.

38. There is no explanation as to why a specific group was chosen to receive at least \$3.5 million (and possibly up to \$15.5 million) in payments, other

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<sup>18</sup> PECO has specifically stated that the Nuclear Monitoring and Waste Storage Agreement entered into with Eric J. Epstein is referenced for informational purposes only, and that it does not seek approval of such Agreement from the Commission.

than perhaps the fact that the group intervened in the merger proceeding. This is not private litigation, however. The outcome of the case must be in the public interest, rather than advancing or rewarding any single group or individual. The Joint Petitioners should therefore be required to demonstrate that the \$19.5 earmarked for a specific group and technologies will benefit ratepayers as a whole, or whether such funds would be better utilized for some other purpose, such as further rate reductions or service improvements.

39. In addition, the Joint Petitioners should be required to demonstrate why the Commonwealth should not rely on the competitive market to determine the identity and quantity of renewable resources that customers are willing to support. Earmarked programs favoring a specific generation resource without regard to market forces is a product of the prior comprehensive regulation approach, not the competitive generation market mandated by the Electric Competition Act. It is reminiscent of the policies pursued under the Public Utility Regulatory Policies Act of 1978 ("PURPA"),<sup>19</sup> for which Pennsylvania ratepayers will be paying for years. In addition, the direct market intervention represented by the Joint Petition is a significant departure from the measured and modest program established in the 1998 Restructuring Settlement. Accordingly, the Joint Petitioners should be required to provide evidence-demonstrating what market failure justifies modification of the resolution so recently adopted in the 1998 Restructuring Settlement.

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<sup>19</sup> 16 U.S.C. § 2601, *et seq.*

#### **D. Electric Generation Supplier Benefits**

40. The Joint Petition contains a number of provisions designed specifically to benefit Electric Generation Suppliers (“EGSs”) that intervened in the proceeding. These provisions, however, have no apparent nexus to the impact of the proposed restructuring and merger. They appear to be “improvements” on CDS and supplier coordination provisions negotiated in the 1998 Restructuring Settlement. The Commission should require the Joint Petitioners to provide an evidentiary link between the impact of the proposed restructuring and merger and the changes proposed by the Joint Petition. In the absence of their ability or willingness to do so, the changes they seek, if warranted by events subsequent to the 1998 Restructuring Settlement, should be raised with the parties to that settlement or groups growing out of the settlement process. One such group could be participants in the PECO CDS collaborative that considered the rules for CDS service last year.<sup>20</sup> In either case, all of the parties that participated or had an interest in the development of the CDS and Supplier Coordination Tariff rules would be able to participate, instead of only those who participated in this proceeding that, as noted above, has no obvious connection to the CDS and supplier coordination issues.

41. In addition, of particular concern in the Joint Petition are the substantial revisions to the character of CDS. These revisions would appear to be inconsistent with both the Electric Competition Act and the 1998 Restructuring

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<sup>20</sup> See *Re Full Settlement Competitive Provider of Last Resort*, R-00973953, P-00971265, 1999 WL 632808 (Pa. PUC Apr. 30, 1999).

Settlement. CDS, as its name implies, was designed to promote the transition from traditional monopoly service by substituting another supplier for part of PECO's Provider of Last Resort ("PLR") load. Because this was to be a default service, it was not intended to be a forced assignment of customers to an EGS — Section 39 of the 1998 Restructuring Settlement provided for that possibility if certain customer choice thresholds were not met. Rather, it was intended to be a substitute utility service for customers that for whatever reason did not exercise their right to choose an EGS. In other words, CDS was designed to provide residential PLR customers, the only customers to which the CDS provisions of the 1998 Restructuring Settlement apply, a substitute for the utility, and not an EGS. Only in that sense could it arguably be consistent with the statute which provides customers with the right to choose — and the right not to choose. See, e.g., 66 Pa. C.S. § 2807(d)(1).<sup>21</sup> The Joint Petitioners should therefore be required to explain how the new rules in the Joint Petition are consistent with the Electric Competition Act, why these provisions are not simply the forced assignment of PLR customers to an EGS, and how the proposed revised allocation of responsibility between PECO and the selected CDS provider will work. They must also demonstrate that this new construct, as well as other proposed changes to CDS, are in the public interest.

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<sup>21</sup> *George v. Pennsylvania Public Utility Commission*, 735 A. 2d 1282, 1287-89 (1999), which upheld the Commission's power under the Electric Competition Act to approve an alternative PLR, did not reach this issue. The CDS provision of the Metropolitan Edison Company and Pennsylvania Electric Company retail restructuring settlements upheld in *George* was essentially identical to the CDS provision of the PECO retail restructuring settlement. *George* did not reach the issue of whether the Electric Competition Act authorized assigning a portion of a utility's PLR load to what is effectively EGS service.

### **E. Large Customer Agreements**

42. The Joint Petition also contains specific agreements with specific large customers that have not been demonstrated to be just and reasonable, and non-discriminatory. See Joint Petition at 38. In particular, PECO has offered Amtrak the option of, and asked the Commission to approve, executing a lump-sum buyout of its Transition Charges. See *id.* and Appendix F. PECO has also offered, and has asked the Commission to approve, the grant to the City of Philadelphia of additional rights and options under its Rule 4.6 contract. See *id.* and Appendix G. Nowhere in the record, however, is there any evidence demonstrating how the proposed merger affects these large customers, why these specific arrangements are necessary to undo any problem or issue created by the proposed restructuring and merger, and why the grant of such special deals would be just and reasonable and non-discriminatory.

43. While the above list of provisions in the Joint Petition which contain no support in the record is not exhaustive, it does provide good examples of the reason why the Joint Petition must be rejected in the absence of a showing that such provisions are lawful and a further evidentiary demonstration that they are in the public interest. Approval of the Joint Petition without such a demonstration would not only be inconsistent with applicable law requiring adequate justification, especially in a contested case, it could potentially jeopardize all parties affected by the provisions of the Joint Petition, including PECO's customers, shareholders, and as described below, other Pennsylvania utilities.

**V. THE COMMISSION SHOULD CONDITION THE SETTLEMENT TO PREVENT ITS USE BY OTHER PARTIES TO JUSTIFY RELIEF IN SUBSEQUENT PROCEEDINGS.**

44. Even if the Commission determines that the Joint Petition is lawful and in the public interest, it should condition its approval on the agreement by the Joint Petitioners that the Joint Petition will not be used to justify relief in subsequent proceedings before the Commission involving other Pennsylvania public utilities, including efforts to reopen their restructuring settlements. Such a condition is necessary to protect the due process rights of other Pennsylvania public utilities and to prevent a misuse of the Commission's policy favoring settlements of large and complex proceedings.

