

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Uniform Cover and Calendar Sheet**

<b>1. REPORT DATE:</b> December 19, 2000	<b>2. BUREAU AGENDA NO.</b> DEC-2000-L-184*
<b>3. BUREAU:</b> <b>LAW</b>	<b>5. PUBLIC MEETING DATE:</b>  December 20, 2000  <div style="text-align: right; font-size: 2em; font-weight: bold; border: 1px solid black; padding: 5px;"> DOCKETED  JAN 11 2001 </div>
<b>4. SECTION(S):</b>	
<b>6. APPROVED BY:</b>  <b>Director:</b> Pankiw 7-5000 <b>Supervisor:</b> Moury, K.O. 2-883	
<b>7. PERSONS IN CHARGE:</b> Burket, P. K. 7-3464	
<b>8. DOCKET NO.:</b> A-110550 F0147	

- 9. (a) CAPTION (abbreviate if more than 4 lines)**  
**(b) Short summary of history & facts, documents & briefs**  
**(c) Recommendation**

- (a) In Re: PECO Energy Company Competitive Default Service Program Bidding: Joint Petition For Approval Of Competitive Default Service Coordination Agreement: Petition for Reconsideration Filed by Green Mountain Energy Company
- (b) On November 30, 2000, the Commission entered an order at the above captioned docket approving the Joint Petition for Approval of Competitive Default Service Coordination Agreement filed by PECO Energy Company and The New Power Company, Inc. On December 15, 2000, Green Mountain filed a Petition for Reconsideration from our November 30, 2000 order.
- (c) The Law Bureau recommends that the Commission adopt the proposed order that grants the Petition for Reconsideration for a limited purpose.

**10. MOTION BY:** Commissioner Chm. Quain

**SECONDED:** Commissioner Bloom

**Commissioner Brownell - Yes**  
**Commissioner Wilson - Yes**  
**Commissioner Fitzpatrick - Yes**

**CONTENT OF MOTION:** Staff recommendation adopted.

**DOCUMENT  
FOLDER**



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

December 20, 2000

IN REPLY PLEASE  
REFER TO OUR FILE

A-110550  
F0147

THOMAS GADSDEN ESQUIRE &  
ANTHONY DECUSATIS ESQUIRE  
MORGAN LEWIS & BOCKIUS  
1701 MARKET STREET  
PHILADELPHIA PA 19101-2921

DOCKETED

JAN 03 2001

In Re: PECO Energy Company Competitive Default Service Program Bidding:  
Joint Petition For Approval Of Competitive Default Service Coordination Agreement:  
Petition for Reconsideration Filed by Green Mountain Energy Company

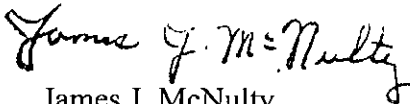
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To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on December 20, 2000 has adopted an Order in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

  
James J. McNulty  
Secretary

law  
encls  
cert. mail

See attached list  
for additional parties  
of record.

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg PA 17105-3265

Public Meeting held December 20, 2000

Commissioners Present:

John M. Quain, Chairman  
Robert K. Bloom, Vice-Chairman  
Nora Mead Brownell  
Aaron Wilson, Jr.  
Terrance J. Fitzpatrick

In Re: PECO Energy Company  
Competitive Default Service Program  
Bidding: Joint Petition For Approval Of  
Competitive Default Service  
Coordination Agreement:  
Petition for Reconsideration Filed by  
Green Mountain Energy Company

Docket No. A-110550 F0147

**DOCUMENT  
FOLDER**  
BY THE COMMISSION:

**ORDER**

**DOCKETED**  
JAN 03 2001

On November 30, 2000, the Commission entered an order at the above captioned docket approving the Joint Petition for Approval of Competitive Default Service Coordination Agreement (Joint Petition) filed by PECO Energy Company and The New Power Company, Inc. This petition was filed on October 3, 2000 and Green Mountain Energy Company (Green Mountain) filed an answer and protest to the Joint Petition on October 23, 2000.

On December 15, 2000, Green Mountain filed a Petition for Reconsideration from our November 30, 2000 order pursuant to 52 Pa. Code

§ 5.572(c). We will grant this petition for the limited purpose described below subject to the due process requirements at Section 5.572(e) of our Rules of Practice and Procedure, 52 Pa. Code § 5.572(e).

## DISCUSSION

Consistent with Subsection §703(g) of the Public Utility Code, 66 Pa. C.S. § 703(g), Section §5.572 of our regulations, 52 Pa. Code § 5.572, and judicial and administrative precedent, the standards for a petition for relief following a final decision were set forth in Duick v. PG&W, 56 Pa. P.U.C. 553 (December 17, 1982) (Duick). Duick held that a petition for reconsideration under Subsection 703(g) may properly raise any matter designed to convince the Commission that we should exercise our discretion to amend or rescind a prior Order, in whole or in part. Furthermore, such petitions are likely to succeed only when they raise “new and novel arguments” not previously heard or considerations which appear to have been overlooked or not addressed by us. (Duick, p. 559).

