



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
Office of Administrative Law Judge
P.O. BOX 3265, HARRISBURG, PA 17105-3265
May 31, 2005

IN REPLY PLEASE
REFER TO OUR FILE

In Re: A-110550F0160

(See attached list)

KJR

Joint Application of PECO Energy Company & Public Service
Electric and Gas Company for Approval of Merger of Public Service
Enterprise Group Incorporated with and Into Exelon Corporation

Public Input Hearing Notice

This is to inform you that Public Input Hearings on the
above-captioned case will be held as follows:

Type: Public Input Hearings

Date: Thursday, June 30, 2005

Time: 10:00 a.m.

Location: Philadelphia Senior Center
Auditorium
509 S. Broad Street
Philadelphia, PA 19147

DOCKETED
JUN 03 2005

Date: Thursday, June 30, 2005

Time: 3:00 p.m.

Location: Philadelphia Community College of Philadelphia
West Regional Center
Community Room
4725 Chestnut Street
Philadelphia, PA 19139

**DOCUMENT
FOLDER**

Presiding: **Administrative Law Judge Marlane R. Chestnut**
1302 Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130
Telephone: (215) 560-2105
Fax: (215) 560-3133

If you are a person with a disability, and you wish to attend the hearing(s), we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission:

- Scheduling Office: (717) 787-1399.
- AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

pc: Chairman Holland
Vice Chairman Bloom
Commissioner Pizzingrilli
Judge Chestnut
June Perry - LA, Keystone 3NW
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Consumer Advocate
Small Business Advocate
Susan Licon
Beth Plantz
Docket Section
Calendar File

Joint Application of PECO Energy Company and Public Service Electric and Gas Company for
Approval of the Merger of Public Service Enterprise Group Incorporated with and Into Exelon
Corporation
Docket Number A-110550F0160

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CHARLES E. THOMAS
(1913 - 1998)

June 2, 2005

James J. McNulty
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400 North Street
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Harrisburg, PA 17105-3265

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2005 JUN -2 PM 3:10
SECRETARY'S BUREAU

In re: Docket No. A-110550F0160
Joint Application of PECO Energy and
Public Service Electric and Gas Company

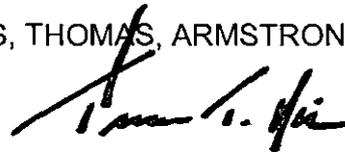
Dear Secretary McNulty:

Enclosed for filing on behalf of Philadelphia Gas Works are an original and three (3) copies of its Motion to Compel Responses to Interrogatories and Requests for Production of Documents in the above matter. Copies of the Motion are being served upon the persons and in the manner set forth on the Certificate of Service attached to it.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By



Thomas T. Niesen

Encl.

cc: Certificate of Service
Steven P. Hershey, Esquire (w/encl.)
Denise Adamucci, Esquire (w/encl.)

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Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Administrative Law Judge
Marlane R. Chestnut, Presiding

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JOINT APPLICATION OF PECO : Docket No. A-110550F0160
ENERGY COMPANY AND PUBLIC :
SERVICE ELECTRIC AND GAS :
COMPANY FOR APPROVAL OF THE :
MERGER OF PUBLIC SERVICE :
ENTERPRISE GROUP :
INCORPORATED WITH AND INTO :
EXELON CORPORATION :

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**MOTION OF PHILADELPHIA GAS WORKS
TO COMPEL RESPONSES TO INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

AND NOW, comes Philadelphia Gas Works ("PGW"), by its attorneys, and, pursuant to 52 Pa. Code §5.342 and Administrative Law Judge Chestnut's Revised Prehearing Order #2, moves to compel the filing of full and complete responses to Interrogatories and Requests for Production of Documents ("Motion"). In support thereof, PGW submits as follow:

Background

1. This proceeding concerns the Joint Application of PECO Energy Company ("PECO") and Public Service Electric and Gas Company ("PSE&G") (hereinafter collectively referred to as "Joint Applicants") for Approval of the Merger of Public Service Enterprise Group Incorporated with and into Exelon Corporation.

2. On April 27, 2005, PGW served its Second Set of Interrogatories and Request for Production of Documents ("Set II Interrogatories") upon Joint Applicants. The Set II Interrogatories include Interrogatories Nos. 1 and 2 concerning Exelon's and PSEG's management of natural gas assets or other natural gas related services. Joint

Applicants filed no objections to PGW's Set II Interrogatories. Joint Applicants provided a response to Set II Interrogatory No. 1 on May 25, 2005, 28 days after service of the Set II Interrogatories, and a response to Set II Interrogatory No. 2 on June 1, 2005, 35 days after service of the Set II Interrogatories.

3. On April 29, 2005, PGW served its Third Set of Interrogatories and Request for Production of Documents ("Set III Interrogatories") upon Joint Applicants. The Set III Interrogatories concern, *inter alia*, PSE&G firm transportation capacity and capacity release. Joint Applicants filed no objections to PGW's Set III Interrogatories. An email response to PGW's Set III Interrogatories was provided by Joint Applicants on June 1, 2005, 33 days after service of the Set III Interrogatories. Joint Applicants' response to Set III Interrogatory No. 2 refers, in part, to attachments not distributed with the email response and states that PSEG does not have capacity release data for other periods but that the requested data for other periods can be accessed from electronic bulletin boards.

4. On April 29, 2005, the City of Philadelphia also served Interrogatories upon Joint Applicants. The City's Interrogatories Nos. 71.c, 72.c, 73.c and 74.c concern, *inter alia*, natural gas storage and transportation capacity purchased and forecasted by PSE&G and/or PSEG. PGW seeks the same data, but, with the City's service of these interrogatories, there was no need for PGW to serve similar interrogatories on its own. To PGW's knowledge, Joint Applicants filed no objections to the City's Interrogatories. However, as of the filing date of this Motion, more than 30 days after the date of service, the City's Interrogatories, Nos. 71.c, 72.c, 73.c and 74.c remain outstanding and unanswered.

5. On May 19, 2005, PGW served its Fourth Set of Interrogatories and Request for Production of Documents ("Set IV Interrogatories") upon Joint Applicants.

The PGW Set IV Interrogatories are "follow ups" to responses previously provided by Joint Applicants and to responses which were yet to be provided by Joint Applicants at the time of the service of the Set IV Interrogatories. On May 26, 2005, following several discussions between counsel, Joint Applicants filed Objections to PGW's Set IV Interrogatories. Counsel have attempted to resolve Joint Applicants' Objections and such attempts continue as of the filing date of this Motion. Given the approaching deadline for the filing of testimony on June 28, however, PGW seeks a prompt resolution of this matter, since the requested data is important for the preparation of PGW's testimony.

6. In Joint Applicants' response to OSBA Set I Interrogatory No. 5, workpapers of Dr. Hieronymus are made available on CD on request. On May 23, 2005, PGW, by email correspondence, asked Joint Applicants to send PGW and its consultant these CD workpapers. There are three CDs associated with these workpapers. PECO asserts it is entitled to confidential treatment for two of the three CDs. As of the filing of this Motion, neither the non-confidential CD nor the confidential CDs have been provided to PGW by Joint Applicants. Counsel have discussed this issue and continue to attempt to resolve it. These workpapers are needed for preparation of testimony due on June 28.

PGW's Set III Interrogatory No. 2,
City of Philadelphia Interrogatories Nos. 71.c, 72.c, 73.c and 74.c and
the Hieronymus Workpapers

7. PGW's Set III Interrogatory No. 2 and Joint Applicants' response and City of Philadelphia Interrogatories Nos. 71.c, 72.c, 73.c and 74.c provide as follows:

PGW Set III, No. 2

2. Please provide the following data regarding all PSE&G capacity release by pipeline and by zone for the period of 2000 to 2005: a) period of release; b) party to whom capacity was released; c) volume; and d) price.

Response:

Please refer to the attachments for capacity release data, Attachment PGW-III-2-1. PSEG does not have data for releases for periods prior to that indicated on the attachments, however, such data can be accessed from the pipelines' electronic bulletin boards.

City of Philadelphia Interrogatories Nos. 71.c, 72.c, 73.c and 74.c

71. Please quantify the natural gas storage capacity purchased by each of the following companies for each year from 1999 through 2004:

* * * * *

c. PSE&G and/or PSEG.

72. Please quantify the natural gas storage capacity forecasted to be purchased by each of the following companies for each year from 2005 through 2012:

* * * * *

c. PSE&G and/or PSEG.

73. Please quantify the upstream natural pipeline capacity purchased by each of the following companies for each year from 1999 through 2004:

* * * * *

c. PSE&G and/or PSEG.

74. Please quantify the upstream natural pipeline capacity forecasted to be purchased by each of the following companies for each year from 2005 through 2012.

* * * * *

c. PSE&G and/or PSEG.

8. No valid justification exists for Joint Applicants to provide a partial answer to PGW's Set III Interrogatory No. 2 or for their failure to answer City of Philadelphia Interrogatories Nos. 71.c, 72.c, 73.c and 74.c. These Interrogatories seek data related to market power issues, issues which are at the core of the Commission's determination whether the granting of the application is in the public interest or not and no objections were filed. Each Interrogatory has been outstanding now for a period substantially beyond the 15 day response time allowed by Revised Prehearing Order #2. PGW submits that full and fair responses to the foregoing Interrogatories should be provided

no later than June 10, 2005. Furthermore, Joint Applicants should provide the CDs of the Hieronymus workpapers immediately to PGW.

PGW's Set IV Interrogatories and Requests for Production of Documents

9. Joint Applicants assert a general timeliness objection to PGW's Set IV Interrogatories and specific objections to certain of the Set IV Interrogatories. Joint Applicants' general and specific objections are addressed below and are attached hereto as Attachment A. PGW's Set IV Interrogatories are included as Appendix A to Attachment A.

Set IV Interrogatories Are Timely, Follow Up Interrogatories

10. Revised Prehearing Order #2 provides that the initial discovery request period ends on May 1, 2005. Joint Applicants argue that the May 1 deadline applies to PGW's Set IV Interrogatories. It does not. Revised Prehearing Order #2 does not preclude follow up discovery after May 1 and PGW's Set IV Interrogatories are all of a follow up nature, as explained in more detail below:

- a. All of the Set IV Interrogatories relate to natural gas market power. PGW's Set II and Set III Interrogatories concerning natural gas matters, particularly matters relating to PSEG, were only recently answered after being outstanding, some for thirty days or more. PSEG has substantial operations in New Jersey and the unwillingness to disclose information concerning PSEG gas matters heightens the level of inquiry justifying this discovery since it is the proposed combination of PECO Gas and PSE&G gas operations under Exelon that has the potential for creating serious market power issues impacting both gas and electric pricing. As a consequence of Joint Applicants' Objection and the failure to respond fully and timely to PGW's Interrogatories, PGW's consultant is being

prevented from having sufficient time to examine these responses and prepare testimony. These actions on the part of Joint Applicants would merit extending the time frames of the existing litigation schedule.

b. *All of the Set IV Interrogatories are triggered by a prior response of Joint Applicants or by interrogatories that were outstanding and unanswered at the time of the service of PGW's Set IV. More specifically:*

i. *Set IV Interrogatories Nos. 1 through 3 and 5 through 7 follow up City of Philadelphia Interrogatories and seek information concerning Joint Applicants' natural gas transportation and storage contracts. Some of the information for the PECO system is in the "Abstract of Contracts" provided by Joint Applicants in their response to OCA Set VII Interrogatory No. 1 or in historical Section 1307(f) filings also provided by Joint Applicants. Missing, however, are receipt points and rate information for PECO, similar abstracts (including receipt points and rate information for PSE&G) and information for Joint Applicants' affiliates. These remaining points could be addressed by Joint Applicants simply providing copies of existing natural gas transportation, storage and gas management agreements for PECO, PSE&G and their affiliates. It is fair follow up to ask for the actual contracts in order to fill in the gaps of missing information, as well as to confirm the accuracy of the already provided abstracts.¹ The information*

¹ In their response to OCA Set II Interrogatory No. 2, Joint Applicants state that PECO is "involved in a number of asset management agreements whereby a portion of PECO's storage and related firm transportation contract entitlements are managed by third party asset managers." In their response to PGW Set II Interrogatory No. 1, Joint Applicants state, however, that "[n]either Exelon nor any of its affiliates provides management of natural gas assets or other similar natural gas related services for any entity." Without follow up, these answers seem inconsistent.

requested in Interrogatories 1 through 3 and 5 through 7 will allow PGW to investigate matters relevant to this proceeding (See Paragraphs 13 through 15, *infra*), including the impact of the combined entity on PGW's own gas acquisition strategy and practices, all of which are matters critical to the market power and public interest questions at issue. In addition, the data will inform PGW and other parties (and potentially the Commission) with regard to gas - electric market power vertical issues.

- ii. Set IV Interrogatory No. 4 refers to PGW Set III, Interrogatory No. 2, and asks for capacity release information concerning PSE&G/PSEG. PGW's Set III Interrogatories were answered yesterday after being more than 30 days outstanding. The response to PGW Set III Interrogatory No. 2 was, moreover, *incomplete as set forth above*. PGW Interrogatory No. 4 is fair follow up to PGW's Set III Interrogatories and directly relevant to market power and public interest issues.
- iii. Set IV Interrogatories Nos. 8 through 16 are a follow-up to Joint Applicants' responses to OCA Set II Interrogatory No. 2. OCA Set II Interrogatories opened an inquiry into the effects of the merger on the gas procurement function at PECO and PSE&G. Joint Applicants' response to the OCA Set II Interrogatory No. 2 provides a general description of PECO's gas procurement function keyed to PECO's Section 1307(f) information. PGW Interrogatories Nos. 8 through 16 ask for specific details concerning how natural gas assets are managed and systems are

operated by both PECO and PSE&G. The information is directly related to matters of market power and public interest and, to properly evaluate the impact of the merger, the inquiry must include PSE&G. The information requested in Interrogatories Nos. 8 through 16 will allow PGW to investigate matters relevant to this proceeding (See Paragraphs 13 through 15, *infra*), including the impact of the combined entity on PGW's own gas acquisition strategy and practices and the impact of PSE&G gas management and assets on the combined entity's ability to exercise even greater market power. In addition, the data will inform PGW and other parties (and potentially the Commission) with regard to gas - electric market power vertical issues.

- iv. Set IV Interrogatories Nos. 17 through 24 concern gas fired electric generating units. They follow up on questions asked by the OCA and information provided by Joint Applicants in response to OCA Set VIII Interrogatory No. 13 and OCA Set VII Interrogatory No. 4, both of which raise matters concerning the location of generating units and PECO gas supply plans. The information requested in Interrogatories Nos. 17 through 24 will allow PGW to investigate matters relevant to this proceeding (See Paragraphs 13 through 15, *infra*), particularly whether Joint Applicants will be able to exercise market power over electric pricing related to gas market power. PGW has an annual electric bill of approximately \$4 million and a direct interest in this market power issue.

- v. Set IV Interrogatories Nos. 26 through 28 ask Joint Applicants to identify the natural gas regulations “under which they operate” and the Commission and other regulatory agency orders or rules that limit the interaction or sharing of information between them. As discussed in subsection (iii) of Paragraph 10.b, Joint Applicants’ response to OCA Set II Interrogatory No. 2 provided a general description of PECO’s gas procurement function. Interrogatories 26 through 28 seek further information about the regulations, orders and rules under which they operate.

11. In addition to the foregoing, it is disingenuous for Joint Applicants to raise a timeliness objection to PGW’s Set IV Interrogatories. The schedule in this matter was created in response to Joint Applicants’ professed desire to expedite the proceeding on the premise that the proceedings before this Commission had to keep pace with proceedings in other jurisdictions. It is now clear, however, that there are delays in those other jurisdictions beyond those initially anticipated or alleged by Exelon. Yet, not one of PGW’s Interrogatories was answered within the 15 days allowed by Revised Prehearing Order #2 and Interrogatories seeking information critical to the natural gas market power issue important to PGW (to which Joint Applicants did not object) were only answered within the last few days and, in the case of related Interrogatories of the City of Philadelphia, remain unanswered and outstanding as of the filing date of this Motion.

12. PGW is the largest natural gas distribution entity in the Commonwealth of Pennsylvania serving many customers of limited financial means. It purchases natural gas, pipeline and storage capacity in the same market as PECO/PSE&G. PGW is concerned with the potential market power of the merged entity on the natural gas

assets it buys and, ultimately, the impact of that market power on PGW's customers. As a purchaser of approximately \$4 million of electricity annually, PGW is also concerned with the potential market power impact of the combined entity on the price of electricity. PGW's Set IV Interrogatories are all directly related to PGW's legitimate concerns and of matters of concern to the public interest. The Interrogatories are proper follow up questions and Joint Applicants should be directed to answer them fully, completely and promptly.

**Joint Applicants' Specific Objections to Interrogatories
Nos. 2 through 4, 6, 8 through 13, 17 through 20, 24 and 25**

13. In addition to its general objection as to timeliness, Joint Applicants claim that Set IV Interrogatories Nos. 2 through 4, 6, 8 through 13, 17 through 20, 24 and 25 seek information that is not relevant to any issue or matter properly within the scope of this proceeding. They further claim that Interrogatories Nos. 3, 4, 9, 10 through 12 and 18 through 20 seek competitively sensitive information that has no reasonable nexus to issues or matters properly within the scope of the proceeding.