45. PPL acknowledges, and indeed has benefited from, the Commission's policies encouraging settlements of contested cases, particularly in large, complex proceedings. Such settlements, however, have become the predominant means by which major cases such as the present case are resolved. Even though most settlements, including the Joint Petition, provide that they may not constitute or be cited as controlling precedent in future proceedings,<sup>22</sup> in practice the reality is quite different. Settlements have become one of the principal means by which various

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<sup>22</sup> The Joint Petition states:

Acknowledging that it is expressly understood and agreed that the Settlement constitutes a negotiated resolution solely of issues addressed herein, the Merger and the Corporation Restructuring, the Joint Petitioners agree that this Settlement shall not constitute or be cited as controlling precedent in any other proceeding, including a proceeding involving a merger or an acquisition by another Pennsylvania electric utility.

Joint Petition at 41.

interest groups advocate specific proposals. Once they secure agreement to a favored settlement provision by a utility anxious to avoid a contested proceeding, they seek to characterize that settlement provision as the “model” which all other utilities must follow. All too often utilities that did not actively participate in the settled proceedings find themselves forced to defend against provisions that are justified on the basis that they already were agreed to or implemented by another utility.

46. Various Joint Petitioners have already made it known that they intend to pursue this strategy with the instant settlement, even though, like most other settlements, the Joint Petition contains the usual statement that it “shall not constitute or be cited as controlling precedent in any other proceeding[.]” Thus, for example, PennFuture, in its Statement in Support, applauds the “unprecedented” nature of the \$32 million in support that will be provided by PECO for renewable energy projects, and describes the Joint Petition as a “landmark Settlement.”<sup>23</sup> Eric Joseph Epstein states that “all of the issues defined in the proceeding paragraph [summarizing the various issues he advocated in the settlement negotiations] were fully addressed; and, in some instances, *established a constructive and innovative paradigm for other Pennsylvania communities and nuclear utilities . . .*”<sup>24</sup> Similarly, OCA states with respect to the changes in CDS that “this agreement is important in

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<sup>23</sup> Statement of PennFuture in Supp. of Joint Pet. for Sett., at 1-2 (filed Mar. 30, 2000).

<sup>24</sup> Statement in Supp. of Joint Pet. for Sett. of Eric Joseph Epstein, at 2 (filed March 28, 2000) (emphasis added).

working toward a successful competitive default service in *Pennsylvania*.<sup>25</sup> MAPSA also explicitly sets forth its intended use of the Joint Petition in its letter in support of the Joint Petition. It notes that Paragraph 46 of the Joint Petition, regarding the release of additional customer historical billing data in addition to that provided under the 1998 Restructuring Settlement, “will provide a *model* for the development of competition throughout Pennsylvania and the nation.”<sup>26</sup> MAPSA goes on to state that certain other provisions in the Joint Petition concerning the retail market “will provide a model for the market through Pennsylvania and the nation.”<sup>27</sup>

47. As a result of the above (and despite the stated “protection” in the Joint Petition), PPL may be placed in the position of defending against relief proposed in future proceedings by the same or similar parties based upon the fact that a prior settlement with a different public utility contains such concessions. Utilities such as PPL will therefore have no choice but to treat all similar or potentially similar proceedings as if they were rulemakings and participate fully in any settlement negotiations in order simply to protect their interests. This not only makes settlements more difficult to achieve, but will increase the costs to participants in Commission proceedings and to the public. It also poses a very practical threat to the due process rights of PPL and other Pennsylvania utilities. Without adequate notice, important decisions could be made at the settlement

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<sup>25</sup> Statement in Supp. of the Office of Consumer Advocate, at 6 (filed Mar. 29, 2000) (emphasis added).

<sup>26</sup> Statement of MAPSA in Supp. of Joint Pet., at 1-2 (filed Apr. 7, 2000) (emphasis added).

<sup>27</sup> *Id.* at 2.

bargaining table of one utility's proceeding that profoundly affect the rights of other utilities' customers and shareholders. By the time these other utilities are given the opportunity to address the specific relief requested, the issue would have been either determined or framed in such a way that they would bear the burden of demonstrating that the "pattern" settlement should not apply to them.

48. Of particular concern is the possibility that parties will seek to reopen the retail restructuring settlements and amend provisions to make them consistent with the changes to the 1998 Restructuring Settlement proposed in the Joint Petition. As the Commission knows, those restructuring settlements were achieved after difficult negotiations and litigation and involved many parties that are not parties to the instant proceedings. Interests of finality and stability also warrant the protection sought here.

49. Thus, while the Commission's policy of encouraging settlements remains sound, the adverse effects upon other Pennsylvania electric utilities must be addressed. The Commission can avoid such results by conditioning its approval of the proposed settlement on the agreement of the parties that:

- (1) no party to the settlement will propose that a provision of the Joint Petition be adopted in any other proceeding based on the fact that such provision was included in the Joint Petition; and
- (2) no party to the settlement will seek to reopen another Pennsylvania public utility's settlement of its retail restructuring proceeding to modify any provision of such settlement in order to make it consistent with a provision of the Joint Petition.

In addition, the Commission should declare a policy that it will not entertain evidence or arguments by participants in proceedings before the Commission justifying relief

on the grounds that such relief was incorporated in a settlement with another public utility. This policy will not preclude parties from advocating similar relief, provided that they can justify that relief based wholly on legitimate evidentiary or policy reasons apart from the fact that it was included in a prior settlement. This policy will, however, permit other Pennsylvania utilities to address proposed relief on the merits of their own cases, rather than a compromise of another utility's proceeding. By providing such conditions, the Commission can ensure that its policy encouraging settlements will not have the adverse, unintended effects of harming Pennsylvania public utilities as described above. It will also protect the due process rights of those utilities to a decision on the merits.

#### **VI. CONCLUSION AND PRAYER FOR RELIEF**


For the reasons stated herein, PPL hereby requests that the Commission either: (1) reject the Joint Petition on the grounds that the Joint Petitioners have failed to demonstrate that it is consistent with applicable law, supported by substantial evidence in the record, and in the public interest; or (2) establish a procedural schedule directing the Joint Petitioners to set forth the evidentiary and legal basis upon which they claim that the Joint Petition is lawful and in the public interest. In addition, the Commission should condition any approval of the Joint Petition on the agreement of the parties: (1) not to propose that a provision of the Joint Petition be adopted in any other proceeding based on the fact that such provision was included in the Joint Petition; and (2) not to seek to reopen another Pennsylvania public utility's settlement of its retail restructuring proceeding to modify

any provision of such settlement in order to make it consistent with a provision of the  
Joint Petition.