In its petition, Green Mountain maintains that the Commission should grant reconsideration of its November 30, 2000 order based on the reasons articulated in its pleadings filed previously at this docket. Green Mountain then requests that the Commission amend its November 30, 2000 order to require a hearing on the disputed facts present<sup>1</sup>. Green Mountain argues that the Commission erred in

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<sup>1</sup> In its Reply to Response of PECO to Green Mountain’s Answer and Protest, filed November 3, 2000, Green Mountain had argued that the question of whether there were good faith negotiations between itself and PECO is an issue of fact and that it would not be opposed to evidentiary hearings.

ruling that there were no factual issues in the case and urges the Commission to provide the parties with the opportunity to present the evidence necessary to prove their respected positions.

The Commission recognizes that under our Rules of Practice and Procedure<sup>2</sup>, parties have until December 26, 2000 to file answers to Green Mountain's Petition for Reconsideration and that under the Rules of Appellate Procedure<sup>3</sup>, the end of the time period in which an appeal can be filed from our November 30, 2000 order falls on January 2, 2001. However, the next opportunity when we can act on Green Mountain's Petition for Reconsideration is the Public Meeting scheduled for January 11, 2001. Therefore, in order for this Commission to retain jurisdiction over this matter, it is necessary for us to expeditiously rule on this petition before answers can be filed.

The Commission believes that an allegation of the deprivation of due process is a serious matter and deserves further contemplation. Therefore, we will grant the petition for reconsideration for the limited purpose of maintaining our jurisdiction so that we may study this issue further. To this end, we will extend the time allotted in Section 5.572 (e) for answers to be filed to Green Mountain's petition for reconsideration until 10 days after the entry date of this order. We note that this grant of reconsideration does not stay the implementation of the PECO-New Power Competitive Default Supply Program that was established as a

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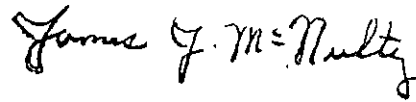
<sup>2</sup> Section 5.572(e) of our regulations, 52 Pa. Code § 5.572(e), permits answers to petitions for reconsideration to be filed within ten days of service of the petition.

result of our November 30, 2000 order approving the Joint Petition;

THEREFORE, it is ordered:

1. That the Petition for Reconsideration filed by Green Mountain Energy Company is granted consistent with the discussion in the body of this order.
2. That parties may file an answer to the Petition for Reconsideration no later than ten days after the entry date of this order.
3. That a copy of this order be served on all parties to this docket.

By the Commission,



James J. McNulty  
Secretary

(SEAL)

Order Adopted: December 20, 2000

Order Entered: **DEC 20 2000**

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<sup>3</sup> Pa. R.A.P. 1512(a)(1) provides that a petition for review from an order of a governmental unit must be filed within 30 days of the entry date of the order.

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A-110550 F0147 O

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 20<sup>th</sup> day of December 2000,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of ORDER an official Commission document entered, issued, or otherwise promulgated under date of DECEMBER 20, 2000 at Docket No. A-110550 F0147 on behalf of:

KENNETH L MICKENS ESQUIRE

OFFICE OF TRIAL STAFF

2ND FLOOR KEYSTONE BLDG

741945

Claine C. Meisinger  
Signature

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

To: → SECRETARY'S BUREAU FILE ROOM  
PA PUBLIC UTILITY COMMISSION  
~~B-20, North Office Building~~  
Harrisburg, PA 17105-3265

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SECRETARY'S BUREAU  
00 DEC 21 2AM 11 50

RECEIVED  
00 DEC 20 PM 2:42  
PA 100  
OFFICE OF TRIAL STAFF

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 20<sup>th</sup> day of December, 2000,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of ORDER an official Commission document entered, issued, or otherwise promulgated under date of DECEMBER 20, 2000 at Docket No. A-110550 F0147 on behalf of:

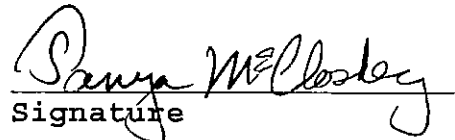
TANYA J MCCLOSKEY

OFFICE OF CONSUMER ADVOCATE

555 WALNUT STREET

FORUM PLACE 5TH FLOOR

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00 DEC 21 PM 3:55  
PA.P.U.C.  
SECRETARY'S BUREAU

  
Signature

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PA PUBLIC UTILITY COMMISSION  
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ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

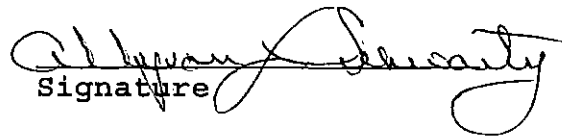
AND NOW, to wit, this 22 day of December, 2000,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of ORDER an official Commission document entered, issued, or otherwise promulgated under date of DECEMBER 20, 2000 at Docket No. A-110550 F0147 on behalf of:

HON ALLYSON Y SCHWARTZ

PA SENATE

SEANTE BOX 203004

  
Signature

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

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