14. PGW asserts that these claims are incorrect and notes the following with respect to them:

- a. Joint Applicants and PGW (and the other participants) are parties to a Confidentiality Agreement which addresses Joint Applicants' concern over the disclosure of "sensitive" information.
- b. After the merger, Exelon, through its PECO Energy and PSE&G subsidiary affiliates, will have substantial market power with regard to natural gas pipeline capacity and spot market gas into the Philadelphia region. PGW is concerned with the potential impact of this market power on both the availability and price of capacity and spot market gas as well as the impact of the exercise of gas market power on electric pricing.

The potential detriment to both PGW and the distribution customers it serves could be substantial. Interrogatories Nos. 2 through 4, 6, 8 through 13, 17 through 20, 24 and 25 seek information which is directly related to PGW's market power concerns.

c. Further, Interrogatories Nos. 2 through 4, 6, 8 through 13, 17 through 20, 24 and 25 are directly related to claims made in the testimony submitted by Joint Applicants in support of the Application. Specifically:

i. At page 9 of PECO Statement No. 3, Dr. Hieronymus claims that the merger will have no adverse effect on gas markets. He states that "[b]oth individually and collectively, they [PSEG and Exelon] do not have a dominant share of pipeline capacity." In his supplemental analysis distributed May 27, 2005, he states, at pages 45 and 46, that Joint Applicants' contracts "for relatively small amounts of storage capacity cannot reasonably be claimed to create a competitive concern." Interrogatories 2 through 4, 11 and 12 seek information directly relevant and necessary to evaluate these claims and to determine whether the merging parties will have the ability to use their interstate capacity, storage and peaking assets to adversely affect gas markets. In particular, Interrogatories 2 through 4 seek more detailed information than has yet been provided on the merging entities' interstate transportation contracts, gas supplies delivered via interstate pipelines, and capacity release transactions as the only effective way to test the accuracy of Dr. Hieronymus' claims. Interrogatory 6 seeks more detailed information than has yet been provided on

the merging entities gas storage contracts. Interrogatory 11 seeks information on asset management agreements related to PECO and PSE&G's gas storage and firm transportation agreements, which could affect the Joint Applicants' use of their pipeline and storage assets. Interrogatory 12 seeks information on the use of PECO and PSE&G's gas peaking facilities (LNG and propane), which are another form of gas storage under the control of Joint Applicants.

- ii. At page 16 of Exhibit WHH-1, Dr. Hieronymus asserts that the merging parties cannot withhold interstate pipeline capacity, in part, because this capacity is needed to serve their gas distribution customers and their own gas-fired electric generation plants. Interrogatories 8, 9, 13, 17 and 18 seek information necessary to evaluate these assertions and, again, to determine whether the merging parties will have the ability to use their gas assets to adversely affect gas and electric markets. Interrogatories 8 and 9 seek information on the merging entities' gas sales and purchases. This information is needed to determine the extent to which the merging parties control assets in excess of those needed to meet their load obligations, taking into account both timing and supply issues. Interrogatory 13 seeks information on PECO's sendout, including sendout to PECO's retail customers. This information is needed to determine the size of PECO's retail customer load. Interrogatories 17 and 18 seek information on gas usage and gas supply plans for gas-

fired generation owned by the merging entities. This information is needed to determine the Joint Applicants' load obligations with regard to their gas-fired electric generating units.

- iii. At page 15 of Exhibit WHH-1, Dr. Hieronymus claims that the proposed merger creates no issues with regard to fuel supply for electric generators. He argues that the Joint Applicants "do not have the ability to use [their gas LDC] systems to raise rivals' costs or otherwise disadvantage rivals." Interrogatories 19, 20, 24 and 25 seek information on Joint Applicants' service to gas-fired electric generators. In particular, Interrogatory 19 seeks information on Joint Applicants' gas service to electric generators. Interrogatory 20 seeks information on communications with electric generators seeking to interconnect with the applicants.² Interrogatories 24 and 25 seek complaints filed against the Joint Applicants regarding gas service to electric generators.
- iv. Finally, Interrogatory 10 seeks information about gas hedging transactions. Gas hedging information is relevant and necessary to assess Joint Applicants' incentives to exercise market power with regard to the price of gas in Pennsylvania and PJM East.

15. In conclusion, PGW's Set IV Interrogatories Nos. 2 through 4, 6, 8 through 13, 17 through 20, 24 and 25 seek data related to core market power issues and directly related to claims made by Joint Applicants in support of their Joint Application. Joint Applicants should be directed to answer them fully and completely.

² At page 15 of his testimony, Dr. Hieronymus further states that "[i]t is unlikely and unnecessary that new generation would seek to be connected to an LDC as opposed to direct interconnection with a pipeline system."

Joint Applicants' Objection to Interrogatories Nos. 8, 9, 10 and 17

16. Joint Applicants claim that obtaining and assembling the information requested in Set IV Interrogatories Nos. 8, 9, 10 and 17 would be unduly burdensome. The objection could be reasonably interpreted as one which acknowledges that there is information that Joint Applicants could provide in response to these Interrogatories.

17. Set IV Interrogatories Nos. 8, 9, 10 and 17 ask for very specific data and/or information in an electronic format. Joint Applicants may already maintain this data and/or information in an electronic format. During the discussions leading up to the filing of this Motion, PGW asked Joint Applicants whether they retain this information in an electronic format. To date, they have not responded. PGW submits that Joint Applicants should be required to state whether the requested data and/or information is in electronic form. If it is, there is little or no burden in providing it. PGW will accept the material in the electronic format in which it is maintained.

18. If the data and/or information is not available in electronic format, Joint Applicants should be required to explain how the requests are burdensome. Their cursory "burdensome" claim should not be accepted without a detailed explanation. The matter of whether or not the discovery imposes an *undue or unreasonable* burden on Exelon is a question for the Commission, after weighing the nature of the burden and the significance of the data sought. To the extent the burden is based on difficulties in providing information on a daily basis, PGW is willing to accept monthly information for all months except the annual peak month.

19. PGW submits that Joint Applicants should be required to answer Set IV Interrogatories Nos. 8, 9, 10 and 17 as aforesaid.

Joint Applicants' Objection to Interrogatories Nos. 17 and 19

20. Joint Applicants erroneously claim that release of information concerning gas-fired electric generating units as requested by Set IV Interrogatories Nos. 17 and 19 would violate customer privacy rights under 52 Pa. Code §62.78. Section 62.78, however, has no application to large users such as gas-fired electric generating units. Section 62.78 applies only to residential and small business customers as is clear from the express language of 52 Pa. Code §62.71(b). In any event, the requested discovery would not violate Section 62.78 even if the section applied to large users. Section 62.78 requires an NGDC to notify a customer of an intent to release customer information. The customer may then restrict disclosure in accordance with subsections (1) and (2) of Section 62.78(a) and allow the release of only historical billing data or all customer information including name, billing address, service address, rate class and so forth. There is, however, no outright restriction in Section 62.78 prohibiting the release of customer information. Indeed, if the customer chooses not to exercise one of the restriction options, all of the customer's private information may be released except for the telephone number. In sum, Section 62.78 contemplates the release of historic billing data which would seem to fall squarely within the information requested in Interrogatories Nos. 17 and 19. It may well be that the customer would not object to the disclosure. If the customer is an affiliate of Joint Applicants an objection by the customer should not be countenanced.

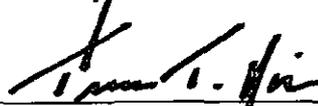
Joint Applicants' Objection to Interrogatories Nos. 26-28

21. Joint Applicants wrongly contend that Set IV Interrogatories Nos. 26 through 28 ask them to do legal research. Interrogatories Nos. 26 through 28 ask Joint Applicants to identify the natural gas regulations "under which they operate" and the Commission and other regulatory agency orders or rules that limit the interaction or

sharing of information between them. These are requests for Joint Applicants to identify the limitations that apply and the limitations, if any, that Joint Applicants in fact do apply in their daily dealings with one another. They do not ask Joint Applicants to conduct legal research and Commission regulations do not recognize the objection raised by Joint Applicants. Section 5.321 of Title 52 provides that a participant may obtain discovery regarding "any matter, not privileged, which is relevant to the subject matter involved in the pending action" The scope of discovery as defined in Section 5.321 encompasses the requests presented in Set IV Interrogatories Nos. 26 through 28.

WHEREFORE, Philadelphia Gas Works prays that Administrative Law Judge Chestnut compel Joint Applicants to provide full and complete responses to PGW's Set III Interrogatory No. 2, PGW's Set IV Interrogatories and Request for Production of Documents and City of Philadelphia Interrogatories Nos. 71.c, 72.c, 73.c and 74.c by June 10, 2005, and also to provide immediately the workpapers of Joint Applicants' witness Hieronymus.

Respectfully submitted,

By 

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DATED: June 2, 2005

ATTACHMENT A

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2005 JUN -2 PM 3:10

SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOINT APPLICATION OF PECO :
ENERGY COMPANY AND PUBLIC :
SERVICE ELECTRIC AND GAS :
COMPANY FOR APPROVAL OF THE :
MERGER OF PUBLIC SERVICE : DOCKET NO. A-110550F0160
ENTERPRISE GROUP :
INCORPORATED WITH AND INTO :
EXELON CORPORATION :

OBJECTIONS OF PECO ENERGY COMPANY AND
PUBLIC SERVICE ELECTRIC AND GAS COMPANY
TO THE INTERROGATORIES (SET IV)
OF THE PHILADELPHIA GAS WORKS

Pursuant to 66 Pa. C.S. §333(d) and 52 Pa. Code §5.342, PECO Energy Company (PECO Energy) and Public Service Electric and Gas Corporation (PSE&G) (collectively, the Joint Applicants), hereby object to the Interrogatories (Set IV) propounded by the Philadelphia Gas Works (PGW). As explained below, the aforementioned interrogatories were filed two and a half weeks after the period for initial discovery closed. *See* Prehearing Order No. 2, Paragraph No. 33. In addition, specific Interrogatories, as delineated below, are objectionable because they inquire into matters that are not relevant to the issues in this proceeding, seek competitively sensitive information, are unduly burdensome, request customer information protected by 52 Pa. Code §62.78 and improperly request the Joint Applicants to conduct legal research.

1. On March 30, 2005, the Administrative Law Judge (ALJ) issued Prehearing Order No. 2. Paragraph No. 33 of that Order, which sets forth the schedule for this proceeding, provides that the initial discovery request period would end on May 1, 2005.

2. May 19, 2005, PGW issued its Interrogatories (Set IV), consisting of 28 questions, a copy of which is attached.

3. PGW's Interrogatories (Set IV) were issued 18 days after the initial discovery period closed in this case. Accordingly, those Interrogatories are untimely and should be stricken.

4. The Joint Applicants object to specific interrogatories on the additional grounds set forth below.

a. *The Joint Applicants object to Interrogatories Nos. 2-4, 6, 8-13, 17-20, 24 and 25 on the grounds that the information they request is not relevant to any issue or matter properly within the scope of this proceeding.*

b. *The Joint Applicants object to Interrogatory Nos. 3, 4, 9, 10-12 and 18-20 on the grounds that they seek competitively sensitive information that has no ascertainable nexus to issues or matters properly within the scope of this proceeding.*

c. *The Joint Applicants object to Interrogatory Nos. 8, 9, 10, and 17 on the grounds that obtaining and assembling the requested information would be unduly burdensome.*

d. *The Joint Applicants object to Interrogatory Nos. 17 and 19 because release of the information requested by PGW would violate the customer privacy provisions of the Commission's regulation at 52 Pa. Code §62.78.*

e. The Joint Applicants object to Interrogatory Nos. 26-28 on the grounds that they request the Joint Applicants to conduct legal research for PGW. This use of the discovery process is not proper. *Malone v. The Pennsylvania Railroad Company*, 17 Pa. D&C 2d 752 (1959).

THEREFORE, for all of the foregoing reasons, the Joint Applicants' Objections to the Interrogatories (Set IV) of Philadelphia Gas Works should be granted.

Respectfully submitted,

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Dated: May 26, 2005

Appendix A
PGW's Interrogatories
(Set IV)

PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOINT APPLICATION OF PECO : Docket No. A-110550F0160
ENERGY COMPANY AND PUBLIC :
SERVICE ELECTRIC AND GAS :
COMPANY FOR APPROVAL OF THE :
MERGER OF PUBLIC SERVICE :
ENTERPRISE GROUP :
INCORPORATED WITH AND INTO :
EXELON CORPORATION :

**PHILADELPHIA GAS WORKS'
FOURTH SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS TO
PECO ENERGY COMPANY AND
PUBLIC SERVICE ELECTRIC AND GAS COMPANY**

Pursuant to Section 333(d) of the Pennsylvania Public Utility Code, 66 Pa. C.S. §333(d), Philadelphia Gas Works ("PGW"), by its attorneys, submits the following Fourth Set of Interrogatories and Request for Production of Documents to PECO Energy Company ("PECO Energy") and Public Service Electric and Gas Company ("PSE&G") to be answered in writing under oath in accordance with the definitions and instructions provided below.

Definitions and Instructions

1. To "identify" or "state the identity of" a person, if that person is a natural person, means to state:

- a. his or her name and all other names by which he or she is referred to;
- b. his or her present or last known resident address and telephone number;
- c. his or her present or last known business address and telephone number; and
- d. his or her present or last known occupation, position, and business affiliation.

2. To “identify” or “state the identity of” a person, if that person is not a natural person, means to:

- a. state its full name and specify its nature (e.g., corporation, partnership, etc.);
- b. set forth the general nature of its business (e.g., products manufactured or sold, services rendered, etc.); and
- c. state its present or last known principal business address, identified as such, and such other of its business addresses as are known to you.

3. “Document” means the original and any non-identical copy (which is different from the original or any copy because of notations thereon or attached thereto or otherwise) of any written, recorded, printed, typewritten, or handwritten matter, however produced, reproduced or recorded, including without limitation, electronic mail, contracts, agreements, representations, warranties, certificates, opinions, letters, telegrams, memoranda, reports, studies, evaluations, diaries, minutes, maps, pamphlets, notes, charts, calendars, tabulations, analyses, bank records, income tax records, statistical information accumulations, transcripts, records of meetings and conversations of any kind, film impressions, photographs, magnetic tape, sound or mechanical reproductions, recordings, drafts of contracts, purchase orders, invoices, advertisements,

receipts, drawings, vouchers, and telephone records, which is or was at anytime in your possession, custody, or control or known or believed by you to exist or to have existed.

4. To “identify” or “state the identity of” a document means to state with respect thereto:

a. the nature or type of the document (e.g., letter, contract, etc.) and the number of pages or units of which it consists;

b. its date, and if it bears no date, the date it was prepared or received;

c. the identity of its author, each signatory or person over whose name it is issued, and each person who received, approved, or commented on it;

d. the identity of all persons to whom the document was addressed or distributed;

e. the last known physical location and address of the original and each duplicate copy, and the identity of its custodian; and

f. the general subject matter or content of the document with sufficient particularity to enable it to be identified.

5. “Person” means any natural person and any corporation, partnership, firm, joint venture, sole proprietorship, or other legal or business entity of any kind.

6. The terms “PECO Energy,” “you,” or “your,” or any synonym thereof is intended to and shall embrace and include, in addition to PECO Energy, counsel for PECO Energy, and all agents, servants, employees, partners, officers, representatives, private investigators and others who are aware of, in the possession, custody or control of, any information, document or thing for or on behalf of PECO Energy.

7. The terms “PSE&G,” “you,” or “your,” or any synonym thereof is intended to and shall embrace and include, in addition to PSE&G, counsel for PSE&G, and all agents, servants, employees, partners, officers, representatives, private

investigators and others who are aware of, in the possession, custody or control of, any information, document or thing for or on behalf of PSE&G.

8. Whenever you are asked in these requests to identify, or explain or describe a fact, incident, event, act, transaction, occasion, or course of conduct, include but do not limit your response to the following:

- a. the date, time and place it occurred;
- b. the identity of each person participating, a statement of who such person purported to represent, and the identity of all oral communications;
- c. a statement of the subject matter; and
- d. the identity of all documents referred to.

9. These requests shall be deemed continuing so as to require supplementation or further answers if further information is obtained between the time at which the answers are served and the time of hearing, specifically including, but not limited to, a continuing duty to seasonably supplement your response with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters. You are under a similar duty to correct any incorrect response when you later learn that it is incorrect.

10. Grammar and syntax, as used in these requests, shall be construed and interpreted to give proper meaning and consistency to its context. By way of illustration and not by limitation, the singular form of words may include the plural and the plural form of words may apply to each individual person, and the use of any gender or tense may be construed to include all genders and tenses, wherever appropriate in these

requests, to bring within their scope any information which might otherwise be construed to be outside their scope.

Interrogatories and Requests for Production of Documents

Additional Instructions

For those of the following Interrogatories and Requests denoted “[**Electronic**]” please provide the response in an electronic spreadsheet format. The phrase “PECO and all other entities involved in the merger” includes, but is not limited to, PECO, PSE&G, all affiliates of PECO including but not limited to ComEd, Exelon Generation and Exelon Energy Inc., and all affiliates of PSE&G.

1. If not already being provided in response to Question 73 from the City of Philadelphia Interrogatories to PECO Energy Company, Set 1, then for PECO and all other entities involved in the merger, please identify all contracts (including capacity release agreements) held on all gas pipelines for gas transportation services in effect from November 1, 1999 to the present, including:

- a) Pipeline name
- b) Contract holder (PECO, or another entity involved in the merger)
- c) Type of contract (firm or interruptible)
- d) Releasing shipper (if applicable)
- e) Receipt point(s)
- f) Delivery points(s)
- g) MDQ and/or other quantity terms
- h) Agreement date
- i) Contract start date
- j) Contract end date
- k) Rate

2. If not already being provided in response to Question 73 from the City of Philadelphia Interrogatories to PECO Energy Company, Set 1, then please provide a copy of all transportation contracts summarized in the response to No. 1, above.