Respectfully submitted,

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By:   
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Utilities Corporation

Dated: April 12, 2000

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

---

Application of PECO Energy Company, :  
Pursuant to Chapters 11, 19, 21, 22 :  
and 28 of the Public Utility Code, for :                   Docket No. A-110550 F0147  
Approval of (1) A Plan of Corporate :  
Restructuring, Including the Creation of :  
a Holding Company and (2) The :  
Merger of the Newly Formed Holding :  
Company and Unicom Corporation :

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**CERTIFICATE OF SERVICE**

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

**Via Federal Express**

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Dated this 12<sup>th</sup> day of April, 2000



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**DOCUMENT  
FOLDER**

FEDEX

**RECEIVED** F0147  
April 14, 2000  
A-00110

**APR 14 2000**

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
North Office Building, Room B-18  
Commonwealth Avenue and North Street  
Harrisburg, Pennsylvania 17105-3265

RE: Application of PECO Company, Pursuant to Chapters 11, 19, 21, 22 and 28 of the Public Utility Code, for Approval of (1) a Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) the Merger of the Newly Formed Holding Company and Unicom Corporation

Dear Secretary McNulty:

A-110550 F0147

On behalf of the signatory parties, enclosed for filing are an original and three copies of additions to the Joint Petition for Settlement in the above-captioned matter, originally filed with the Commission on March 23, 2000.

The additions are as follows:

1. The signature of the City of Philadelphia
2. Appendix G, which sets forth the terms and conditions of certain rights and options that will be granted to the City under its existing Rule 4.6 contract. The Joint Petition (§ 68) anticipated that Appendix G would be added upon completion of negotiations with the City.

The Joint Petitioners concur in these additions and ask that the Commission approve item 2 as part of the Settlement.

Sincerely,

Paul R. Bonney

PRB/mbo

Enclosures

cc: John M. Quain, Chairman  
Nora Mead Brownell, Commissioner  
Aaron Wilson, Jr., Commissioner

64

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Senior Vice President  
and General Counsel
- Edward J. Cullen, Jr.  
Deputy General Counsel
- Sandra H. Byrne  
Legal Administrator
- Paul R. Bonney  
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Conrad O. Kattner  
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Delia W. Stroud  
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April 13, 2000  
Page 2

Terrance J. Fitzpatrick, Commissioner  
Robert K. Bloom, Commissioner  
Administrative Law Judge Charles E. Rainey, Jr. (Via Hand Delivery)  
All parties to this proceeding and to PECO's Electric Restructuring  
Proceeding (per the Certificate of Service )

**DOCKETED**  
APR 18 2000

DOCUMENT  
FOLDER

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For the City of Philadelphia

# APPENDIX G

CITY OF PHILADELPHIA

RECEIVED

APR 14 2000

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

## Appendix G

### City of Philadelphia Rule 4.6 Contract Rights and Options

As part of the settlement of this matter, PECO Energy grants the following rights and options to the City of Philadelphia pursuant to the City's existing Commission-approved Rule 4.6 contract:

#### **A. General**

Upon close of merger, the service under the City's existing Rule 4.6 contract (currently in effect through June 30, 2001 with automatic one-year renewals through June 30, 2004, absent timely notice of non-renewal) will be divided into "Rule 4.6 Streetlight Service" and "Other Rule 4.6 Service."

#### **B. Rule 4.6 Streetlight Service**

For Rule 4.6 Streetlight Service, the City will be provided service as follows:

- From close of merger until June 30, 2001 – The City will take Rule 4.6 Streetlight Service pursuant to tariff Rate SL-P, with an 11.2% discount applied to the total charges for Streetlight Service each month.
- On or before July 1, 2001, PECO will make a filing with the PaPUC to eliminate tariff Rate SL-P.
- On July 1, 2001, the City's Rule 4.6 Streetlight Service will be switched to tariff Rate SL-E, with no discount applied to the total charges for Rule 4.6 Streetlight Service each month.
- Until June 30, 2010, the City agrees that it may not seek to implement any initiative to reduce its streetlight usage, including rewiring of streetlights that would result in a reduction of customer charges or connection charges. The City is permitted to install new lamp technology, as such technology may become available from time to time, without violating this provision.

**C. Other Rule 4.6 Service**

For Other Rule 4.6 Service (limited to those accounts defined as Underlying City Accounts in the City's existing Rule 4.6 contract), the City will be provided service as follows:

- At close of merger, PECO will increase the discount on the City's Other Rule 4.6 Service (service taken pursuant to Rates HT, PD, and GS), to a 14.55% discount applied to the total charges for Other Rule 4.6 Service each month. (The applicable rate class designations for the City accounts for purposes of this agreement are the rate classes in effect for each account as of March 30, 2000.)

**D. City Option to Accept Service**

- Each year, by January 10, the City will inform PECO of whether it will exercise its option to take its full generation service for its Rule 4.6 Streetlight Service and its Other Rule 4.6 Service under the terms described above, subject to the appropriation of funds by City Council. The Rule 4.6 Streetlight Service under Rate SL-E, and the discounted Other Rule 4.6 Service, will be available on an annual option basis each July 1 for successive or intermittent one-year terms until December 31, 2010 (a 6-month term for the period ending on December 31, 2010).
- If, during the period from close of merger until June 30, 2004, the City does not take its full generation services for Rule 4.6 Streetlight Service and Other Rule 4.6 Service from PECO, then (a) the City's prospective discount for Other Rule 4.6 Service will be changed to 8.65% for all parts of its service (transmission, distribution, CTC, ITC, energy, capacity, customer charges, and any other charges) until December 31, 2006, and (b) PECO need not offer the City any discount on its energy and capacity for the period January 1, 2007 until December 31, 2010, but the City will receive a 14.55% discount on all other charges for Other Rule 4.6 Service for that period.
- If, during the period from July 1, 2004 until December 31, 2006, the City does not take its full generation services for Rule 4.6 Streetlight Service and Other Rule 4.6 Service from PECO, then (a) the City's prospective discount for Other Rule 4.6 Service will be changed to 11.6% for all parts of its service (transmission, distribution, CTC, ITC, energy, capacity,

customer charges, and any other charges) until December 31, 2006, and (b) PECO need not offer the City any discount on its energy and capacity for the period January 1, 2007 until December 31, 2010, but the City will receive a 14.55% discount on all other charges for Other Rule 4.6 Service for that period.

- If the City receives its full generation service from PECO on a continuous basis until December 31, 2006, then the City will receive a discount of 14.55% on its Other Rule 4.6 Service energy and capacity from PECO from January 1, 2007 through December 31, 2010.
- If, during the period from January 1, 2007 until December 31, 2010, the City chooses not to take its full generation services for Rule 4.6 Streetlight Service and Other Rule 4.6 Service from PECO, then (a) the City's discount for Other Rule 4.6 Service will remain at 14.55% for all parts of its service that it will continue to receive from PECO (transmission, distribution, CTC, ITC, customer charges, and any other charges) until December 31, 2010, and (b) the City may choose to return to PECO for energy and capacity services for its next option year and receive those services at a 14.55% discount for Other Rule 4.6 Service.

#### **E. Expiration of Discounts**

- All discounts available pursuant to this settlement expire as of December 31, 2010.

#### **F. Chillers**

- The City may, without penalty or reduction in the discounts stated above or pursuant to Section G below, install combined natural gas/electric chillers at any City site or combination of sites, with an aggregate nameplate cooling load of no more than 4000 tons, provided that at least ½ of the installed capacity chilling load at each such site shall be provided by using electric power from the hybrid chiller.
- Until June 30, 2006, the City may not install or purchase from a a natural gas steam absorption chiller or a hybrid steam absorption chiller in excess of the amounts listed above.

## G. Other Energy Competitive Alternatives

The City will not implement any Energy Competitive Alternative (ECA) (as that term is defined in its existing Rule 4.6 Contract), other than those described above, prior to December 31, 2006. If the City implements an Energy Competitive Alternative after January 1, 2007, the City will forego the dollar amount of its discount applicable at that time in an amount equivalent to the dollar amount by which the implemented ECA reduces PECO's revenues. For purposes of calculating the dollar amount of the foregone discount, PECO will utilize the most recent 12-month billings by PECO to the facility at which the ECA is being installed and calculate the dollar amount by which implementation of the ECA will reduce the 12-month PECO revenue from that facility. PECO will then calculate the most recent 12-month billing history for the total City of Philadelphia accounts covered by the 4.6 Contract, apply the discount applicable at that time, and produce the dollar amount of the total discount. The total dollar amount of the discount would then be reduced by the dollar amount of PECO's lost revenue as calculated for implementation of the ECA. This revised dollar amount discount will then be divided by the 12-month billing revenue on all City accounts covered by the Other Rule 4.6 Service in order to calculate the percentage discount going forward. An example of the application of this methodology for the 14.55% discount that will be in effect after close of the merger is as follows:

1. 12 mo. PECO revenue at facility implementing ECA	\$4 million
2. PECO revenue reduction due to ECA	\$2 million
3. 12 mo. PECO revenue under Other Rule 4.6 Service	\$50 million
4. Dollar Value of Other Rule 4.6 Service (Line 3 x 14.55%) million	\$7.275
5. Reduced Dollar Value of Other Rule 4.6 Service Discount (Line 4 - Line 2) million	\$5.275
6. New Percentage Discount for Other Rule 4.6 Service (Line 3 - Line 2)/Line 5	10.99%

Certificate of Service

I hereby certify that I have this day served the foregoing document on the following in the matter of PECO Energy Company's Application For Approval of (1) A Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) The Merger of the Newly Formed Holding Company and Unicom Corporation by first class mail:

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**APR 14 2000**

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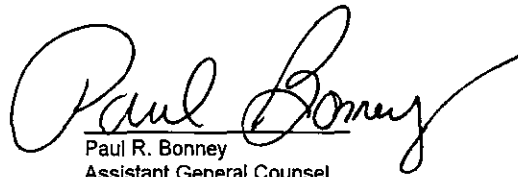
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A handwritten signature in black ink that reads "Paul Bonney". The signature is written in a cursive style with a long, sweeping tail on the letter "y".

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Dated: April 14, 2000

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00 APR 17 PM 3:55  
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April 17, 2000

James J. McNulty, Secretary  
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Room B-20, North Office Building  
Harrisburg, PA 17120

DOCUMENT  
FOLDER

VIA HAND DELIVERY

**Re: Application of PECO Energy Company, Pursuant to Chapters 11, 19, 21, 22 and 28 of the Public Utility Code, For Approval of (1) a Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) the Merger of the Newly Formed Holding Company and Unicom Corporation; Docket No.A-110550F0147**

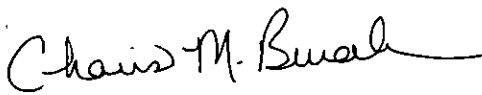
Dear Secretary McNulty:

Enclosed please find the original and three (3) copies of the Philadelphia Area Industrial Energy Users Group ("PAIEUG") Reply Objections filed in the above-captioned proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Please date stamp the extra copy of this transmittal letter and kindly return it for our filing purposes.

Very truly yours,

MCNEES, WALLACE & NURICK

By   
Charis M. Burak

CMB/lhe

c: Administrative Law Judge Charles E. Rainey, Jr. (via federal express)  
Certificate of Service

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

APPLICATION OF PECO ENERGY  
COMPANY, PURSUANT TO  
CHAPTERS 11, 19, 21, 22 AND 28 OF  
THE PUBLIC UTILITY CODE, FOR  
APPROVAL OF (1) A PLAN OF  
CORPORATE RESTRUCTURING,  
INCLUDING THE CREATION OF A  
HOLDING COMPANY AND (2) THE  
MERGER OF THE NEWLY FORMED  
HOLDING COMPANY AND UNICOM  
CORPORATION

Docket No. A-110550F0147

DOCKETED  
APR 18 2000

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PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP  
REPLY OBJECTIONS TO PPL ELECTRIC UTILITIES CORPORATION  
AND  
COUNCILMAN DAVID COHEN

DOCUMENT  
FOLDER

Pursuant to Administrative Law Judge Charles E. Rainey, Jr.'s ("ALJ Rainey") March 28, 2000 Order Revising Procedural Schedule, the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), a party to the above-captioned proceeding, submits these Reply Objections to the Objections filed by PPL Electric Utilities Corporation ("PPL") and Councilman David Cohen ("Councilman Cohen").