3. [**Electronic**] If not already being provided in response to Question 73 from the City of Philadelphia Interrogatories to PECO Energy Company, Set 1, then please provide gas flows by day and by delivery point for each of the contracts summarized in the response to No. 1, above, from November 1, 2003 to the present.

4. If not already being provided in response to Question 2 from Philadelphia Gas Works’ Third Set of Interrogatories and Request for Production of Documents to PECO Energy Company and Public Service Electric and Gas Company, then for PECO and all other entities involved in the merger, please identify all agreements to release capacity held on gas pipelines in effect from November 1, 1999 to the present, including:

- a) Pipeline name

- merger)
- b) Releasing shipper (PECO, or another entity involved in the merger)
 - c) Acquiring shipper
 - d) Receipt point(s)
 - e) Delivery point(s)
 - f) MDQ and/or other quantity terms
 - g) Agreement date
 - h) Release start date
 - i) Release end date
 - j) Rate

5. If not already being provided in response to Question 71 from the City of Philadelphia Interrogatories to PECO Energy Company, Set 1, then for PECO and all other entities involved in the merger, please identify all natural gas storage contracts in effect from November 1, 1999 to the present, including:

- a) Storage provider
- b) Contract holder (PECO, or another entity involved in the merger)
- c) Location of storage field
- d) Inventory
- e) Injection rights
- f) Withdrawal rights
- g) Agreement date
- h) Contract start date
- i) Contract termination date

6. If not already being provided in response to Question 71 from the City of Philadelphia Interrogatories to PECO Energy Company, Set 1, then please provide a copy of all storage contracts summarized in the response to No. 5, above.

7. If not already being provided in response to Questions 71 and 73 from the City of Philadelphia Interrogatories to PECO Energy Company, Set 1, then for each of the transportation contracts identified in the response to No. 1, above, and the storage contracts identified in the response to No. 5, above, please identify which contracts are committed in whole or in part to meeting the needs of PECO's retail customers or PSE&G's retail customers, and the volumetric size of the commitment.

8. [Electronic] In the response to OCA Set II, No. 2, PECO describes its gas supply purchases. Please provide a listing of all gas supply purchases made by PECO and PSE&G during November 1, 2003 to the present (including purchases made prior to November 1, 2003 but that were in effect after November 1, 2003). For each supply contract, please include the date the contract was entered into, whether the purchase was made by PECO or PSE&G, the volume that flowed under the contract by day, the start date for delivery of gas, the end date for delivery of gas, the price formula (if any), the price and the location where gas was delivered. If the supply was purchased for a

particular purpose (e.g., supplying retail customers, system balancing, or supplying a third party sale), please so specify.

9. **[Electronic]** In the response to OCA Set II, No. 2, PECO describes its “least cost gas procurement strategy,” and how it “optimizes its resources.” For all sales (i.e., not deliveries to retail customers, but to third parties such as industrial users, marketers, etc.) made by PECO and PSE&G, please provide a listing of sales contracts in existence during November 1, 2003 to the present (including sales made prior to November 1, 2003 but in effect after November 1, 2003). For each sales contract, please include the date the contract was entered into, whether the purchase was made by PECO or PSE&G, the volume that flowed under the contract by day, the start date for delivery of gas, the end date for delivery of gas, price, the location where gas is delivered to the purchaser, and identity of the purchaser.

10. **[Electronic]** In the response to OCA Set II, No. 2, PECO describes its “least cost gas procurement strategy,” and how it “optimizes its resources.” Please provide the following information regarding hedging transactions entered into by PECO and PSE&G from November 1, 2003 to the present (including hedging transactions entered into prior to November 1, 2003 but that were in effect after November 1, 2003.)

a) Please provide the price, quantity, term (start date and end date), date agreed to, and settlement location by transaction for each gas futures, forward, or option contract or any other hedging instrument with a settlement location in PJM.

b) Please state whether the hedging transaction was entered into by PECO or PSE&G.

c) Please explain the column titles for each of the columns provided, and any abbreviations used.

d) For two or three different types of hedging transactions, please use the data from the database and explain PECO’s position in the transaction and its net proceeds from the transaction.

e) For each hedging transaction, please provide PECO’s net proceeds from the transaction.

f) For each option contract specified in (a) above, please specify whether the option was a call or a put and indicate the day the option was exercised or sold.

11. In the response to OCA Set II, No. 2, PECO describes its “asset management agreements whereby a portion of PECO’s storage and related firm transportation contract entitlements are managed by third party asset managers.” Please provide a copy of all such PECO and any PSE&G asset management agreements in effect from November 1, 1999 to the present.

12. **[Electronic]** In the response to OCA Set II, No. 2, PECO describes its use of two peaking facilities (LNG and Propane-Air). Please provide the following information by day for November 1, 2003 to the present:

- facility,
- a) Injections into and withdrawals from PECO's LNG peaking facility,
 - b) Withdrawals from PECO's Propane-Air facility,
 - c) Injections into and withdrawals from any PSE&G LNG facilities,
- and
- d) Withdrawals from any PSE&G propane or other such peaking facilities.

13. **[Electronic]** In the response to OCA Set II, No. 2, PECO describes how it "meets its number one priority of providing reliable gas supplies to the citygate at all times to meet PECO's customers' demands." Please provide for the PECO distribution system by day for November 1, 2003 to the present:

- a) Total sendout,
- b) Total sendout to PECO's retail customers,
- c) Total sendout to retail customers affiliate(s) of PECO (if any),
- d) Total sendout to electric generators, and
- e) Total sendout to electric generators supplied by PECO or affiliate(s) of PECO.

14. In the response to OCA Set II, No. 2, PECO describes how it "meets its number one priority of providing reliable gas supplies to the citygate at all times to meet PECO's customers' demands." Please provide the total receipt capacity of the PECO distribution system.

15. In the response to OCA Set II, No. 2, PECO describes how it "meets its number one priority of providing reliable gas supplies to the citygate at all times to meet PECO's customers' demands." For each of the PECO distribution system's interconnections with an interstate or intrastate pipeline or a local distribution system, please list:

- a) The interconnecting pipeline or LDC, and
- b) PECO's receipt capacity at the interconnection.

16. **[Electronic]** In the response to OCA Set II, No. 2, PECO describes how it "meets its number one priority of providing reliable gas supplies to the citygate at all times to meet PECO's customers' demands." Please provide PECO's total receipts at each of the interconnections listed in response to Request 13 by day from November 1, 2003 to the present.

17. **[Electronic]** In response to OCA Set VIII, No. 13, PECO provided a map showing the location of generating units owned by Exelon and PSEG in relation to PECO and PSE&G's service territories. For each gas-fired electric generating unit located in PJM owned by PECO and all entities involved in the merger, please provide:

- a) Name of the unit,
- b) Owner(s) of the units,
- c) Capacity (MW), and
- d) Gas usage by day from November 1, 2003 to the present.

18. In response to OCA Set VII, No. 4, PECO provided current annual gas supply plans for PECO and all entities involved in the merger.

a) To the extent not already provided, please provide all fuel supply plans for gas-fired electric generating units located in PJM prepared by or for PECO or affiliate(s) of PECO from November 1, 1999 to the present.

b) Is it contemplated that any currently effective fuel supply plans provided in response to 18 a) would change after the merger? If so, please provide a description of the change.

19. Please provide the following information for each gas-fired electric generating unit located in PECO's and PSE&G service territory:

- a) Name of unit
- b) Whether the unit is in PECO's or PSE&G's service territory
- c) Owner of unit
- d) Capacity (MW)
- e) Whether the unit is connected to PECO's or PSE&G's distribution system
- f) Gas usage by month by month from November 2003 to the present (for units that receive distribution or transportation services from PECO or PSE&G)
- g) All service agreements associated with the unit with PECO and all other entities involved in the merger
- h) Names of other pipelines to which the unit is connected

20. Please provide any contracts, agreements, letters of intent or communications with PECO or PSE&G with regard to any gas-fired electric generating units proposing to interconnect with PECO's gas distribution system or PSE&G's gas distribution system since November 1, 1999.

21. Please provide a copy of all currently effective balancing provisions or penalties applicable for electric generators taking gas distribution or transportation services from PECO or PSE&G.

22. Please provide any studies or reports prepared by or for PECO or any other entities involved in the merger from November 1, 1999 to the present regarding fuel supply services that PECO or PSE&G have offered or contemplated offering to electric generation facilities.

23. Please provide any studies or reports prepared by or for PECO or any other entities involved in the merger from November 1, 1999 to the present regarding market conditions and competition for natural gas service to electric generators or large industrial customers in PJM.

24. Please provide a copy of all complaints filed against PECO that involve the rates or terms of service for gas service to electric generation customers.

25. Please provide a copy of all complaints filed against PSE&G that involve the rates or terms of service for gas service to electric generation customers.

26. Please provide a copy of all currently effective natural gas open access regulations under which PECO and PSE&G operate.

27. Please provide a copy of all currently effective orders or rules promulgated by the Pennsylvania PUC or any other regulatory agency that limit the interaction or information shared between PECO and affiliate(s) of PECO.

28. Please provide a copy of all currently effective orders or rules promulgated by any other regulatory agency that limit the interaction or information shared between PSE&G and affiliate(s) of PSE&G.

Respectfully submitted,

By _____

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DATED: May 19, 2005

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOINT APPLICATION OF PECO : Docket No. A-110550F0160
ENERGY COMPANY AND PUBLIC :
SERVICE ELECTRIC AND GAS :
COMPANY FOR APPROVAL OF THE :
MERGER OF PUBLIC SERVICE :
ENTERPRISE GROUP :
INCORPORATED WITH AND INTO :
EXELON CORPORATION :

CERTIFICATE OF SERVICE

I hereby certify that I have this 19th day of May, 2005, served a true and correct copy of the foregoing Fourth Set of Interrogatories and Request for Production of Documents, upon the persons and in the manner set forth below:

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Thomas T. Niesen

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**JOINT APPLICATION OF PECO
ENERGY COMPANY AND PUBLIC
SERVICE ELECTRIC AND GAS
COMPANY FOR APPROVAL OF THE Docket No. A-110550F0160
MERGER OF PUBLIC SERVICE
ENTERPRISE GROUP
INCORPORATED WITH AND INTO
EXELON CORPORATION**

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the Objections of PECO Energy Company and Public Service Electric and Gas Company To The Interrogatories (Set IV) of The Philadelphia Gas Works upon the persons and in the manner indicated below in accordance with the requirements of 52 Pa. Code §1.54.

VIA HAND DELIVERY

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Date: May 26, 2005

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2005 JUN -2 PM 3: 10

SECRETARY'S BUREAU

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Administrative Law Judge
Marlane R. Chestnut, Presiding

JOINT APPLICATION OF PECO : Docket No. A-110550F0160
ENERGY COMPANY AND PUBLIC :
SERVICE ELECTRIC AND GAS :
COMPANY FOR APPROVAL OF THE :
MERGER OF PUBLIC SERVICE :
ENTERPRISE GROUP :
INCORPORATED WITH AND INTO :
EXELON CORPORATION :

CERTIFICATE OF SERVICE

I hereby certify that I have this 2nd day of June, 2005, served a true and correct copy of the foregoing Motion of Philadelphia Gas Works to Compel Responses to Interrogatories and Requests for Production of Documents, upon the persons and in the manner set forth below:

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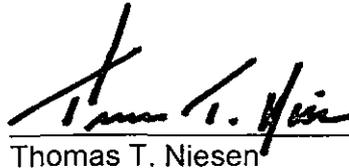
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June 6, 2005

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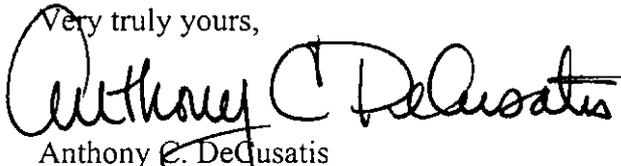
**DOCUMENT
FOLDER**

**Re: Joint Application Of PECO Energy Company And Public Service Electric And Gas Company For Approval Of The Merger Of Public Service Enterprise Group Incorporated With And Into Exelon Corporation
Docket No. A-110550F0160**

Dear Secretary McNulty:

Enclosed for filing in the above-captioned proceeding are an original and three copies of the Joint Applicants' Answer To The Philadelphia Gas Works' (PGW) Motion To Compel Answers To PGW Interrogatories (Set IV) And City Of Philadelphia Interrogatories 71.c. - 74.c. Copies of the Answer have been served upon the persons and in the manner set forth in the attached Certificate of Service. Additional copies of this letter and the Answer are enclosed, which we request be date-stamped and returned to us in the stamped, self-addressed envelope we are providing.

Very truly yours,



Anthony C. DeCusatis

Enclosures

c: Per Certificate of Service

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05 JUN -8 AM 9:12
PA.P.U.C.
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

JOINT APPLICATION OF PECO :
ENERGY COMPANY AND PUBLIC :
SERVICE ELECTRIC AND GAS :
COMPANY FOR APPROVAL OF :
THE MERGER OF PUBLIC :
SERVICE ENTERPRISE GROUP :
INCORPORATED WITH AND INTO :
EXELON CORPORATION :

Docket No. A-110550F0160

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ANSWER OF PECO ENERGY COMPANY AND
PUBLIC SERVICE ELECTRIC AND GAS COMPANY
To The Philadelphia Gas Works' (PGW)
Motion To Compel Answers To PGW Interrogatories (Set IV)
And City of Philadelphia Interrogatories 71.c.-74.c.

DOCKETED
AUG 03 2005

I. INTRODUCTION

Pursuant to 52 Pa. Code §5.342(e) and Paragraph 30 of Prehearing Order No. 2, PECO Energy Company (PECO Energy) and Public Service Electric and Gas Company (PSE&G) (collectively, the Joint Applicants) submit this Answer in opposition to PGW's Motion to Compel answers to PGW Interrogatories (Set IV) and City of Philadelphia (City) Interrogatory Nos. 71.c., 72.c., 73.c. and 74.c. As more fully explained below, PGW has failed to establish that its Interrogatories (Set IV) were served in timely fashion. Moreover, its claim that such interrogatories represent a "follow-up" to earlier discovery is not correct and, in any event, does not overcome the fact that such interrogatories were served well after the closure of the initial discovery period in this case. PGW's responses to the additional, specific objections made by the Joint Applicants to individual interrogatories in Set IV not only fail to refute the Joint Applicants' substantive positions, but underscore the fact that those interrogatories are not a "follow-up" to anything and simply represent a belated attempt to open entirely new lines of inquiry. Finally, PGW has no basis for seeking to compel answers to interrogatories propounded

by another party, as it is attempting to do in its Motion with respect to interrogatories issued by the City. *See* 52 Pa. Code §5.343(e) (limiting motions to compel to “the participant submitting the interrogatories”).¹ Moreover, reasonable accommodations made between a respondent and the actual proponent of interrogatories should not be upset by unauthorized motions to compel filed by third parties.

II. BACKGROUND

The Joint Applicants filed the above-captioned Joint Application on February 4, 2005. PGW filed a Petition to Intervene on March 28, 2005, approximately three weeks after the deadline for interventions. In that document, PGW asked to be permitted to intervene out of time based on the representation that its tardiness “will not delay the orderly progress of the matter” (PGW Petition, ¶ 8).

PGW’s Petition to Intervene was granted at the Prehearing Conference held on March 29, 2005. Also at the Prehearing Conference, a schedule for the proceeding was established based largely on the consensus of the parties. Obviously, neither the Joint Applicants nor other parties obtained the exact schedule they would have desired, and compromises were made on all sides. An integral part of that schedule was the establishment of May 1, 2005 as the closing date for the initial round of discovery requests. *See* Prehearing Order No. 2, p. 10 (“Initial discovery request period ends May 1, 2005.”). Given the extent of the discovery anticipated from the numerous parties in this case, the discovery request deadline was critically important to the Joint Applicants.

Prior to the May 1 deadline for issuing initial discovery in this case, PGW propounded three sets of interrogatories. Set I was served on April 14, 2005 and consisted of two questions. Set II was issued on April 27, 2005 and consisted of four questions. Set III was issued on April

¹ In any event, the issue is moot as to City Interrogatories 71.c.-74.c. Answers to those questions were served on June 6, 2005.

29, 2005 and consisted of two questions. Copies of PGW's Sets I, II and III are attached as **Appendix A**. PGW's Interrogatories (Set IV) were issued on May 19, 2005, and consist of 28 questions. A copy of Set IV was attached to the Joint Applicants' Objections and is also attached to PGW's Motion to Compel. As a review of PGW's Set IV clearly shows, those questions do not relate back to Sets I, II or III.

III. ARGUMENT

A. PGW's Interrogatories (Set IV) Are Not A "Follow Up" To Any Prior Discovery of PGW Or Any Other Party

Although PGW has not yet identified the witness or witnesses it intends to present, on May 17, 2005, it issued an e-mail to the Joint Applicants and other parties asking them to add to their respective service lists the name of Paul Carpenter, who is a Principal in The Brattle Group, a Cambridge, Massachusetts-based economic consulting firm. A copy of that e-mail is attached as **Appendix B**. Apparently, on or about May 17, PGW retained Mr. Carpenter and The Brattle Group to advise it and, presumably, testify on its behalf in this case. Two days later, PGW issued its Set IV, which as previously explained, is substantially different in nature and substantially exceeds in breadth, depth and detail any of the interrogatories that PGW had issued during the permissible discovery request period. The timing is not a coincidence. The paper trail makes it clear that The Brattle Group, once it had finally been engaged and began reviewing the case, decided it wanted more information than PGW had sought in the discovery it had issued up to that time. The issuance of Set IV was an outgrowth of that decision, not a "follow-up" to any prior interrogatories.

Should PGW dispute the foregoing characterization, it would be reasonable to expect that it will provide (and, in any event, the Joint Applicants request that it provide) documentation to establish when The Brattle Group was engaged, as well as when and by whom the substance of the questions in its Set IV was developed. And, if the documentation is not conclusive or PGW

claims that it does not exist, Mr. Carpenter should be made available for *voir dire* in order to obtain that information.

Significantly, PGW does not dispute that Prehearing Order No. 2 set an initial discovery request deadline of May 1, 2005, nor does it dispute that Set IV was issued well after that deadline had passed. Instead, PGW contends that its belated issuance of Set IV is justified and permissible because all 28 interrogatories allegedly represent a “follow-up” to other questions. However, none of the alleged “follow-up” interrogatories, except Question 4, even purports to relate to PGW’s prior discovery. Instead, those questions refer to interrogatories previously issued by other parties. And, as explained hereafter, those references have no relationship to the substance of PGW’s questions. Neither Prehearing Order No. 2 nor any agreement or understanding of the parties’ supports PGW’s position.

Prehearing Order No. 2 says nothing about permitting “follow-up” discovery after the May 1 deadline. In off-the-record discussions at the time of the Prehearing Conference concerning the schedule, the Joint Applicants expressed their willingness to respond to requests for information issued after the May 1 deadline where such requests grew out of, and sought to supplement, discovery that had been issued by the same proponent prior to May 1. The parties’ intent was clear. Post-May 1 discovery requests would not be entertained except under the limited circumstances where the proponent of an interrogatory legitimately sought information that directly related to, and grew out of, earlier discovery, and that information could not reasonably have been requested at an earlier date. PGW’s Set IV fails this test on two counts. First, for all but one question, the interrogatories do not even purport to relate back to PGW’s prior discovery. Second, examination of PGW’s interrogatories reveals no substantive relationship between the questions asked and any party’s prior discovery.

Interrogatories 19-28 of PGW Set IV make no pretense to relate back to **any** prior questions. These questions represent entirely new lines of inquiry and do not supplement or grow out of any discovery by PGW or anyone else. PGW's claim that these interrogatories represent a "follow-up" makes no sense and is contrary to the plain language of the questions themselves.

A review of Interrogatories 1-3 and 5-18 shows that the relationship between those questions and the third-party interrogatories they reference is rhetorical, not real. In short, an inapposite reference to another party's interrogatory was tagged on the front of each question to try to shoehorn the discovery into the "follow-up" mold. The third-party interrogatory references have virtually nothing to do with the questions PGW has asked. In every instance, PGW seeks information different in nature and/or greatly exceeding in breadth, depth and detail anything sought in the third-party reference. The difference between the references and PGW's own interrogatories are so great as to be qualitative, not just quantitative, in nature. This is readily demonstrated.

PGW Interrogatory (Set IV) No. 1 references the City's Interrogatory No. 73, which, in its entirety, reads as follows:

Please quantify the upstream natural gas pipeline capacity purchased by each of the following companies for each year from 1999 through 2004

- a. PECO
- b. ComEd and/or Exelon
- c. PSE&G and/or PSEG

Despite the limited scope and subject matter of the City's interrogatory, PGW's alleged "follow-up" question requests detailed information (e.g., "receipt points," "delivery points," "MDQ and/or other quantity terms," and "rate") about **all** of the **individual** "contracts (including

capacity release agreements) held on all gas pipelines for gas transportation services.” Similarly, PGW Interrogatories 2 and 3 also reference City Interrogatory No. 73. Those questions seek, respectively, “a copy of all transportation contracts summarized in the response to [PGW Set IV] No. 1, above” and “gas flows by day and by delivery point for each of the contracts summarized in the response to [PGW Set IV] No. 1, above, from November 1, 2003 to the present.”

In like fashion, PGW Interrogatories (Set IV) 5 and 6 reference City Interrogatory No. 71, while PGW Interrogatory (Set IV) No. 7 references both City Interrogatories 71 and 73. City Interrogatory No. 73 was quoted above, and No. 71 reads, in its entirety, as follows:

Please quantify the natural gas storage capacity purchased by each of the following companies from 1999 through 2004:

- a. PECO
- b. ComEd and/or Exelon
- c. PSE&G and/or PSEG

Despite the limited scope and subject matter of the City Interrogatories 71 and 73, PGW’s Interrogatories (Set IV) 5 and 6 seek detailed information concerning “all natural gas storage contracts” including, *inter alia*, “the location of the storage field,” “inventory,” “injection rights” and “withdrawal rights” as well as copies of all the contracts. In other words, PGW used a third-party’s interrogatory asking only for aggregate storage capacity as the alleged basis for demanding detailed information about each and every storage contract. Clearly, that is not “follow-up” discovery.

PGW Interrogatories (Set IV) 10-16 reference the Office of Consumer Advocate’s (OCA) Interrogatory (Set II) No. 2, which, in its entirety, reads as follows:

Please describe in detail how and who currently performs the gas procurement function for Pennsylvania ratepayers

PGW has tried to use the OCA's simple and straight-forward question as the basis for "follow-up" seeking detailed information about "hedging transactions" (PGW Interrogatory No. 10 a. – f.), "asset management agreements" (PGW Interrogatory No. 11), PECO's and PSE&G's use of "LNG and Propane-Air" peaking units (PGW Interrogatory No. 12 a. – d.), distribution system **daily** "sendout" to retail customers and "electric generators" (PGW Interrogatory No. 13 a. – e.), "the total receipt capacity of the PECO distribution system" (PGW Interrogatory No. 14), PECO's "receipt capacity" from each interconnecting pipeline at each interconnection point (PGW Interrogatory No. 15 a. and b.) and PECO's "total receipts at each of the interconnections listed in response to Request 14 **by day** from November 1, 2003 to the present" (PGW Interrogatory No. 16). Matching the purported references to PGW's own questions makes it abundantly clear that PGW's interrogatories are not "follow-up" but, instead, are entirely new lines of inquiry belatedly initiated after the discovery deadline.

PGW Interrogatory (Set IV) No. 17 references OCA Interrogatory (Set VIII) No. 13, which, in its entirety, reads as follows:

Please provide a map of the gas transmission system for PJM-Atlantic, showing facilities owned by Exelon and PSEG or their subsidiaries. Also show where generating units owned by these entities are interconnected with this transmission system.

PGS has tried to leverage the OCA's question – which asks only about the **location** of facilities – to obtain unit-specific information about each "gas-fired electric generating unit located in PJM" owned by any affiliate of PECO or PSE&G including, for each unit, "gas usage by day from November 1, 1999 to the present." Obviously, the mere fact that the OCA's interrogatory mentions "generating units" does not give PGW a license to ask, as purported "follow-up," the qualitatively different questions posed in its interrogatory. That is not "follow-up" by any reasonable definition.

PGW Interrogatory (Set IV) No. 4 refers back to PGW Interrogatory (Set III) No. 2. However, far from representing “follow-up,” this interrogatory expands the scope, detail and time period of the earlier question. There is nothing in Interrogatory (Set IV) No. 4 that could not have been included in the earlier question.

Finally, PGW’s response to the Joint Applicants’ relevance objections underscores the fact that PGW’s Set IV is not a “follow-up” to prior discovery. See Motion to Compel ¶¶ 14.c. i. and iv. and 15. PGW’s own arguments show that its Set IV does not have its genesis in anyone’s earlier interrogatories, but, instead, reflects PGW’s (or, more likely, The Brattle Group’s) questions derived from Dr. Hieronymus’ testimony, which was filed in early February 2005. Stated differently, if PGW is to be taken at its word that its Set IV interrogatories are based upon its analysis of Dr. Hieronymus’ testimony and exhibits,² then there was no reason why those questions could not have been issued well before the May 1 deadline.

B. PGW’s Responses to the Joint Applicants’ Additional Objections Are Insufficient, Erroneous And/Or Simply Fail To Engage The Substance Of The Joint Applicants’ Arguments

Relevance. The Joint Applicants objected to PGW Interrogatories 2-4, 6, 8-13, 17-20, 24 and 25 on the grounds that the detailed operational information sought therein is not relevant to issues within the scope of this proceeding. PGW’s response consists of no more than (1) a mantra-like repetition of the claim that the merger might create “market power” and (2) the implicit assumption that such a claim justifies requests for operational information regardless of its breadth, depth or degree of detail. Obviously, other parties to this case have an interest – and, in some instances, a statutory obligation – to address “market power.” Yet, they have not thought it necessary to seek the kinds and quantity of information requested by PGW. And, they

² See Motion to Compel ¶15 (PGW’s interrogatories “seek data related to core market power issues and directly related to claims made by Joint Applicants in support of their Joint Application.”)

were able to make all of their requests before the May 1 deadline. The flaws in PGW's argument are revealed by its own interrogatories.

While the combined gas transportation and storage capacity of PECO and PSE&G may be relevant to analyzing market power (*see, e.g.*, City Interrogatories 71 and 73), PGW fails even to address why (1) daily gas flows by delivery point, for every transportation contract or (2) inventory and injection/withdrawal rights for every storage contract are needed for such an analysis (*see, e.g.*, PGW Interrogatories (Set IV) 1-3 and 5-6). In fact, in each of Paragraph Nos. 14.c. i.-iv. of the Motion to Compel, the statements by Dr. Hieronymus cited by PGS do not justify the breadth, depth or detail of the information PGW allegedly seeks to test the accuracy of those statements. For example, PGW cites Dr. Hieronymus' statement that "[b]oth individually and collectively, [PSEG and Exelon] do not have a dominant share of pipeline capacity" as a justification for its Interrogatories 2-4 and 11-12 (§ 14.c.i). However, Dr. Hieronymus' statement – and the underlying market power inquiry – relates only to **total** pipeline capacity, while PGW's interrogatories delve into detailed operational information about how PECO and PSE&G run their systems on a daily basis, which has no demonstrated relevance to whether they do or do not have a "dominant share of pipeline capacity." PGW's interrogatories suggest a mere "fishing expedition" that does not derive, in any reasonable or substantive way, from the antecedents alleged by PGW.

Similarly, in Paragraphs 14.c.ii. and iii., PGW asserts that Dr. Hieronymus' testimony, by virtue of mentioning that the merging parties serve gas-fired electric generating load, justifies its Interrogatories 8, 9, 13, 17 and 18.³ However, no statement by Dr. Hieronymus, nor any aspect of a "market power" analysis, requires unit-specific information about **daily** and **monthly** gas

³ Interrogatories 8 and 9 deal with gas commodity supply contracts and gas sale contracts, respectively, and not "electric generators."

usage by **each** gas-fired electric generator served by PECO and PSE&G. *See* PGW Interrogatories 13, 17 and 19.

Finally, in Paragraph 14.c.iv., PGS simply asserts that “gas hedging transactions” are relevant to a market power inquiry without explaining how or why that is the case. Moreover, hedging was not mentioned by Dr. Hieronymus.

Confidentiality. The Joint Applicants objected to PGW’s interrogatories because of concerns about revealing competitively-sensitive information. In Paragraph 14.c. of its Motion, PGW states that it is party to a confidentiality agreement and, therefore, it should be permitted access to competitively-sensitive information. Unmentioned by PGW is the fact that its consultant, The Brattle Group, has not executed an acceptance of the terms of the confidentiality agreement and has indicated it may not be willing to do so without changes to the standard terms and conditions that other parties and their respective consultants have accepted.

Burden. The Joint Applicants objected to PGW Interrogatories 8-10 and 17 on the grounds that obtaining and assembling the requested information would be unduly burdensome. PGW responds that the Joint Applicants did not provide a “detailed explanation” of why those questions are burdensome. The Joint Applicants submit that the burden is self-evident from the questions themselves. Indeed, even a quick perusal of those questions reveals the nature of the burden required to answer them. *E.g.*, start and end dates for deliveries and delivery points for purchases under **every** supply contract (PGW Interrogatory 8); daily gas usage, since November 1, 2003, of each gas-fired generating unit (PGW Interrogatory 17).

Furthermore, if, as PGW suggests, “the nature of the burden” must be “weighed” against “the significance of the data sought,” then there is no question the scales tip against PGW. The degree of detail sought by PGW has no demonstrated relevance to the “market power” issues PGW claims as the justification for its questions.

Privacy of Customer-Specific Information. The Joint Applicants objected to Interrogatories 17 and 19 because they request customer specific information for gas-fired generating units served by PECO and PSE&G. Answering these interrogatories would include turning over customer-specific information for identifiable non-affiliated generating units. For such customers, the information requested (unit-specific gas usage) is commercially sensitive and highly confidential. In fact, PSE&G and other New Jersey utilities have an explicit legal constraint against divulging customer-identifiable information of the kind requested. The sensitivity of such information and its need for protection have long been recognized in Pennsylvania as well.

Legal Research. There is no question that the discovery process cannot be used to require a respondent to conduct a proponent's legal research, as held in *Malone v. The Pennsylvania Railroad Company*, 17 Pa. D&C 2d 752 (1959):

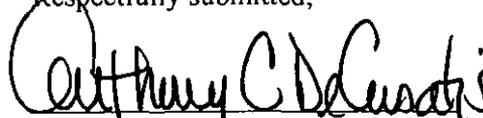
The second group of interrogatories seeks discovery of existing statutes, ordinances, and regulations of the Interstate Commerce Commission or other administrative agencies which require defendant to conform to certain enumerated modes of conduct in the operation of its line. Although we agree with plaintiff that defendant is more likely to know of these applicable laws and regulations than is plaintiff, this is no valid reason for compelling defendant to supply plaintiff with legal research and other legal data which are matters of public record and equally available to plaintiff and defendant. Moreover, such answers would call for the legal opinions and conclusions of defendant which are not within the scope of our discovery rules. The objection to these interrogatories will therefore be sustained.

PGW's response – that the term “subject matter” in 52 Pa. Code §5.321 is broad enough to encompass legal research and legal conclusions – is unsupportable. That term is given content by the rest of the extensive regulations on discovery, which make it clear that discovery is limited to uncovering facts and, in the case of expert witnesses, their “opinions,” while discovery of “legal research or legal theories” is prohibited. *See* 52 Pa. Code §§5.323(a) and 5.324.

IV. CONCLUSION

THEREFORE, for all of the foregoing reasons, PGW's Motion to Compel should be denied and the Joint Applicants' Objections to PGW's Interrogatories (Set IV) should be granted.

Respectfully submitted,



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Counsel for Public Service
Electric and Gas Company

Dated: June 6, 2005

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**JOINT APPLICATION OF PECO
ENERGY COMPANY AND PUBLIC
SERVICE ELECTRIC AND GAS
COMPANY FOR APPROVAL OF THE
MERGER OF PUBLIC SERVICE
ENTERPRISE GROUP INCORPORATED
WITH AND INTO EXELON
CORPORATION**

Docket No. A-110550F0160

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the Answer of PECO Energy Company and Public Service Electric and Gas Company To The Philadelphia Gas Works' Motion To Compel Interrogatories (Set IV) and City of Philadelphia Interrogatories 71.c-74.c. upon the persons and in the manner indicated below in accordance with the requirements of 52 Pa. Code §1.54.

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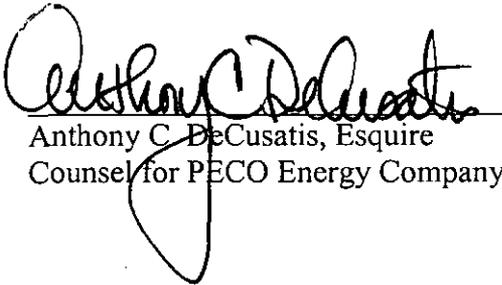
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Date: June 6, 2005

APPENDIX A

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**JOINT APPLICATION OF PECO : Docket No. A-110550F0160
ENERGY COMPANY AND PUBLIC :
SERVICE ELECTRIC AND GAS :
COMPANY FOR APPROVAL OF THE :
MERGER OF PUBLIC SERVICE :
ENTERPRISE GROUP :
INCORPORATED WITH AND INTO :
EXELON CORPORATION :**

**PHILADELPHIA GAS WORKS'
FIRST SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS TO
PECO ENERGY COMPANY**

Pursuant to Section 333(d) of the Pennsylvania Public Utility Code, 66 Pa. C.S. §333(d), Philadelphia Gas Works ("PGW"), by its attorneys, submits the following First Set of Interrogatories and Request for Production of Documents to PECO Energy Company ("PECO Energy") to be answered in writing under oath in accordance with the definitions and instructions provided below.

Definitions and Instructions

1. To "identify" or "state the identity of" a person, if that person is a natural person, means to state:
 - a. his or her name and all other names by which he or she is referred to;
 - b. his or her present or last known resident address and telephone number;
 - c. his or her present or last known business address and telephone number; and
 - d. his or her present or last known occupation, position, and business affiliation.

2. To "identify" or "state the identity of" a person, if that person is not a natural person, means to:

- a. state its full name and specify its nature (e.g., corporation, partnership, etc.);
- b. set forth the general nature of its business (e.g., products manufactured or sold, services rendered, etc.); and
- c. state its present or last known principal business address, identified as such, and such other of its business addresses as are known to you.