**I. Reply Objections to PPL Electric Utilities Corporation**

On March 23, 2000, PECO Energy Company ("PECO") filed with the Pennsylvania Public Utility Commission ("PUC" or "Commission") a Joint Petition for Settlement ("Joint Petition"), achieved and agreed upon among the Joint Petitioners in the above-captioned proceeding. PAIEUG, among numerous other parties, was a signatory to the Joint Petition.

On April 12, 2000, PPL filed Objections to the Joint Petition, urging the Commission to reject the Joint Petition. Specifically, PPL attempts to hinder the resolution of PECO's Merger and Restructuring Proceeding by arguing that the Joint Petitioners have failed to submit substantial evidence that the Joint Petition is lawful and in the public interest. PAIEUG submits that PPL's Objections fail to provide any constructive comment regarding the Joint Petition, and are nothing more than an attempt to obstruct resolution of this proceeding.

PPL's Objections are a futile attempt to frustrate the collaborative resolution of PECO's Merger and Restructuring Proceeding. In its Objections, PPL selfishly does not dispute that the merger and resulting restructuring of PECO should be approved - most likely because PPL may someday have a merger opportunity to present to the Commission. Rather, PPL argues that the benefits PECO proposes to provide to its ratepayers, through the Joint Petition, have not been adequately supported by the Joint Petitioners. PPL's motivation here is obvious - it wants to avoid being confronted with similar demands from intervening parties in its proceedings in the future. PPL attended the numerous settlement conferences that occurred among the parties, and, as a result, is fully cognizant of the resulting settlement discussions. Throughout these discussions, the proposed terms of the Joint Petition and the relation to the Merger and Restructuring Proceeding were discussed. For PPL to state otherwise is nothing short of an attempt to obstruct the Joint Petition, and prevent full resolution in this proceeding.

Moreover, as noted by PAIEUG in its Statement of Support, one of the benefits of the Joint Petition is the ability of the parties to conserve resources by eliminating the need for full litigation in this proceeding. According to PPL, however, nothing short of full litigation is needed in order for the Joint Petitioners to prove to the Commission that the Joint Petition is in

the public interest. A broad range of public interest representatives participated in the settlement discussions and their respective signatures confirm their position that the settlement is in the public interest. PPL should be accorded no standing by the Commission to undermine that public interest process. If the Commission were to grant PPL's Objections, the benefits of the Joint Petition, including the ability of the parties to conserve litigation resources, would be completely mitigated, and future settlement processes before the Commission will be severely compromised.

Finally, PPL's greatest fear seems to stem from the possibility that PPL would someday be required to offer its ratepayers the same benefits the Joint Petition provides to PECO ratepayers. Throughout its objections, PPL argues that the Joint Petitioners must be prevented from using the Joint Petition to justify relief in subsequent Commission proceedings. As mentioned previously, PPL's Objections provide no constructive comment to the Joint Petition, but rather constantly reiterate that PPL must be protected from any precedent that would require PPL to provide similar "concessions" to its ratepayers. As a result of this argument, the true nature of PPL's Objections can be seen: PPL's Objections are nothing more than an attempt to obstruct PECO's Joint Petition in order to ensure that PPL will not be faced with intervening parties in subsequent PPL proceedings where comparable demands may be raised. The Commission cannot countenance this isolationist philosophy at the expense of the substantial benefits formed in this settlement for PECO's customers. For all of the aforementioned reasons, the Commission must dismiss PPL's Objections as meritless.

**II. Councilman David Cohen**

Councilman Cohen's Objections argue that the Joint Petition does not provide enough benefit to PECO ratepayers. Specifically, Councilman Cohen posits that the Joint Petition should provide further benefits regarding nuclear decommissioning, employment levels, and rate reductions. Councilman Cohen also suggests several provisions for addition to the Joint Petition.

As previously mentioned, the Joint Petition was reached through numerous settlement conferences held among the parties. These conferences resulted in concessions by all sides, in order to ensure a settlement that benefits all parties. While Councilman Cohen's intention to provide additional benefits to PECO's ratepayers is understandable, if each party's "wish list" were granted, a settlement might not have been achieved in this proceeding. Instead, the Joint Petition represents the concessions of the parties necessary to achieve a settlement and provide benefit to PECO ratepayers. Councilman Cohen's inability to obtain each and every one of his goals should not bar the resolution of this proceeding through the settlement achieved by the Joint Petitioners.

**WHEREFORE**, the Philadelphia Area Industrial Energy Users Group respectfully requests that the Objections of PPL Electric Utilities Corporation and Councilman David Cohen be denied, and the Joint Petition for Settlement in the PECO Merger and Restructuring Proceeding be approved as filed.

Respectfully submitted,

McNEES, WALLACE & NURICK

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Dated: April 17, 2000

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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**CERTIFICATE OF SERVICE**

Docket No. A-110550F0147

Page 2

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April 17, 2000

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VIA HAND DELIVERY

DOCUMENT  
FOLDER

**Re: Application of PECO Energy Company, Pursuant to Chapters 11, 19, 21, 22 and 28 of the Public Utility Code, For Approval of (1) a Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) the Merger of the Newly Formed Holding Company and Unicom Corporation; Docket No.A-110550F0147**

Dear Secretary McNulty:

Enclosed please find the original and three (3) copies of the Statement in Support of the Joint Petition for Settlement of the City of Philadelphia filed in the above-captioned proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Please date stamp the extra copy of this transmittal letter and kindly return it for our filing purposes.

Very truly yours,

MCNEES, WALLACE & NURICK

By   
David M. Kleppinger

DMP/lhe

c: Administrative Law Judge Charles E. Rainey, Jr. (via facsimile and first class mail)  
Certificate of Service

**ORIGINAL**  
*COPY*

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

APPLICATION OF PECO ENERGY COMPANY, PURSUANT TO CHAPTERS 11, 19, 21, 22 AND 28 OF THE PUBLIC UTILITY CODE, FOR APPROVAL OF (1) A PLAN OF CORPORATE RESTRUCTURING, INCLUDING THE CREATION OF A HOLDING COMPANY AND (2) THE MERGER OF THE NEWLY FORMED HOLDING COMPANY AND UNICOM CORPORATION

**DOCKETED**

APR 18 2006

Docket No. A-110550F0147

DOCUMENT  
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RECEIVED  
00 APR 17 PM 2:25  
PA P.U.C. BUREAU  
SECRETARY'S BUREAU

**STATEMENT OF THE CITY OF PHILADELPHIA  
IN SUPPORT OF THE JOINT PETITION FOR SETTLEMENT**

The City of Philadelphia ("the City"), by and through its counsel, submits that the Joint Petition for Settlement filed in the above-captioned proceeding with the Pennsylvania Public Utility Commission ("PUC" or "Commission") on March 23, 2000, reflects a settlement among the Joint Petitioners with respect to the application by PECO Energy Company ("PECO" or "Company") for approval of (1) its proposed corporate restructuring, and (2) its proposed merger at the holding company level with Unicom Corporation ("Unicom").

On March 3, 2000, the City filed a Petition to Intervene in the above-captioned proceeding. As noted in the City's Petition, the City receives service from PECO under a broad number of rate schedules. As a result, the City was particularly concerned with the effects of the merger on PECO's current rates, system reliability, and the interpretation of the City's contract with PECO. Additionally, PECO employs a large number of Philadelphians at its corporate

headquarters in Philadelphia. For this reason, the City was concerned with the merger effects on employee retention and the resulting effect on the economy.

The City believes that the Joint Petition satisfactorily addresses the aforementioned concerns, as well as providing additional benefits to all PECO customers. Specifically, the City concludes that the Joint Petition, to which a broad and diverse group of intervenors representing various public interests has agreed, does in fact serve the public interest. For the reasons set forth in the Joint Petition, as well as highlighted herein, the City respectfully requests that Administrative Law Judge Rainey and the Commission approve the terms and conditions of the Joint Petition.

Respectfully submitted,

McNEES, WALLACE & NURICK

By 

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Counsel to the City of Philadelphia

Dated: April 17, 2000

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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April 17, 2000

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Dated this 17<sup>th</sup> of April, 2000, in Harrisburg, Pennsylvania.

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

April 17, 2000

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
North Office Building, Room B-20  
Commonwealth Avenue and North Street  
Harrisburg, PA 17105-3265

Filed by FedEx  
8145-8926-9689

Re: Application of PECO Energy Company, Pursuant To Chapters 11, 19, 21, 22 And 28  
Of The Public Utility Code, For Approval of (1) A Plan Off Corporate Restructuring,  
Including The Creation Of A Holding Company and (2) The Merger Of The Newly  
Formed Holding Company And Unicom Corporation.  
Docket No. A-110550F0147

ORIGINAL

Dear Secretary McNulty:

Enclosed please find for filing an original and three copies of the Reply  
Comments of Consumers Education and Protective Association, Association of  
Community Organizations for Reform Now, Action Alliance of Senior Citizens of  
Greater Philadelphia, and Tenants' Action Group. These Reply Comments respond to the  
Objections to the Joint Petition for Settlement filed by PPL Electric Utilities Corporation  
and by Philadelphia City Councilman David Cohen in the above-captioned matter.

Copies have been served upon all parties of record as shown on the attached  
Certificate of Service.

Very truly yours,

*Philip A. Bertocci*

PHILIP A. BERTOCCI

Enclosures

cc: Administrative Law Judge Charles E. Rainey, Jr.  
Certificate of Service

114

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Application of PECO Energy Company :  
Pursuant to Chapters 11, 19, 21, 22 and :  
28 of the Public Utility Code, :  
For Approval of (1) a Plan of :  
Corporate Restructuring, Including :  
the Creation of a Holding Company :  
and (2) the Merger of the Newly :  
Formed Holding Company and Unicom :  
Corporation :

Docket No. A-110550F0147

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Reply Comments of Consumers Education and Protective Association, Association of  
Community Associations for Reform Now, Action Alliance of Senior Citizens  
of Greater Philadelphia and Tenants' Action Group

The Consumers Education and Protective Association, the Association of Community Organizations for Reform Now, the Action Alliance of Senior Citizens of Greater Philadelphia, and the Tenants' Action Group (collectively "CEPA et al."), through counsel Community Legal Services, Inc., hereby file the following Reply Comments to the Objections to the Joint Petition for Settlement filed by PPL Electric Utilities Corporation ("PPL") and by Philadelphia City Councilman David Cohen.

CEPA et al. filed a Protest and Intervention in this proceeding on December 20, 1999

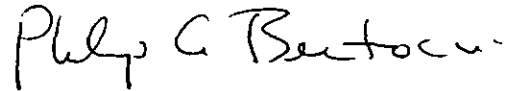
and, as in PECO Energy Company's prior securitization and restructuring cases at Docket Nos. R-00973953 and P-00971265, have actively participated in the extended and complex settlement negotiations that resulted in the Joint Petition for Settlement, and are signatories of that Joint Petition.

As set forth in CEPA et al.'s Statement in Support of Joint Petition for Settlement filed on March 29, 2000, CEPA et al. have concluded that the proposed settlement (hereinafter "Settlement") assures that between 2001 and the end of 2006, PECO ratepayers and the public at large will substantially benefit from the proposed merger in a wide variety of ways, and that the sum of the benefits exceeds the dollar value of the net savings to be achieved by PECO Energy as a regulated distribution company resulting from merger related synergies. CEPA et al. submit that if this case were fully litigated before the Commission, the public would not be able to obtain greater value, and might very well obtain a lesser result.

CEPA et al. have reviewed the Reply Comments of the Office of Consumer Advocate and incorporate those Reply Comments herein by reference. Under all the circumstances, the Joint Settlement represents a judicious balance of a wide variety of issues, is in the public interest, and should be approved. CEPA et al. agree with OCA that the objections raised by PPL are so baseless that they should be immediately dismissed. CEPA et al. share the concerns eloquently voiced by Councilman Cohen, but believe that the Joint Settlement

addresses these concerns to the maximum extent possible in this type of proceeding.

Respectfully submitted,



---

PHILIP A. BERTOCCI, ESQUIRE  
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Attorneys for CEPA, ACORN,  
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Date: April 17, 2000

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APR 17 2000

Re: Application of PECO Energy Company, Pursuant to Chapters 1119, 121, 22, and 28 of the Public Utility Code for Approval of (1) A Plan of Corporate Restructuring, Including the Creation of a Holding Company and (2) The Merger of the Newly Formed Holding Company and Unicom Corporation.  
Docket No. A-110550F0147

I hereby certify that I have this day served a true copy of the foregoing document, Reply Comments of Consumers Education and Protective Association, et al., upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

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Dated this 17<sup>th</sup> day of April 2000

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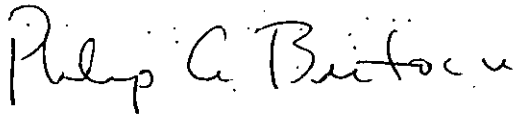
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COMMONWEALTH OF PENNSYLVANIA  
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IN REPLY PLEASE  
REFER TO OUR FILE

April 17, 2000

306979

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Re: Application of PECO Energy Company to Chapters 11, 19, 21, 22,  
and 28 of the Public Utility Code, for Approval of (1) A plan of  
Corporate Restructuring, including the creation of a Holding Company  
and (2) the Merger of the Newly Formed Holding Company and  
Unicom Corporation - Docket No. A-110550F0147

Dear Secretary McNulty:

ORIGINAL

Enclosed for filing is the original and three (3) copies of the **Reply of the Office of Trial Staff to the Objections of PPL Electric Utilities Corporation to the Joint Petition for Settlement** in the above-captioned proceeding.