3. "Document" means the original and any non-identical copy (which is different from the original or any copy because of notations thereon or attached thereto or otherwise) of any written, recorded, printed, typewritten, or handwritten matter, however produced, reproduced or recorded, including without limitation, electronic mail, contracts, agreements, representations, warranties, certificates, opinions, letters, telegrams, memoranda, reports, studies, evaluations, diaries, minutes, maps, pamphlets, notes, charts, calendars, tabulations, analyses, bank records, income tax records, statistical information accumulations, transcripts, records of meetings and conversations of any kind, film impressions, photographs, magnetic tape, sound or mechanical reproductions, recordings, drafts of contracts, purchase orders, invoices, advertisements, receipts, drawings, vouchers, and telephone records, which is or was at anytime in your possession, custody, or control or known or believed by you to exist or to have existed.

4. To "identify" or "state the identity of" a document means to state with respect thereto:

- a. the nature or type of the document (e.g., letter, contract, etc.) and the number of pages or units of which it consists;
- b. its date, and if it bears no date, the date it was prepared or received;
- c. the identity of its author, each signatory or person over whose name it is issued, and each person who received, approved, or commented on it;
- d. the identity of all persons to whom the document was addressed or distributed;
- e. the last known physical location and address of the original and each duplicate copy, and the identity of its custodian; and
- f. the general subject matter or content of the document with sufficient particularity to enable it to be identified.

5. "Person" means any natural person and any corporation, partnership, firm, joint venture, sole proprietorship, or other legal or business entity of any kind.

6. The terms "PECO Energy," "you," or "your," or any synonym thereof is intended to and shall embrace and include, in addition to PECO Energy, counsel for PECO Energy, and all agents, servants, employees, partners, officers, representatives, private investigators and others who are aware of, in the possession, custody or control of, any information, document or thing for or on behalf of PECO Energy.

7. Whenever you are asked in these requests to identify, or explain or describe a fact, incident, event, act, transaction, occasion, or course of conduct, include but do not limit your response to the following:

- a. the date, time and place it occurred;
- b. the identity of each person participating, a statement of who such person purported to represent, and the identity of all oral communications;
- c. a statement of the subject matter; and

d. the identity of all documents referred to.

8. These requests shall be deemed continuing so as to require supplementation or further answers if further information is obtained between the time at which the answers are served and the time of hearing, specifically including, but not limited to, a continuing duty to seasonably supplement your response with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters. You are under a similar duty to correct any incorrect response when you later learn that it is incorrect.

9. Grammar and syntax, as used in these requests, shall be construed and interpreted to give proper meaning and consistency to its context. By way of illustration and not by limitation, the singular form of words may include the plural and the plural form of words may apply to each individual person, and the use of any gender or tense may be construed to include all genders and tenses, wherever appropriate in these requests, to bring within their scope any information which might otherwise be construed to be outside their scope.

Interrogatories and Requests for Production of Documents

1. With regard to the common functions (including, but not limited to billing, customer call center, and legal department) and costs that are shared between the PECO Energy's Electric Utility and Gas Utility operations:
 - a. Please provide a list of all common functions and costs that are shared between the PECO Energy's Electric Utility and Gas Utility operations.
 - b. Please explain the allocation methodology for each common function and cost allocated to each Utility operation.
 - c. Please provide the most recent cost of service study that documents the allocation of the shared costs. If a new cost of service study is currently being prepared, provide the expected completion date. If said date is within the course of this proceeding, provide the updated study.
 - d. Please provide appropriate page references and explanations for the relevant cost of service study sections.

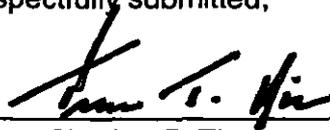
Response:

2. Provide, for both Electric and Gas Utility operations, the financial reports filed by PECO Energy pursuant to Chapter 71 of Title 52 of the Pennsylvania Code for the period 2002, 2003, 2004 through the present.

Response:

Respectfully submitted,

By



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DATED: April 14, 2005

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**JOINT APPLICATION OF PECO : Docket No. A-110550F0160
ENERGY COMPANY AND PUBLIC :
SERVICE ELECTRIC AND GAS :
COMPANY FOR APPROVAL OF THE :
MERGER OF PUBLIC SERVICE :
ENTERPRISE GROUP :
INCORPORATED WITH AND INTO :
EXELON CORPORATION :**

**PHILADELPHIA GAS WORKS'
SECOND SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS TO
PECO ENERGY COMPANY AND
PUBLIC SERVICE ELECTRIC AND GAS COMPANY**

Pursuant to Section 333(d) of the Pennsylvania Public Utility Code, 66 Pa. C.S. §333(d), Philadelphia Gas Works ("PGW"), by its attorneys, submits the following Second Set of Interrogatories and Request for Production of Documents to PECO Energy Company ("PECO Energy") and Public Service Electric and Gas Company ("PSEG") to be answered in writing under oath in accordance with the definitions and instructions provided below.

Definitions and Instructions

1. To "identify" or "state the identity of" a person, if that person is a natural person, means to state:
 - a. his or her name and all other names by which he or she is referred to;
 - b. his or her present or last known resident address and telephone number;
 - c. his or her present or last known business address and telephone number; and

- d. his or her present or last known occupation, position, and business affiliation.

2. To "identify" or "state the identity of" a person, if that person is not a natural person, means to:

- a. state its full name and specify its nature (e.g., corporation, partnership, etc.);
- b. set forth the general nature of its business (e.g., products manufactured or sold, services rendered, etc.); and
- c. state its present or last known principal business address, identified as such, and such other of its business addresses as are known to you.

3. "Document" means the original and any non-identical copy (which is different from the original or any copy because of notations thereon or attached thereto or otherwise) of any written, recorded, printed, typewritten, or handwritten matter, however produced, reproduced or recorded, including without limitation, electronic mail, contracts, agreements, representations, warranties, certificates, opinions, letters, telegrams, memoranda, reports, studies, evaluations, diaries, minutes, maps, pamphlets, notes, charts, calendars, tabulations, analyses, bank records, income tax records, statistical information accumulations, transcripts, records of meetings and conversations of any kind, film impressions, photographs, magnetic tape, sound or mechanical reproductions, recordings, drafts of contracts, purchase orders, invoices, advertisements, receipts, drawings, vouchers, and telephone records, which is or was at anytime in your possession, custody, or control or known or believed by you to exist or to have existed.

4. To "identify" or "state the identity of" a document means to state with respect thereto:

- a. the nature or type of the document (e.g., letter, contract, etc.) and the number of pages or units of which it consists;
- b. its date, and if it bears no date, the date it was prepared or received;
- c. the identity of its author, each signatory or person over whose name it is issued, and each person who received, approved, or commented on it;
- d. the identity of all persons to whom the document was addressed or distributed;
- e. the last known physical location and address of the original and each duplicate copy, and the identity of its custodian; and
- f. the general subject matter or content of the document with sufficient particularity to enable it to be identified.

5. "Person" means any natural person and any corporation, partnership, firm, joint venture, sole proprietorship, or other legal or business entity of any kind.

6. The terms "PECO Energy," "you," or "your," or any synonym thereof is intended to and shall embrace and include, in addition to PECO Energy, counsel for PECO Energy, and all agents, servants, employees, partners, officers, representatives, private investigators and others who are aware of, in the possession, custody or control of, any information, document or thing for or on behalf of PECO Energy.

7. The terms "PSEG," "you," or "your," or any synonym thereof is intended to and shall embrace and include, in addition to PSEG, counsel for PSEG, and all agents, servants, employees, partners, officers, representatives, private investigators and others who are aware of, in the possession, custody or control of, any information, document or thing for or on behalf of PSEG.

8. Whenever you are asked in these requests to identify, or explain or describe a fact, incident, event, act, transaction, occasion, or course of conduct, include but do not limit your response to the following:

- a. the date, time and place it occurred;
- b. the identity of each person participating, a statement of who such person purported to represent, and the identity of all oral communications;
- c. a statement of the subject matter; and
- d. the identity of all documents referred to.

9. These requests shall be deemed continuing so as to require supplementation or further answers if further information is obtained between the time at which the answers are served and the time of hearing, specifically including, but not limited to, a continuing duty to seasonably supplement your response with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters. You are under a similar duty to correct any incorrect response when you later learn that it is incorrect.

10. Grammar and syntax, as used in these requests, shall be construed and interpreted to give proper meaning and consistency to its context. By way of illustration and not by limitation, the singular form of words may include the plural and the plural form of words may apply to each individual person, and the use of any gender or tense may be construed to include all genders and tenses, wherever appropriate in these requests, to bring within their scope any information which might otherwise be construed to be outside their scope.

Interrogatories and Requests for Production of Documents

1. Identify and provide copies of all agreements between Exelon or any of its affiliates and any other entity for which Exelon or its affiliates provides management of natural gas assets or other natural gas related services.

Response:

2. Identify and provide copies of all agreements between Public Service Enterprise Group Incorporated or any of its affiliates and any other entity for which Public Service Enterprise Group Incorporated or its affiliates provides management of natural gas assets or other natural gas related services.

Response:

3. With regard to operations in Pennsylvania and Illinois, provide copies of all documents in effect between the date of completion of the merger of PECO and Commonwealth Edison and this date, that establish, govern or pertain to the structural and/or financial relationships among the parent and affiliate and/or subsidiary entities and among the various subsidiaries or affiliates of both PECO and Commonwealth Edison. These documents may, by way of example only, be called Affiliate Agreements or Memoranda of Understanding or Joint Operating Agreements. In connection with the foregoing, also provide a chart showing the corporate relationship of the post merger entities, parents and affiliates.

Response:

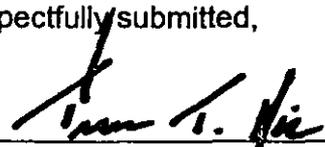
4. With regard to PECO's gas and electric divisions, state specifically for each division for the period 2000 through 2005:

- a. the amount of long term debt allocated to each;
- b. the amount of short term debt allocated to each;
- c. the amount of debt currently projected to be allocated to each during the next ten years.
- d. The expense allocated to each for shared functions, including but not limited to call center, collections, legal department, rent, real estate, gas and electric system operations and maintenance, fleet management, materials management, materials management and purchasing and senior management.
- e. The allocation of all revenues between the two divisions.
- f. With regard to the allocations set forth in 4 a) through e), explain the basis for such allocations.
- g. Provide a statement explaining the details of gas purchases, by component such as, but not limited to, capacity, commodity, and storage, including determination of costs, contract terms, and other pertinent information.
- h. Provide copies of PECO's Section 1307(f) annual filings for the most recent three years.

Response:

Respectfully submitted,

By



Charles E. Thomas, Jr., Esquire
Thomas T. Niesen, Esquire
THOMAS, THOMAS, ARMSTRONG & NIESEN
212 Locust Street, Suite 500
P.O. Box 9500
Harrisburg, PA 17108-9500

Denise Adamucci, Esquire
Philadelphia Gas Works - Legal Department
800 West Montgomery Avenue
Philadelphia, PA 19122

Attorneys for
Philadelphia Gas Works

DATED: April 27, 2005

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOINT APPLICATION OF PECO : Docket No. A-110550F0160
ENERGY COMPANY AND PUBLIC :
SERVICE ELECTRIC AND GAS :
COMPANY FOR APPROVAL OF THE :
MERGER OF PUBLIC SERVICE :
ENTERPRISE GROUP :
INCORPORATED WITH AND INTO :
EXELON CORPORATION :

**PHILADELPHIA GAS WORKS'
THIRD SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS TO
PECO ENERGY COMPANY AND
PUBLIC SERVICE ELECTRIC AND GAS COMPANY**

Pursuant to Section 333(d) of the Pennsylvania Public Utility Code, 66 Pa. C.S. §333(d), Philadelphia Gas Works ("PGW"), by its attorneys, submits the following Third Set of Interrogatories and Request for Production of Documents to PECO Energy Company ("PECO Energy") and Public Service Electric and Gas Company ("PSE&G") to be answered in writing under oath in accordance with the definitions and instructions provided below.

Definitions and Instructions

1. To "identify" or "state the identity of" a person, if that person is a natural person, means to state:
 - a. his or her name and all other names by which he or she is referred to;
 - b. his or her present or last known resident address and telephone number;
 - c. his or her present or last known business address and telephone number; and

- d. his or her present or last known occupation, position, and business affiliation.

2. To "identify" or "state the identity of" a person, if that person is not a natural person, means to:

- a. state its full name and specify its nature (e.g., corporation, partnership, etc.);
- b. set forth the general nature of its business (e.g., products manufactured or sold, services rendered, etc.); and
- c. state its present or last known principal business address, identified as such, and such other of its business addresses as are known to you.

3. "Document" means the original and any non-identical copy (which is different from the original or any copy because of notations thereon or attached thereto or otherwise) of any written, recorded, printed, typewritten, or handwritten matter, however produced, reproduced or recorded, including without limitation, electronic mail, contracts, agreements, representations, warranties, certificates, opinions, letters, telegrams, memoranda, reports, studies, evaluations, diaries, minutes, maps, pamphlets, notes, charts, calendars, tabulations, analyses, bank records, income tax records, statistical information accumulations, transcripts, records of meetings and conversations of any kind, film impressions, photographs, magnetic tape, sound or mechanical reproductions, recordings, drafts of contracts, purchase orders, invoices, advertisements, receipts, drawings, vouchers, and telephone records, which is or was at anytime in your possession, custody, or control or known or believed by you to exist or to have existed.

4. To "identify" or "state the identity of" a document means to state with respect thereto:

- a. the nature or type of the document (e.g., letter, contract, etc.) and the number of pages or units of which it consists;
- b. its date, and if it bears no date, the date it was prepared or received;
- c. the identity of its author, each signatory or person over whose name it is issued, and each person who received, approved, or commented on it;
- d. the identity of all persons to whom the document was addressed or distributed;
- e. the last known physical location and address of the original and each duplicate copy, and the identity of its custodian; and
- f. the general subject matter or content of the document with sufficient particularity to enable it to be identified.

5. "Person" means any natural person and any corporation, partnership, firm, joint venture, sole proprietorship, or other legal or business entity of any kind.

6. The terms "PECO Energy," "you," or "your," or any synonym thereof is intended to and shall embrace and include, in addition to PECO Energy, counsel for PECO Energy, and all agents, servants, employees, partners, officers, representatives, private investigators and others who are aware of, in the possession, custody or control of, any information, document or thing for or on behalf of PECO Energy.

7. The terms "PSE&G," "you," or "your," or any synonym thereof is intended to and shall embrace and include, in addition to PSE&G, counsel for PSE&G, and all agents, servants, employees, partners, officers, representatives, private investigators and others who are aware of, in the possession, custody or control of, any information, document or thing for or on behalf of PSE&G.

8. Whenever you are asked in these requests to identify, or explain or describe a fact, incident, event, act, transaction, occasion, or course of conduct, include but do not limit your response to the following:

- a. the date, time and place it occurred;
- b. the identity of each person participating, a statement of who such person purported to represent, and the identity of all oral communications;
- c. a statement of the subject matter; and
- d. the identity of all documents referred to.

9. These requests shall be deemed continuing so as to require supplementation or further answers if further information is obtained between the time at which the answers are served and the time of hearing, specifically including, but not limited to, a continuing duty to seasonably supplement your response with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters. You are under a similar duty to correct any incorrect response when you later learn that it is incorrect.

10. Grammar and syntax, as used in these requests, shall be construed and interpreted to give proper meaning and consistency to its context. By way of illustration and not by limitation, the singular form of words may include the plural and the plural form of words may apply to each individual person, and the use of any gender or tense may be construed to include all genders and tenses, wherever appropriate in these requests, to bring within their scope any information which might otherwise be construed to be outside their scope.

Interrogatories and Requests for Production of Documents

1. Please provide PSE&G's current policies and procedures for allocating firm transportation capacity to third party suppliers who are supplying firm customers in PSE&G's service territory.

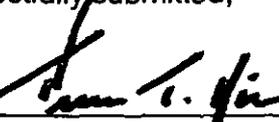
Response:

2. Please provide the following data regarding all PSE&G capacity release by pipeline and by zone for the period of 2000 to 2005: a) period of release; b) party to whom capacity was released; c) volume; and d) price.

Response:

Respectfully submitted,

By



Charles E. Thomas, Jr., Esquire
Thomas T. Niesen, Esquire
THOMAS, THOMAS, ARMSTRONG & NIESEN
212 Locust Street, Suite 500
P.O. Box 9500
Harrisburg, PA 17108-9500

Denise Adamucci, Esquire
Philadelphia Gas Works - Legal Department
800 West Montgomery Avenue
Philadelphia, PA 19122

Attorneys for
Philadelphia Gas Works

DATED: April 29, 2005

APPENDIX B

PROPRIETARY INFORMATION

Docket Number A-110550 F-0/60

Name of Document Copy of E-Mail

Date Document Received 6-6-2005

DOCUMENT CONTAINS

PROPRIETARY INFORMATION

DATE: June 13, 2005

SUBJECT: A-110550F0160

TO: Cheryl W. Davis, Director
Office of Special Assistants

FROM: James J. McNulty
Secretary
nvl

DOCKETED
JUN 21 2005

**DOCUMENT
FOLDER**

JOINT APPLICATION OF PECO ENERGY COMPANY & PUBLIC SERVICE ELECTRIC &
GAS COMPANY FOR APPROVAL OF THE MERGER OF PUBLIC SERVICE ENTERPRISE
GROUP INCORPORATED WITH & INTO EXELON CORPORATION

Copies of the Initial Decision have been served upon all parties of interest.