Copies of this document have been served on all parties of record.

Sincerely,

Kenneth L. Mickens  
Senior Prosecutor  
Office of Trial Staff

Kandace F. Melillo  
Prosecutor  
Office of Trial Staff

- c: Chairman Quain
- Vice Chairman Bloom
- Commissioner Brownell
- Commissioner Wilson
- Commissioner Fitzpatrick
- Administrative Law Judge Rainey

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

306980

00 APR 18 AM 7:58

Application of PECO Energy Company, :  
Pursuant to Chapters 11, 19, 21, 22 and 28 :  
Of the Public Utility Code, for Approval of :  
(1) A Plan of Corporate Restructuring, :  
including the Creation of a Holding :  
Company and (2) The Merger of the Newly :  
Formed Holding Company and Unicom :  
Corporation :

Docket No.  
A-110550F0147

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**ORIGINAL**

REPLY OF THE OFFICE OF TRIAL STAFF  
TO THE OBJECTIONS OF  
PPL ELECTRIC UTILITIES CORPORATION  
TO THE JOINT PETITION FOR SETTLEMENT

**DOCKETED**

APR 18 2000

**DOCUMENT  
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In accordance with the Order Revising Procedural Schedule dated March 28, 2000 of Administrative Law Judge Charles E. Rainey, Jr. ("ALJ"), PPL Electric Utilities Corporation ("PPL") filed with the Pennsylvania Public Utility Commission ("Commission") its Objections to the Joint Petition for Settlement ("Objections") of the above-cited proceeding on April 12, 2000. The Office of Trial Staff ("OTS"), a signatory to the Settlement, herein files its Response to PPL's Objections in accordance with the ALJ's March 28, 2000 Order. OTS submits that PPL's Objections should be dismissed and in support thereof represents the following:

1. On November 22, 1999, PECO filed its Merger Application pursuant to Chapters 11<sup>1</sup>, 19, 21, 22 and 28 of the Public Utility Code, for approval of the transactions associated with (1) a plan of corporate restructuring, including the formation of a holding company, and (2) the merger of the newly formed holding company and Unicom Corporation.

2. A Prehearing Conference was held in this proceeding in Philadelphia on January 20, 2000. Subsequent to the Prehearing Conference, the ALJ issued a Prehearing Order, dated January 28, 2000, which identified the applicable procedural rules, litigation and briefing schedules.

3. As a result of several scheduled settlement conferences, the Joint Petition for Settlement (“Settlement”) was agreed upon by most of the parties to this proceeding. PPL is not a signatory to the Settlement. After receiving the Settlement on March 23, 2000, the ALJ issued the March 28, 2000 Order providing for the filing of Objections and Replies to Objections to the Settlement.

4. At pp. 14-19 of its Objections, PPL argues that in the case of contested settlements, the Commission must find that each provision of the settlement is in the public interest, consistent with applicable law and supported by substantial evidence of record. PPL further alleges that the Commission does not have “a body of evidence responsive to the Merger Application that it can weigh against

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<sup>1</sup> This statute requires merger applicants to show that the transaction is “necessary or proper for the service, accommodation, convenience, or safety of the public.” 66 Pa. C.S. §1103(a). The Pennsylvania Supreme Court in City of York v. Pennsylvania Public Utility Commission, 449 Pa. 136, 295 A.2d 825 (1972) (“City of York”), interpreted this statutory requirement to mean that the Commission must find affirmatively that

that submitted with the Merger Application to determine if the provisions of the Joint Petition represent a reasonable accommodation of the parties' positions." PPL Objections, p. 18. However, OTS submits that in addition to the evidence supplied in the Merger Application, the Commission has the Public Input testimony available to it for review. Public Input hearings were held in Philadelphia (March 27, 2000), Trevese (March 28, 2000), Norristown (March 29, 2000), Glenmore (March 30, 2000), Media (March 31, 2000) and York (April 4, 2000). At the Public Input hearings, people testified representing a broad spectrum of customer classifications. More importantly, these customers testified at a point after the Settlement had been filed and reported upon in the media. At the beginning of each Public Input hearing, the parties summarized the Settlement and solicited questions about its terms. See, Public Input Hearing Transcript, Tr. 210-218. Accordingly, the Commission can review this customer testimony in its effort to determine whether the Settlement is in the public interest.

5. PPL next argues that "[t]he Settlement contains substantial rate reductions, and an extension of the cap on PECO's retail transmission and distribution charges, which are speculative and unsubstantiated." PPL Objections, p. 20. In this regard, PPL claims that the Commission's recent decision in Joint Application of PG Energy, Inc., et al., for Approval of the Merger into Southern Union Company, Docket No. A-120011 et al., (entered September 15, 1999) ("PG

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public benefit will result from the merger and that the Commission should consider the impact of the proposed merger on future rates to consumers.

Energy”), rejects an attempt “to obtain future ratemaking concessions in a merger application proceeding instead of in a rate case.” PPL Objections, p. 20.

6. However, the Commission further explained its PG Energy ruling in Joint Application of Bell Atlantic Corporation and GTE Corporation for Approval of Agreement and Plan of Merger, Docket No. A-310200F0002 (entered November 4, 1999) (“Bell/GTE”) as follows:

The Joint Applicants rely on PG Energy Order and other recent merger decisions by this Commission for the proposition that the pass through of merger savings to ratepayers is not necessary nor relevant in determining whether a proposed merger will provide a public benefit. *Id.* However, in citing the PG Energy Order, the Joint Applicants ignore our further discussion that such a pass through may be a necessary “mitigation measure where the merger raises anti-competitive concerns and involves two horizontal competitors that are actual or potential competitors in the same relevant markets.”

Order at p. 27.

Thus, it is clear that the Commission has not broadly stated that ratemaking concessions are not appropriate in a merger proceeding as argued by PPL.