Exceptions have been filed by:

**ERIC JOSEPH EPSTEIN
DEPT OF ENVIRONMENTAL PROTECTION
OFFICE OF SMALL BUSINESS ADVOCATE
OFFICE OF CONSUMER ADVOCATE**

Reply Exceptions have been received from:

PECO ENERGY & PUBLIC SERVICE ELECTRIC & GAS

cc: Susan Hoffner

RJP

ORIGINAL

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Joint Application of Peco Energy :
Company and Public Service :
Electric. and Gas Company for : Docket No.
Approval of the Merger of Public : A-110550F0160
Service Enterprise Group :
Incorporated with and into :
Exelon Corporation :**

DOCKETED
AUG 04 2005

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265

RECEIVED

JUN 20 2005

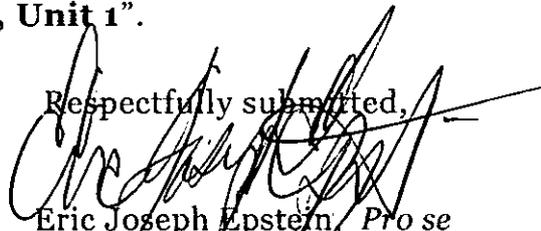
**DOCUMENT
FOLDER**

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dear Secretary McNulty:

Enclosed for filing in the Above-Captioned proceeding is an original and three (3) copies of Eric Joseph Epstein's "**Formal Request for Internal Revenue Service Rulings and Related Information on the Tax-Free Transfer of Decommissioning Funds Relating to Direct and Indirect License Transfers to Exelon Corporation at Hope Creek Generating Station; Salem Generating Station, Oyster Creek Nuclear Generating Station; Units 1 and 2; Limerick Generating Station, Units 1 and 2; Peach Bottom Atomic Power Station, Units 1, 2 and 3; and, Three Mile Island Nuclear Generating Station, Unit 1**".

Respectfully submitted,


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

39

Enclosure

Internal Revenue Service

Department of the Treasury

Number: 200046017

Washington, DC 20224

Release Date: 11/17/2000

Index Number: 468A.04-02
468A.03-04

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:6

PLR-114410-99

Date:

August 16, 2000

Re: Request for a Revised Schedule of Ruling Amounts

Taxpayer =

Parent =

Plant =

Location =

Date =

Act =

State =

Commission A =

Commission B =

District =

Fund =

Dear :

This letter responds to the request of Taxpayer, dated August 20, 1999, for a revised schedule of ruling amounts in accordance with section 1.468A-3(i) of the Income Tax Regulations. Taxpayer was previously granted a revised schedule of ruling amounts on June 2, 1998. Information for the schedule of ruling amounts was submitted on behalf of the Taxpayer pursuant to section 1.468A-3(h)(2).

Taxpayer represents the facts and information relating to its request for a revised schedule of ruling amounts as follows:

Taxpayer is percent owned by Parent and files a consolidated Federal income tax return with Parent. Taxpayer has a direct ownership interest of percent,

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as a tenant-in-common with other electric utility companies, in Plant, which is situated at Location.

Taxpayer is under the audit jurisdiction of the District Director of District. Plant's operating license expires on . Taxpayer is subject to the jurisdiction of Commission A which covers percent of the Taxpayer's total electric sales and Commission B which covers percent, for a total of percent, for 1999. For 2000, the respective jurisdictional percentages are percent and percent. For 2001, the respective jurisdictional percentages are percent and percent. For years beyond 2001, the respective jurisdictional percentages are percent and percent. These percentages may vary slightly from year to year. The estimated base cost for decommissioning the Plant is based on an independent study and is premised on the prompt removal/immediate dismantlement method.

On Date, Act became effective in State. Act provides for a transition to competition in State with respect to the generation and sale of electricity. Act allows electric utilities, including Taxpayer, to recover their stranded costs through a competitive transition charge (CTC) imposed upon consumers of electricity in the utility's service area. The CTC provides for the recovery of stranded costs including nuclear decommissioning costs for Plant.

Commission A, in Docket No. , effective , authorized nuclear decommissioning costs to be included in the Taxpayer's cost of service for ratemaking purposes for the Plant in the amount of \$ () and estimated an after-tax rate of return on assets of percent. The Commission also determined the total estimated cost of decommissioning to be \$ (). This base cost escalated using an estimated inflation rate of 4 percent results in an estimated future decommissioning cost of \$ (). These rates were estimated after taking into consideration the tax and investment changes made to section 468A of the Internal Revenue Code by section 1917 of the Energy Policy Act of 1992. Amounts for Commission B are not specifically reviewed herein.

There are no proceedings pending before either Commission A or Commission B that may result in an increase or decrease in the amount of decommissioning costs for the Plant to be included in Taxpayer's cost of service for ratemaking purposes.

The funding period and level funding limitation period for the Plant extends from . The estimated period for which the Fund will be in effect is . The estimated useful life of the Plant is . Thus, the Taxpayer has calculated its qualifying percentage to be percent.

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Section 468A(a) of the Internal Revenue Code provides that a taxpayer may elect to deduct the amount of payments made to a qualified nuclear decommissioning fund. However, section 468A(b) limits the amount paid into the fund for any taxable year to the lesser of the amount of nuclear decommissioning costs allocable to the fund that is included in the taxpayer's cost of service for ratemaking purposes for the taxable year or the ruling amount applicable to that year.

Section 468A(d)(1) of the Code provides that no deduction shall be allowed for any payment to the nuclear decommissioning fund unless the taxpayer requests and receives from the Secretary a schedule of ruling amounts. The "ruling amount" for any taxable year is defined under section 468A(d)(2) as the amount which the Secretary determines to be necessary to fund that portion of nuclear decommissioning costs which bears the same ratio to the nuclear power plant as the period for which the fund is in effect bears to the estimated useful life of the plant. This term is further defined to include the amount necessary to prevent excessive funding of nuclear decommissioning costs or funding of these costs at a rate more rapid than level funding, taking into account such discount rates as the Secretary deems appropriate.

Section 468A(g) of the Code provides that a taxpayer shall be deemed to have made a payment to the nuclear decommissioning fund on the last day of the taxable year if the payment is made on account of the taxable year within 2½ months after the close of the taxable year.

Section 1.468A-1(a) of the regulations provides that an eligible taxpayer may elect to deduct nuclear decommissioning costs under section 468A of the Code. An "eligible taxpayer," as defined under section 1.468A-1(b)(1), is a taxpayer that has a qualifying interest in a nuclear power plant. As defined under section 1.468A-1(b)(2), a "qualifying interest" is, among other things, a direct ownership interest, including an interest held as a tenant in common or joint tenant.

Section 1.468A-2(b)(1) of the regulations provides that the maximum amount of cash payments made (or deemed made) to a nuclear decommissioning fund during any taxable year shall not exceed the lesser of (i) the cost of service amount applicable to the nuclear decommissioning fund for such taxable year; or (ii) the ruling amount applicable to the nuclear decommissioning fund for such taxable year.

Section 1.468A-3(a)(1) of the regulations provides that, in general, a schedule of ruling amounts for a nuclear decommissioning fund is a ruling specifying annual payments that, over the taxable years remaining in the "funding period" as of the date

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the schedule first applies, will result in a projected balance of the nuclear decommissioning fund as of the last day of the funding period equal to (and in no event more than) the "amount of decommissioning costs allocable to the fund."

Section 1.468A-3(a)(2) of the regulations provides that each schedule of ruling amounts shall be based on the reasonable assumptions and determinations used by the applicable public utility commission(s) in establishing or approving the amount of decommissioning costs to be included in the cost of service for ratemaking purposes, taking into account amounts that are otherwise required to be included in the taxpayer's income under section 88 of the Code and the regulations thereunder. Each schedule of ruling amounts shall be based on the public utility commission's reasonable assumptions concerning (i) the after-tax rate of return to be earned by the amounts collected for decommissioning; (ii) the total estimated cost of decommissioning the nuclear power plant; and (iii) the frequency of contributions to the nuclear decommissioning fund for a taxable year.

Section 1.468A-3(a)(3) of the regulations requires the Internal Revenue Service to provide a schedule of ruling amounts that is identical to the schedule proposed by the taxpayer, but no such schedule shall be provided by the Service unless the taxpayer's proposed schedule is consistent with the principles and provisions of this section.

Section 1.468A-3(b)(1) of the regulations provides that the ruling amount, specified in a schedule of ruling amounts, for any taxable year in the level funding limitation period shall not be less than the ruling amount specified in such schedule for any earlier taxable year. Under section 1.468A-3(b)(2), the level funding limitation period begins on the first day of the first taxable year for which a deductible payment is made to the nuclear decommissioning fund and ends on the last day of the taxable year that includes the estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes.

Section 1.468A-3(c)(1) of the regulations provides that the funding period for a nuclear decommissioning fund is the period that begins on the first day of the first taxable year for which a deductible payment is made (or deemed to be made) to such nuclear decommissioning fund and ends the later of (i) the last day of the taxable year that includes the estimated date on which decommissioning costs of the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's cost of service for ratemaking purposes; or (ii) the last day of the taxable year that includes the estimated date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes.

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Section 1.468A-3(d)(1) of the regulations provides that the amount of decommissioning costs allocable to a nuclear decommissioning fund is the taxpayer's share of the total estimated cost of decommissioning the nuclear power plant multiplied by the qualifying percentage.

Section 1.468A-3(d)(2) of the regulations provides that, in general, the total estimated cost of decommissioning a nuclear power plant is the reasonably estimated cost of decommissioning used by the applicable public utility commission in establishing or approving the amount of these costs, to be included in cost of service for ratemaking purposes.

Section 1.468A-3(d)(3) of the regulations provides that a taxpayer's share of the total estimated cost of decommissioning a nuclear power plant equals the total estimated cost of decommissioning the plant multiplied by the taxpayer's qualifying interest in the plant.

Section 1.468A-3(d)(4)(i) of the regulations provides that the qualifying percentage for any nuclear decommissioning fund is equal to the fraction, the numerator of which is the number of taxable years in the estimated period for which the nuclear decommissioning fund is to be in effect and the denominator of which is the number of taxable years in the estimated useful life of the applicable nuclear power plant.

Section 1.468A-3(d)(4)(ii) of the regulations provides that the estimated period for which a nuclear decommissioning fund is to be in effect begins on the later of (1) the first day of the first taxable year for which a deductible payment is made to the nuclear decommissioning fund (or deemed made); or (2) the first day of the taxable year that includes the date that the nuclear power plant begins commercial operations (as determined by the applicable public utility commission at the time the plant was first included in the taxpayer's rate base); and ends on the last day of the taxable year that includes the estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes. According to section 1.468A-3(e)(3), the estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes is determined under the ratemaking assumptions used by the applicable public utility commission in establishing or approving rates during the first ratemaking proceeding in which the nuclear power plant was included in the taxpayer's rate base.

Section 1.468A-3(d)(4)(iii) of the regulations provides that the estimated useful life of a nuclear power plant begins on the first day of the taxable year that includes the

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date that the plant begins commercial operations (as determined by the applicable public utility commission at the time the plant was first included in the taxpayer's rate base); and ends on the last day of the taxable year that includes the estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes. According to section 1.468A-3(e)(3), the estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes is determined under the ratemaking assumptions used by the applicable public utility commission in establishing or approving rates during the first ratemaking proceeding in which the nuclear power plant was included in the taxpayer's rate base.

Section 1.468A-3(f)(1) of the regulations provides that if two or more public utility commissions establish or approve rates for electric energy generated by a single nuclear power plant, then the schedule of ruling amounts shall be separately determined pursuant to the rules of sections 1.468A-3(a) through (e) for each public utility commission that has determined the amount of decommissioning costs to be included in the cost of service for ratemaking purposes for this plant. Under section 1.468A-3(f)(2), this separate determination shall be based on the reasonable assumptions and determinations used by the relevant public utility commission and shall take into account only that portion of the total estimated cost of decommissioning that is properly allocable to the ratepayer whose rates are established or approved by the public utility commission. According to section 1.468A-3(f)(3), the ruling amounts for any taxable year is the sum of the ruling amounts for such taxable year determined under the separate schedules of ruling amounts.

Section 1.468A-3(g) of the regulations provides that the Internal Revenue Service shall not provide a taxpayer with a schedule of ruling amounts for any nuclear decommissioning fund unless the public utility commission that establishes or approves the rates for electric energy generated by the plant to which the nuclear decommissioning fund relates has determined the amount of decommissioning costs to be included in the taxpayer's cost of service for ratemaking purposes; and has disclosed the after-tax rate of return and any other assumptions and determinations used in establishing or approving the amount.

Section 1.468A-3(h)(2) of the regulations enumerates the information required to be contained in a request for a schedule of ruling amounts filed by a taxpayer in order to receive a ruling amount for any taxable year.

Section 1.468A-3(i)(1)(iii) of the regulations provides that a taxpayer is required to request a revised schedule of ruling amounts for a nuclear decommissioning fund if (A) any public utility commission that establishes or approves rates for the furnishing or

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sale of electric energy generated by a nuclear power plant to which the nuclear decommissioning fund relates: (1) increases the proposed period over which decommissioning costs of the nuclear power plant will be included in cost of service for ratemaking purposes; (2) adjusts the estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes; or (3) reduces the amount of decommissioning costs to be included in cost of service for any taxable year; and (B) the taxpayer's most recent request for a schedule of ruling amounts did not provide notice to the Service of such action by the public utility commission.

Section 1.468A-3(i)(2) of the regulations provides that any taxpayer that has previously obtained a schedule of ruling amounts can request a revised schedule of ruling amounts. Such a request must be made in accordance with the rules of section 1.468A-3(h). The Internal Revenue Service shall not provide a revised schedule of ruling amounts applicable to a taxable year in response to a request for a schedule of ruling amounts that is filed after the deemed payment deadline date for such taxable year.

We have examined the representations and information submitted by the Taxpayer in relation to the requirements set forth in the section 468A of the Code and the regulations thereunder. Based solely on these representations of the facts, we reach the following conclusions:

1. Taxpayer has a qualifying interest in the Plant and is, therefore, an eligible taxpayer under section 1.468A-1(b) of the regulations.
2. Commissions A and B have determined the amount of decommissioning costs to be included in the Taxpayer's cost of service for ratemaking purposes as required by section 1.468A-3(g) of the regulations.
3. Taxpayer, as owner of the Plant, has calculated its share of the total decommissioning costs under section 1.468A-3(d)(3) of the regulations.
4. Taxpayer has determined that pursuant to section 1.468A-3(d)(4) of the regulations, the qualifying percentage is percent.
5. Taxpayer has proposed a schedule of ruling amounts which meets the requirements of sections 1.468A-3(a)(1) and (2) of the regulations. The annual payments specified in the proposed schedule of ruling amounts are based on the reasonable assumptions and determinations used by

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Commissions A and B and will result in a projected fund balance at the end of the funding period equal to or less than the amount of decommissioning costs allocable to the Fund.

6. The maximum amount of cash payments made (or deemed made) to the Fund during any taxable year is restricted to the lesser amount of the decommissioning costs applicable to the Fund or the ruling amount applicable to the Fund, as set forth under section 1.468A-2(b)(1) of the regulations.

7. Taxpayer, subject to the jurisdiction of two public utility commissions for ratemaking purposes, has calculated its share of the total decommissioning costs allocable to Commissions A and B, as required by section 1.468A-3(f)(2) of the regulations.

Based on the above determinations, we conclude that the Taxpayer's proposed schedule of ruling amounts satisfies the requirements of section 468A of the Code.

APPROVED SCHEDULE OF RULING AMOUNTS
TAXABLE YEARS
COMMISSIONS A AND B

<u>YEAR</u>	<u>COMM. A</u>	<u>COMM. B¹</u>	<u>TOTAL</u>
-------------	----------------	----------------------------	--------------

¹ Amounts for Commission B are not specifically reviewed herein and are merely reprinted to arrive at the amount for the total annual ruling amount. For purposes of the review and revision under section 1.468A-3(i) of the regulations, the date of the schedule of ruling amounts approved by the Service on June 2, 1998, governs the review period for the Commission B ruling amounts.

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EACH YEAR

THROUGH

EACH YEAR

THROUGH

Approval of the schedule of ruling amounts is contingent on there being no change in the facts and circumstances, known or assumed, at the time this ruling is issued. If any of the events described in section 1.468A-3(i)(1)(iii) of the regulations occur in future years, the Taxpayer must request a review and revision of the schedule of ruling amounts. Generally, the Taxpayer is required to file such a request on or before the deemed payment deadline date for the first taxable year in which the rates reflecting such action became effective. When no such event occurs, the Taxpayer must file a request for a revised schedule of ruling amounts on or before the deemed payment deadline of the tenth taxable year following the close of the tax year in which the most recent schedule of ruling amounts was received.

The approved schedule of ruling amounts is relevant only to those payments made to the Fund. Payments allocable to any funds other than the Fund cannot qualify for purposes of the deduction under the provisions of section 468A of the Code. As stated above, payments made to the Fund can qualify only to the extent that they do not exceed the lesser of the decommissioning costs applicable to the Fund or the ruling amounts applicable to the Fund in the taxable year.

This letter ruling is directed only to the Taxpayer who requested it. Section 6110(k)(3) of the Code provides that this ruling may not be used or cited as precedent.

Pursuant to section 1.468A-7(a) of the regulations, a copy of this letter must be attached (with the required Election Statement) to the Taxpayer's federal income tax return for each taxable year in which the Taxpayer claims a deduction for payments made to the Fund.