Instead, the Commission has found that they may be appropriate in certain instances. It is important to note that the Commission in the Bell/GTE Order approved both rate reductions and rate caps. Order at pp. 31-33. In Bell/GTE, as in the instant proceeding, the merging parties are potential competitors.

7. Moreover, it is important to realize that through its authority to grant certificates of public convenience, the Commission has broad discretion in

determining appropriate mitigation measures involving merger applications.<sup>2</sup> In this regard, Section 1103(a) of the Public Utility Code, 66 Pa. C.S. §1103(a), provides that the Commission, in granting certificates of public convenience, “may impose such conditions as it may deem to be just and reasonable.” This broad authority to fashion appropriate remedies to ensure that the proposed merger will be in the public interest, has been acknowledge by the Pennsylvania Commonwealth Court. See, Rheems Water Company v. Pennsylvania Public Utility Commission, \_\_ Pa. Commonwealth Ct. \_\_, 620 A.2d 609 (1993). As discussed above, the Commission has often found that the mitigation employed (in the form of rate reductions, rate caps or other measures), ensures that the public will benefit from the merger. In any event, in order to gain approval, the public must benefit from the merger. See, City of York, supra.

8. In regard to the nuclear decommissioning provisions in the Settlement, PPL argues that the record does not reflect whether the concessions made by PECO represents “a correct balance between protecting consumers from the costs of nuclear decommissioning and protecting society....” PPL Objections, p. 23. However, the financial concessions made by PECO in the Settlement in no way impact this Commission’s (or the appropriate federal agency’s) ability to review the appropriate level of the decommissioning fund and/or PECO’s ability to safely

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<sup>2</sup> In the instant proceeding under Chapter 11 of the Public Utility Code, PECO seeks a certificate of public convenience pursuant to “acquire from, or transfer to, ... the title to, or the possession or use of, any tangible or intangible property used or useful in the public service.” Section 1102(a)(3), 66 Pa. C.S. §1102(a)(3). Merger Application, pp. 8-9. PECO also seeks a certificate pursuant to Section 1103(a). Merger Application, p.9.

decommission its nuclear plants. The actuarial reports will still be required so that the Commission will be able to monitor the condition of the decommissioning fund as it always has. Accordingly, PPL's speculative allegation should be dismissed.

9. At pp. 29-33, PPL makes its most peculiar argument. PPL argues that even if the Commission determines that the Settlement is lawful and in the public interest, it should condition its approval upon the agreement of all settling parties that the Settlement "will not be used to justify relief in subsequent proceedings before the Commission involving other Pennsylvania public utilities, including efforts to reopen their restructuring settlements." PPL Objections, p. 29. PPL adds that public utilities that do not actively participate in the settled proceedings, find themselves forced to defend against provisions that are justified on the basis that they were agreed to by another utility. PPL Objections, p. 30.

10. Initially, OTS believes that this argument presents a question of standing. PPL apparently believes it has the authority to step into the shoes of PECO for the purpose of protecting its perceived interest, which may be impacted by the settlement terms agreed to by PECO in this proceeding. However, OTS submits that such an argument is inconsistent with PPL's party status in this proceeding. Presumably, PPL, an electric public utility in Pennsylvania, was admitted as a party in this proceeding solely because of the possibility that certain competitive issues that could arise during the course of the proceeding might impact it. Instead, PPL argues that it must be allowed to protect itself against

arguments that “might” be raised in settlement discussions by parties to the settlement in a “hypothetical” future proceeding involving PPL. Moreover, PPL is not only alleging that such arguments might be made to the Commission to reopen its electric restructuring proceeding, but might be used in settlement negotiations to obtain a similar result. PPL Objections, p. 32.

11. OTS submits that PPL’s claim is absurd. First, the law in Pennsylvania clearly states that settlements cannot be used as precedent in other proceedings. See, Joint Petition of the Frontier Companies for a Streamlined Form of Regulation and Plan for Network Modernization, 1996 Pa. PUC LEXIS 107, 129-130 (Docket No. P-00951005) (September 11, 1996). Second, PPL acknowledges that the Settlement’s very terms indicate that the Settlement cannot be used as controlling precedent.<sup>3</sup> PPL Objections, p. 29. In spite of the identified safeguards, PPL seeks to bind the settling parties in the areas of both legal argument and action. OTS believes that PPL’s requests should be denied because this Commission does not possess the authority to bind the parties future conduct in settlement negotiations in the manner sought by PPL. Moreover, PPL can easily avoid the result it fears, by simply refusing to agree to terms that it believes would place it at a competitive disadvantage. In addition, PPL should not fear that

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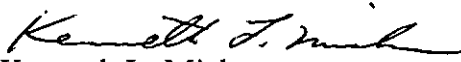
<sup>3</sup> The Joint Petition states:

Acknowledging that it is expressly understood and agreed that the Settlement constitutes a negotiated resolution solely of issues addressed herein, the Merger and the Corporation Restructuring, the Joint Petitioners agree that this Settlement shall not constitute or be cited as controlling precedent in any other proceeding, including a proceeding involving a merger or an acquisition by another Pennsylvania electric utility.

a settling party would use the instant settlement to reopen PPL's electric restructuring proceeding because such action is specifically barred under the terms of the Settlement. Consequently, PPL's claims should be dismissed.

Accordingly, for the reasons discussed herein, OTS respectfully moves that the Objections of PPL Electric Utilities Corporation to the Joint Petition for Settlement, be dismissed.

Respectfully submitted,

  
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Kandace F. Melillo  
Prosecutor  
Office of Trial Staff  
Pennsylvania Public  
Utility Commission

Dated: April 18, 2000

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Application of PECO Energy</b>	<b>:</b>	
<b>Company to Chapters 11, 19, 21,</b>	<b>:</b>	
<b>22 and 28 of the Public Utility Code,</b>	<b>:</b>	
<b>for Approval of (1) A Plan of</b>	<b>:</b>	<b>Docket No.</b>
<b>Corporate Restructuring, including</b>	<b>:</b>	<b>A-110550F0147</b>
<b>the creation of a Holding Company</b>	<b>:</b>	
<b>and (2) the Merger of the Newly</b>	<b>:</b>	
<b>Formed Holding Company and</b>	<b>:</b>	
<b>Unicom Corporation</b>	<b>:</b>	

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing, the **Reply of the Office of Trial** dated April 17, 2000, either personally, by fax upon the persons addressed below:

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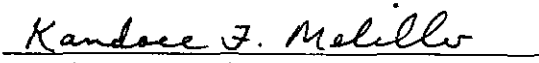
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Docket No. A-110550F0147  
Date: April 17, 2000