In accordance with the power of attorney, a copy of this letter ruling is being sent to your authorized legal representatives. We are also sending a copy of the letter ruling to the District Director of District.

PLR-114410-99

Sincerely yours,

PETER C. FRIEDMAN
Assistant to the Chief, Branch 6
Office of the Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosure:
6110 copy

June 16, 2005

United States Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, D.C. 200555-00001

United States Nuclear Regulatory Commission
Attention: Office of Chief Counsel
Washington, D.C. 200555-00001

Mr. George F. Dick
U.S. Nuclear Regulatory Commission
Project Manger, Section 2, Project Directorate III
Division of Licensing Project Management
Office of Nuclear Reactor Regulation
Washington, D.C. 20555

**Re: Formal Request for Internal Revenue Service Rulings and
Related Information on the Tax-Free Transfer of
Decommissioning Funds Relating to Direct and Indirect
License Transfers to Exelon Corporation at Hope Creek
Generating Station; Oyster Creek Nuclear Generating Station;
Salem Generating Station, Units 1 and 2; Limerick Generating
Station, Units 1 and 2; Peach Bottom Atomic Power Station,
Units 1, 2 and 3; and, Three Mile Island Nuclear Generating
Station, Unit 1**

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39

• **Docket # Hope Creek Generating Station**
Facility Operating License No. NPF-57
NRC Docket No. 50-354

• **Docket # Salem Generating Station, Units 1 and 2**
Facility Operating License Nos. DPR-70 and DPR-75
NRC Docket Nos. 50-272 and 50-311

• **Docket # Oyster Creek Nuclear Generating Station**
Facility Operating License No. DPR-16
NRC Docket No. 50-219

• **Docket # Limerick Generating Station, Units 1 and 2**
Facility Operating License Nos. NPF-39 and NPF-85
NRC Docket Nos. 50-352 and 50-353

• **Docket # Peach Bottom Atomic Power Station, Units 1, 2 and 3**
Facility Operating License No. DPR-12
Renewed Facility Operating License Nos. DPR-44 and DPR-56
NRC Docket Nos. 50-171, 50-277, and 50-278

• **Docket # Three Mile Island Nuclear Generating Station, Unit 1**
Facility Operating License No. DPR-50
NRC Docket No. 50-289

June 16, 2005

Mr. George F. Dick
U.S. Nuclear Regulatory Commission
Project Manger, Section 2
Project Directorate III
Division of Licensing Project Management
Office of Nuclear Reactor Regulation
Washington, D.C. 20555

RE: Formal Request for Internal Revenue Service Rulings and Related Information on the Tax-Free Transfer of Decommissioning Funds Relating to Direct and Indirect License Transfers to Exelon Corporation at Hope Creek Generating Station; Salem Generating Station, Units 1 and 2; Oyster Creek Nuclear Generating Station; Limerick Generating Station, Units 1 and 2; Peach Bottom Atomic Power Station, Units 1, 2 and 3; and, Three Mile Island Nuclear Generating Station, Unit 1

Dear Mr. Dick:

The Nuclear Regulatory Commission's ("NRC") oral agreement with Public Service Enterprise Group ("PSEG") and Exelon Corporation ("Exelon") to provide Eric Joseph Epstein ("Epstein" or "Mr. Epstein") with responses generated from the conference calls of April 19 and 21, 2005, and the formal communication from your office on May 10, 2005 to Mr. Christopher Crane, President and Chief Executive Officer, Exelon and AmerGen Generation, needs to be extended to another aspect of The Proposed License Transfer and Conforming Amendments Relating to the Merger with Public Service Enterprise Group and Exelon Corporation (March 4, 2005).

As a follow up to our discussion on June 13, 2005, I am formally requesting that the NRC expand the above identified arrangement to include:

...rulings by the Internal Revenue Service (“IRS”) to assure that decommissioning funds accumulated in the qualified and non-qualified decommissioning funds for Nuclear Plants and presently maintained by PSE&G” are transferred to Exelon Generation on a tax free basis. (Proposed License Transfer and Conforming License Amendments, Attachment 1-8; p. 14, Frank Cassidy March 4, 2005; Jeffery A. Benjamin, March 3, 2005).

Please provide the following documents between the Internal Revenue Service (“IRS”), the Nuclear Regulatory Commission, PSEG and Exelon regarding nuclear decommissioning funding assurances (1):

- 1) PSE&G and Exelon’s requests for IRS letter rulings on changes necessary for the transfer of the funds on a tax-free basis;
- 2) Copies of satisfactory IRS private rulings and the completed “Request for a Revised Schedule of Ruling Amounts”;
- 3) Alternative plan(s) for decommissioning funding assurance(s) in the absence of “timely” IRS private rulings; and,
- 4) Communications with the Pennsylvania Public Utility Commission (PUC) and New Jersey Board of Public Utilities (BPU) that confirm rate payer contributions to Qualified (and Non Qualified) Decommissioning Funds, will be transferred and monitored in accordance with NJBPU and PA PUC statutes and regulations;

¹ On March 11, 2005, a Confidentiality Agreement was executed between Edward J. Cullen, Esquire, Vice President & Deputy General Counsel, Corporate & Commercial, Exelon Business Services Company and Eric Joseph Epstein;

5) Joint Applicants (Public Service Enterprise Group and Exelon Corporation) will need to provide the Pennsylvania Public Utility Commission and the New Jersey Board of Public Utilities with the following information in order to be eligible to take advantage of deductions for contributions and *transfers* to Exelon's externally segregated sinking fund(s) as well as the lower tax rates imposed on Qualified Funds:

i) The amount of decommissioning costs included in cost of service per unit and the proposed period of collection for NDCA eligible nuclear generation stations. (2) . This amount should factor license extension recovery scenarios;

ii) Description of the proposed method of decommissioning utilized to predict NRC minimum funding "targets";

iii) Estimate year in which substantial decommissioning costs will be incurred;

iv) Estimated year in which decommissioning costs will be substantially complete;

v) Total estimated cost of decommissioning expressed in current dollars and future dollars and cost per year in both current and future dollars. This amount should be based on TLG's most recent site specific studies;

vi) Description of methodology in converting present to future dollars. TLG site specific estimates for the NDCA plants will have to be converted to 2005 dollars (3) before extrapolating to future dollars based on the Joint Applicants responses to "iv". Additionally, future dollar costs should include increased radioactive waste disposal costs embedded in the increased amount of volume and curie content embedded in license extensions;

² Eligible units include: Hope Creek; Limerick-1; Limerick-2; Peach Bottom-1; Peach Bottom-2; Peach Bottom-3; and, Salem-1 and Salem-2.

³ - ***Decommissioning Cost Analysis for Limerick Generation Station***, prepared and completed by TLG for Exelon Nuclear, May, 2003;

- ***Decommissioning Cost Analysis for Peach Bottom Atomic Power Station Units 2 and 3***, prepared and completed by TLG for PSEG, December 5, 2003; and,

- ***Decommissioning Cost Analysis for Salem Generation Station Units 1 and 2***, prepared and completed by TLG for PSEG, December 5, 2003.

vii) Determine the after tax rate-of-return to be earned by funds based on the assumption all moneys will be transferred to externally, segregated sinking accounts located in the State of Nevada; and,

viii) Proposed period that the plants will no longer be in New Jersey or Pennsylvania rate bases.

Thanks for your continued assistance in these matters.

Sincerely,



Eric Joseph Epstein, *Pro se*
4100 Hillsdale Road
Harrisburg, PA 17112

cc: Via Certified Unites States Postal Service

NEW JERSEY BOARD OF PUBLIC UTILITIES

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• **Docket No # TM 05020168**

Ratepayer Advocate

State of New Jersey
Ratepayer Advocate and Director
Seema M. Singh, Esquire
Division of Ratepayer Advocate
31 Clinton Street, 11th Floor
Newark, New Jersey 07101

• **Docket No # TM 05020168**

PENNSYLVANIA PUBLIC UTILITY COMMISSION

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• **Docket No # A-110550F0160**

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• **Docket No # A-110550F0160**

Exelon Business Services Company

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Exelon Nuclear
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Warnersville, Illinois 60555

**cc: Via United States Postal Service:
PA PUC Service List (Enclosed)**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

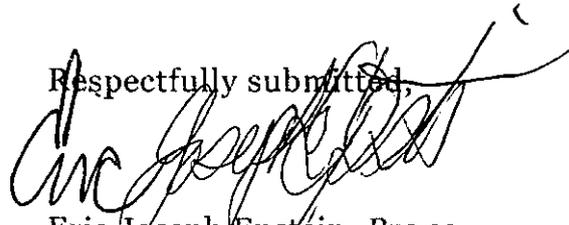
**Joint Application of Peco Energy :
Company and Public Service :
Electric. and Gas Company for : Docket No.
Approval of the Merger of Public : A-110550F0160
Service Enterprise Group :
Incorporated with and into :
Exelon Corporation :**

**ERIC JOSEPH EPSTEIN'S, *Pro se*
SERVICE LIST**

CERTIFICATION OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the active participants named below by US mail or hand delivery in accordance with the requirements of 52 Pa. Code § Section 1.54.

Respectfully submitted,



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DATE: June 16, 2005

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CHARLES E. THOMAS
(1913 - 1998)

June 17, 2005

DOCKETED
AUG 9 3 2005

**DOCUMENT
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Honorable Marlane R. Chestnut
Administrative Law Judge
Pennsylvania Public Utility Commission
1302 Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130

In re: Docket No. A-110550F0160
Joint Application of PECO Energy and Public Service Electric and Gas Company

Dear Judge Chestnut:

We represent Philadelphia Gas Works ("PGW") in the above matter. In its Prehearing Conference Memorandum dated March 28, 2005, PGW advised your Honor that it anticipated presenting one witness to address issues of interest and concern to it. PGW further advised your Honor that, as of the filing of its Prehearing Conference Memorandum, it had not identified its witness by name.

Please be advised that PGW's witness for direct testimony will be Paul Carpenter. Mr. Carpenter is a Principal with The Brattle Group, Cambridge, Massachusetts. He was previously identified as a consultant for PGW and joint applicants were asked to include him on their service lists. PGW respectfully reserves the right to identify and present additional direct and rebuttal witnesses as this matter and its issues continue to develop.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By



Thomas T. Niesen

cc: Certificate of Service
James J. McNulty, Secretary
Steven P. Hershey, Esquire
Denise Adamucci, Esquire
Paul Carpenter

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOINT APPLICATION OF PECO : Docket No. A-110550F0160
ENERGY COMPANY AND PUBLIC :
SERVICE ELECTRIC AND GAS :
COMPANY FOR APPROVAL OF THE :
MERGER OF PUBLIC SERVICE :
ENTERPRISE GROUP INCORPORATED :
WITH AND INTO EXELON :
CORPORATION :

CERTIFICATE OF SERVICE

I hereby certify that I have this 17th day of June, 2005, served a true and correct copy
of the foregoing letter, upon the persons and in the manner set forth below:

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June 22, 2005

James J. McNulty, Secretary
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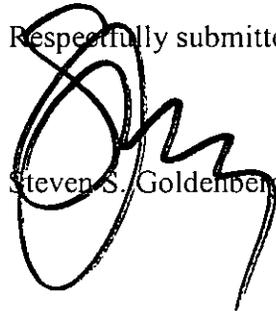
Re: Joint Application of PECO Energy Company and Public Service Electric and Gas Company for Approval of the Merger of Public Service Enterprise Group Incorporated with and into Exelon Corporation
Docket No. A-110550F0160

Dear Secretary McNulty:

Please be advised that the Mid-Atlantic Power Supply Association ("MAPSA"), an intervenor in this proceeding, has changed its name to the Retail Energy Supply Association ("RESA"). In all other respects, the organization and its members remain the same.

Kindly update your files to reflect this change.

Respectfully submitted,



Steven S. Goldenberg

SSG:jfp

cc: Honorable Marlane R. Chestnut, A.L.J.
Distribution List

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JOINT APPLICATION OF PECO ENERGY COMPANY AND PUBLIC SERVICE
ELECTRIC AND GAS COMPANY FOR APPROVAL OF THE MERGER OF PUBLIC
SERVICE ENTERPRISE GROUP INCORPORATED WITH AND INTO EXELON CORP

DOCKET NO. A-110550F0160

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Re: Joint Application of PECO Energy Company and Public Service Electric and Gas Company for Approval of the Merger of Public Service Enterprise Group Incorporated with and Into Exelon Corporation; Docket No. A-110550F0160; **DIRECT ENERGY RESPONSES TO THE JOINT APPLICANTS' INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS (Set I)**

Dear Mr. Bonney:

Enclosed are the responses of Direct Energy to Joint Applicants (Set I) Interrogatories and Request for Production of Documents.

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

DOCUMENT
FOLDER

Very truly yours,



Todd S. Stewart
Counsel for Direct Energy, LLC

TSS/tar
Enclosures
cc: James J. McNulty, Secretary (cover letter and certificate of service only)

SECRETARY'S BUREAU

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the persons named:

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Todd S. Stewart

Dated: June 27, 2005



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**DOCUMENT
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Re: Joint Application of PECO Energy Company and Public Service Electric & Gas Company for Approval of the Merger of Public Service Enterprise Group, Inc., with and into Exelon Corporation; Docket No. A-110550F160

Dear Judge Chestnut:

Enclosed for filing with the Commission are two (2) copies of Direct Testimony and Exhibits of Kent R. Miller, Statement No.1 on behalf of The City of Philadelphia ("City") in the above-referenced 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 LLC

By 
Charis Mincavage

Counsel to The City of Philadelphia

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Enclosures

c: James J. McNulty, Secretary (Transmittal Letter and Certificate of Service only - via Hand Delivery)
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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

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Docket No. A-110550F0160
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Charis Mincavage

Dated this 28th day of June, 2005 in Harrisburg, Pennsylvania.



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VIA FIRST CLASS MAIL

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DOCUMENT
FOLDER

RE: Joint Application of PECO Energy Company and Public Service Electric & Gas Company for Approval of the Merger of Public Service Enterprise Group, Inc., with and into Exelon Corporation; Docket No. A-110550F0160

Dear Judge Chestnut:

Please be advised that the Philadelphia Area Industrial Energy Users Group's ("PAIEUG") will not be submitting Direct Testimony in the above-referenced proceeding. PAIEUG reserves the right, however, to file rebuttal testimony in response to issues raised in other parties' direct testimony.

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 LLC

By 

David M. Kleppinger
Charis Mincavage

Counsel to Philadelphia Area Industrial
Energy Users Group

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c: James J. McNulty, Secretary (via Hand Delivery)
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I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

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Docket No. A-110550F0160
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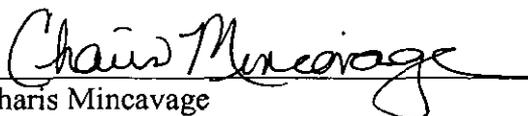
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Dated this 28th day of June, 2005 in Harrisburg, Pennsylvania.

ORIGINAL

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Joint Application of Peco Energy :
Company and Public Service :
Electric and Gas Company for : Docket No.
Approval of the Merger of Public : A-110550F0160
Service Enterprise Group :
Incorporated with and into :
Exelon Corporation :**

**Addition of page 5 to
Eric Joseph Epstein's Direct Testimony
on Behalf of Eric Joseph Epstein**

June 28, 2005

James J. McNulty, Secretary
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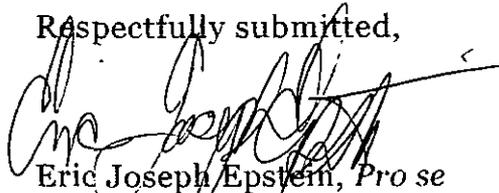
**DOCUMENT
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Dear Secretary McNulty:

Enclosed for filing with the Pennsylvania Public Utility Commission Commission is the original and three (3) copies of page 5 from Eric Joseph Epstein's Direct Testimony in the Above-Referenced proceeding which was inadvertently omitted from the June 27, 2005 filing.

Respectfully submitted,



Eric Joseph Epstein, *Pro se*
4100 Hillsdale Road
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DATED: June 28, 2005

6

While guarantees remain in place to preserve staffing levels in Philadelphia through 2012 (2), there are no similar assurances in place for “field level employees” in southern York County who have direct responsibility for the construction, operation, and maintenance of the transmission and distribution systems. PECO acknowledged as much in the Company's response to OTS-16, “The specific hiring practices for the Pennsylvania regulated utilities will not be known or implemented until after the merger is consummated.”

The job reductions embedded in the “Exelon Way” are in addition to the Management Model Denis O'Brien outlined in PECO's Response to OCA-III-15.

Of the 1,400 to 1,500 position reductions estimated, the companies currently expect fewer than 250 positions to be from Pennsylvania and spread across all the new company business units (e.g., PECO, Business Services Company, Generation, etc.) with locations in Pennsylvania. The actual staffing changes and resulting direct payroll reductions to result from the combination are not known at this time and will not be known until after the merger is consummated.

There are no guarantees that the 250 (3) job losses in Pennsylvania attributable to “best practices”, or the 390 position reductions across the utility business” (4), or the 528 eliminated position “shared” among services (5), will not be unfairly foisted on the backs of south central Pennsylvanians. (6)

2 PECO Response to COP-I-16.

3 PECO Responses to: Labor-I-1, Labor-II-1,2 & 5; OCA-I-2a & OCA-III-15; OTS-15, 16 & 27; and, PF-I-28

4 PECO Response to L-I-13.

5 Mr. Arndt stated that, “The Companies have indicated that they do not expect the number of positions reduced in Pennsylvania to exceed 250...” (PECO Response to OTS-27).

6 PECO Response to OCA IV-16.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

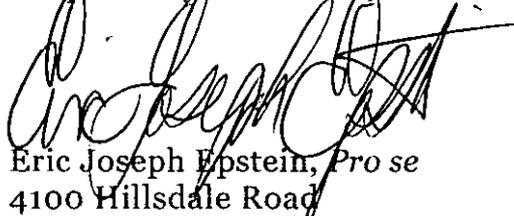
**Joint Application of Peco Energy :
Company and Public Service :
Electric. and Gas Company for : Docket No.
Approval of the Merger of Public : A-110550F0160
Service Enterprise Group :
Incorporated with and into :
Exelon Corporation :**

ERIC JOSEPH EPSTEIN'S, *Pro se*
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CERTIFICATION OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the active participants named below by US mail or hand delivery in accordance with the requirements of 52 Pa. Code § Section 1.54.

Respectfully submitted,



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44 Brattle Street
Cambridge, MA 02138

ORIGINAL

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Joint Application of Peco Energy :
Company and Public Service :
Electric and Gas Company for : Docket No.
Approval of the Merger of Public : A-110550F0160
Service Enterprise Group :
Incorporated with and into :
Exelon Corporation :**

**DOCUMENT
FOLDER**

**Eric Joseph Epstein's Direct Testimony
on Behalf of Eric Joseph Epstein**

June 27, 2005

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RECORDED
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SECRETARY'S BUREAU

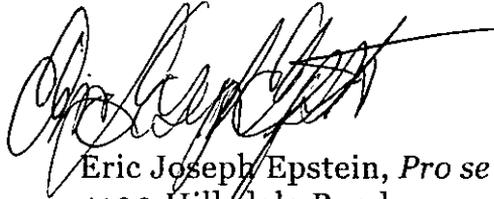
Dear Secretary McNulty:

Enclosed for filing with the Commission are the original and three (3) copies of Eric Joseph Epstein's Direct Testimony in the Above-Referenced proceeding.

Mr. Epstein's status as an Active Party remains an open issue before the Commission pursuant to the April 26, 2005 Initial Decision of Administrative Law Judge Marlane R. Chestnut that granted the Joint Applicants' Motion to Dismiss and deny Mr. Epstein's Petition to Intervene. Eric Joseph Epstein, *Pro se*, filed Exceptions to the Initial Decision of Judge Marlene R. Chestnut on May 13, 2005.

Mr. Epstein is submitting Direct Testimony as proof of his intent to persevere his status and maintain his rights in the Proceeding pending the Commission's final ruling on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Joseph Epstein", written over the typed name.

Eric Joseph Epstein, *Pro se*
4100 Hillsdale Road
Harrisburg, PA 17112
(717)-541-1101 Phone
(717)-541-5487 Fax
ericepstein@comcast.net

cc: Certificate of Service

**Direct Testimony of
Eric Joseph Epstein
Docket No. A-110550F0160
Index of Direct Testimony**

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Eric Joseph Epstein1-2

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LAW BUREAU

I. Witness

The name and address of the the Witness are:

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EFMR Monitoring Group, Inc.
4100 Hillsdale Road
Harrisburg, PA 17112
(717)-541-1101 Phone
ericepstein@comcast.net

The name and address of the Respondent is:

PECO Energy Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101-8699

Public Service Electric and Gas Company
80 Park Plaza, T5E
Newark, NJ 07102

Eric Joseph Epstein (“Epstein” or “Mr. Epstein” or “the Witness”):

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

Eric Joseph Epstein, EFMR Monitoring Group Incorporated. We are located at 4100 Hillsdale Road in Harrisburg, Pennsylvania, 17112.

Q. PLEASE PROVIDE A SUMMARY OF YOUR EMPLOYMENT POSITION.

I am the principal of the EFMR Monitoring group, a nonpartisan community based organization established in 1992. EFMR monitors radiation levels at Peach Bottom and Three Mile Island nuclear generating stations, invests in community development, sponsors remote robotics research and provides testimony, research and analyses on energy economics.

Q. PLEASE SUMMARIZE YOUR BACKGROUND, EXPERIENCE AND EDUCATION.

I have over twenty-years of experience in publishing, researching and testifying before the Pennsylvania Public Utility Commission and the Nuclear Regulatory Commission on nuclear decommissioning, nuclear waste isolation, nuclear economics, nuclear safety, universal service, and community investment. (Please refer to enclosed vitae)

In addition, EFMR has established itself as a leading advocate for community investment, economic development, and universal service in south central Pennsylvania.

Q. HAVE YOU PREVIOUSLY TESTIFIED IN REGULATORY PROCEEDINGS ON RATEMAKING OR RULEMAKING?

Yes, in numerous cases and proceedings before the the United States Nuclear Regulatory Commission, the Untied Sates Environmental Protection Agency and the Pennsylvania Public Utility Commission involving rate making tariffs.

Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?

My review of the Joint Applicants' Filings, Responses to Interrogatories and Informal Discovery Data Request from Active Parties, clearly demonstrate that the proposed merger is not in the "public's interest", and could expose PECO rate payers to additional costs without improving the equality or reliability of electric services (1).

¹ Eric Epstein served Interrogatories, Set I on March 14, 2005 and Set II on March 18, 2005. On April 12, 2005, Mr. Epstein served Interrogatories, Set III on all parties identified in the Revised Prehearing Order # 2. Additionally, Eric Epstein's filed Informal Discovery Data Requests on April 23, 2005.

Mr. Epstein is awaiting PECO Energy's Responses to his Three Sets of Interrogatories and Informal Discovery Data Request. PECO's Responses may compress or expand the areas of investigation relating to the proposed merger.

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II. Statement of Issues

Section 1 a:

The savings claimed by PECO Energy will not be shared with rate payers in south central Pennsylvania.

Question: Why do you believe that the savings claimed by PECO Energy will not be evenly distributed?

Based on historic trends and Responses to Interrogatories submitted by the City of Philadelphia and the Action Alliance, almost all of the opportunities in the form of economic development, energy assistance and charitable contributions available to PECO rate payers are dispersed in southeastern Pennsylvania (1).

Since the overwhelming majority of PECO rate payer and corollary support services are concentrated in the Philadelphia region, it is obvious that a majority of charitable contributions and low-income energy assistance will be dedicated to this area. But the opportunities to take advantage of existing programming, as reported to the Pennsylvania Public Utility Commission (PUC) Bureau of Consumer Services, is not accessible to rural PECO rate payers.

Moneys and opportunities identified in the Interrogatories listed below are separate and apart from the \$22 million Senator Vincent Fumo (D-Philadelphia) secured for numerous projects throughout the Philadelphia-area.

1 PECO Responses to AA-I-4, 5, 7, 29, 30, 31, 32, 33 & 34.
PECO Responses to COP-I-36, 37, 40, 46, 50, 52, 54, 56, 60 & 64.

Economic development and community investment needs in south central Pennsylvania are not necessarily aligned with urban rate payers or suburban residents in the Greater Philadelphia-area. A sense of fair play and rate payer equity necessitate that the opportunities available to the rate payers in the Greater Philadelphia-area should also be available to PECO rate payers in south central Pennsylvania.

Existing PECO programming is important and vital to York County residents, but difficult to access due to a limited mass transportation network. Red Rabbit Transit System is only available to residents of southern York County who are senior citizens or receive governmental assistance.

In order to maintain employment in southern York County, you must have access to private transportation and pay the associated maintenance, insurance, and energy costs . The economic challenges for rural working poor are exacerbated by the amount of their limited income spent on private transportation.

For example, according to the 2000 United States Census, the average commute for a PECO rate payer residing in southern York County is anywhere from 32.6 miles (Delta Borough) to 38.4 miles (Peach Bottom). In the event of a medical emergency, the closest hospital via automobile is 45 minutes in the City of York.

However, since there are no public input hearings scheduled for York County, and in the absence of dedicated advocacy for residents and rate payers of this region, it is incumbent on the PUC to order financial assistance and economic development funding proportionate to the needs of rural rate payers in southern York County.

Based on the momentum that is the “Exelon Way”, it is likely that the 250 “expected job cuts in Pennsylvania” will increase. On August 6, 2003, Exelon announced it would eliminate about 1,900 positions, or 10% of its workforce by 2006. To that end Exelon cut 1,200 positions by 2004, and another 700 layoffs are planned in 2006. Last year Exelon Vice President and Chief Financial officer Robert Shappard boasted that the Exelon Way “can cut 2,000 heads from our head count by the year 2006”. Taken together, these development do not bode well for job preservation throughout Pennsylvania. (7)

In addition to job losses in Pennsylvania, the merger will have an undetermined and potentially adverse affect on local communities. There are no “specific analysis of the impact on the communities served by PECO, Com Ed and PSE&G.” Only the Philadelphia-area is targeted within Pennsylvania to benefit from the merger: “The application is expected to benefit the communities served by creating a strong combined company with operating headquarters and substantial corporate presence in Philadelphia, Newark and Chicago”. (8)

It is discriminatory to establish two classes of public interest, and create two classes of poor and needy customers. It is incumbent upon the Commission to order PECO to play a grater role in assisting rate payers located in southern York County.

7 Robert Shappard, Exelon’s vice president and chief financial officer, speaking to the Deutsche Bank energy conference in New York on June 22, 2004.

8 PECO Response to Labor-I-10.

Section 1 b)

The impact of adapting PSE&G's "Best Practices" and the outcomes of "synergies" on reliability, cost of service, and savings for PECO Energy rate payers are unclear and inexact;

Question: Please explain why you view the best practices and anticipated synergies as an undocumented, and potentially unrealized benefit.

There is no way to measure or document the savings produced by the proposed merger's "synergies" on reliability or cost of service based on the Application or Testimony submitted in this or any other related Proceeding. Any potential savings for PECO Energy rate payers is couched in vague lexicon and ascribed to life after the merger: "The actual practices that will be identified and adopted will not be known until after the merger is consummated." (PECO's Response to OTS-21).

The Joint Application and the testimony of William D. Arndt, Dr. William Hieronymous and Denis O'Brien make it abundantly clear that any savings generated by the merger will provide little to no rate relief for PECO rate payers.

Paragraph 27e of the Application states that synergies created from the merger will offset the increasing cost of providing regulated utility service. But the Company is at a loss to define the meaning of "synergies" or quantify cost savings in Pennsylvania. (PECO's Response to OTS-14)

The term "best practices", when applied to the proposed merger, is even more fluid and vacuous. When the Office of Trial Staff (I-20) tried to obtain a precise definition of the concept, the best Mr. Arndt could do was produce an incoherent amalgam:

Best practices can be described as a process, activity, technique or methodology that has proven to lead to a desirable result. The combination will allow for each company to review its practices and determine the appropriate practice to be used in the new organization in light of its desired objectives.

Denis O'Brien testified that, "As a result of the merger, PECO will benefit from the opportunity to share best practices with PSE&G, which has an outstanding record of reliability and customer service in terms of both its electric and natural gas delivery functions." The witness did not identify any empirical data to substantiate his assertions, and failed to identify concrete measures to repair and correct poor services or reduce high rates.

The City of Philadelphia asked PECO to identify "best practices" (COP Question #61) that would be carried forward if the merger was consummated. Mr. O'Brien's response was a study in detailed vagueness:

There are no specific materials that list or describe the "best practices" in any area. Identification of the best practices requires extensive detailed analysis and effort over an extended period to identify and implement those practices that will yield the best results. The merger will facilitate that process since the three operating utilities will be sharing ideas and analyses to an extent that would otherwise not have been possible. (9)

The Joint Applicants are asking the PUC to forgo any form of qualitative or quantitative testing of "best practices" and "synergies". The just trust me approach is not a valid empirical filter and establishes a dangerous precedent.

Moreover, Exelon's declining reputation ranking, which has slipped from an "A" in 2002 to a "BBB" in 2004 does not warrant blind trust in a major merger application. (10)

⁹ *Witness: Volume III, PECO Statement No. 1, Direct Testimony of Denis P. O'Brien, p. 7, **Commitment to High Quality Service; Sharing of Best Practices.***

¹⁰ *Reputation Strength Ratings for the Electric Power Industry, 9 June, 2004. Refer to Exhibit 1.*

According to PECO Energy and William D. Arndt, without the merger, rate payers are doomed to endure high rates and mediocre service:

There will be certain PSE&G operating practices that PECO personnel identify that will improve PECO's overall service to customers. The actual practices that will be identified and adopted will not be known until after the merger is consummated. Exelon believes that the benefits of best practices cannot be obtained without the merger. (11)

In fact, some measure of reform is necessary to correct historic levels of customer dissatisfaction and high electric rates PECO has delivered to its customers.

Clearly, the PUC should require verifiable matrixes to better define "best practices", and examine the savings for rate payers produced by "synergies" of scale.

Section 1 c:

The cost sharing responsibilities, liabilities and exposures associated with increased gas generation and transmission have not been fully investigated and require corporate protections.

Question: What are your concerns regarding increased environmental exposures for PECO rate payers?

Although a great deal of information has been exchanged during Discovery regarding gas contracts, storage, supplies, transmission capacity, and transportation, little to nothing has been released regarding PSEG's environmental liabilities other than what was reported in the Annual Report and blanket denials embedded in Exelon's Form 8 K filed with the US Securities and Exchange Commission on December 20, 2004.

11 PECO's Response to OTS-21.

Exelon continues to set aside reserves for environmental remediation costs assuming a substantial scaled back liability platform of anywhere from \$124 to 129 million through 2009 (12). The liabilities, which significantly decrease by 2009, are primarily attached to 27 Manufactured Gas Plant Sites (MFG). PECO increased its MFG remediation reserves by \$18 million in December, 2003.

PSEG companies have accrued substantial liabilities relating to hazardous substances and MFG remediation, the Prevention of Significant Deterioration, and New Source Regulations. (13)

PSEG announced a significant “refinement” for cleanup costs during the fourth quarter of 2004. From 1988 through December 31, 2005, the Manufactured Gas Plant remediation program cost \$294 million. However, projected expenses to remediate the 38 “identified” sites have ballooned to \$685 million. Those costs are traditionally borne by PSE&G rate payers. (14)

The developments indicate the imprecise nature of predicting environmental cleanup costs, and underline the potential financial exposures to the parent corporation. As such, it is imperative that the Pennsylvania PUC continue to enforce and strengthen “corporate protections” to protect and insulate PECO rate payers from PSEG liabilities.

12 Exelon Corporation 05: Financial Information, Environmental Issues, p. 123.

13 PSEG, Form 10-K for the Fiscal Year Ended December 31, 2004, pp. 148-157.

14 PSEG, Form 10-K for the Fiscal Year Ended December 31, 2004, p. 151.

Section 2 a)

Review the impact of increased capacity of Exelon's nuclear fleet on the price of electricity to consumers in Pennsylvania.

Question: Why do you think the merger will increase the price of electricity for Pennsylvania consumers?

Nuclear capacity factors for Exelon, which derives approximately 67% of electricity from its 17 nuclear reactors, significantly affect results for Generation. In recent years, nuclear generating stations have absorbed high-fixed costs while benefitting from low subsidized fuel costs.

In order for Exelon to profit from the acquisition of three low-performing nuclear reactors, Hope Creek and Salem must defy history and operate at capacity range in the low 90 percentile. This is Exelon's plan as demonstrated in PECO's Response to OSBA-20 (Exhibit 1). The bottom line is that if these plants fall below these optimistic operating margins, or are forced to undergo extended outages, Exelon-PSEG must buy higher-priced energy from the market.

Pennsylvania, which derives a disproportionate amount of its electricity from nuclear energy, is already vulnerable to generic industrywide problems, i.e., terrorism, spent fuel disposal, and an embrittled infrastructure. The proposed merger would further concentrate nuclear power as the primary energy source for Exelon and force the Company to cut more staffing and outsource for security and ancillary services, store more radioactive waste onsite, purchase additional replacement parts, and delay expensive equipment change outs. Jack Skolds, president of Exelon Nuclear, also cited an "aging workforce and finding new benchmarks to identify growth" as the "two most important issues facing the nuclear industry today..." (16)

15 *Platts Nuclear News*, March 9, 2003.

Exelon Nuclear's weighted capacity factors reached 93.5% in 2004 and 93.4% in 2003. An increased number of refueling outages during 2002 diminished Exelon Nuclear's generation capacity. Capacity levels of 94.4% in 2001 and 93.8% in 2000 were aided by the acquisition of higher-performing plants outside of the Com Ed system.

Yet PECO Energy prices remained among the highest in the nation (16). The average residential rate per kwh in Pennsylvania in 2000 and 2001 was 9.5 cents (17). PECO's rates were the highest in Pennsylvania at 13.27 cents per kwh in October, 2002 and 13.38 cents per kwh in January, 2003. (18)

Hope Creek and Salem's capacity factors have historically been far below the national and Exelon averages. Hope Creek's capacity factor has steadily plummeted to 65.6% in 2004 while Salem hovers in the mid to upper 80 percentile range. (Exhibits 2a and 2b) These trends were supposed to begin improving on January 17, 2005, when Exelon transferred staffing to Hope Creek and Salem under an Operating Services Contract (OSC). The OSC was announced the same day as the merger on December 20, 2004, and remains the key to implementing the *Exelon Way* at PSEG's nuclear units.

Unfortunately conditions have continued to deteriorate at Hope Creek and Salem despite the the arrival of 24 "Exelon Way" personnel. The Exelon employees are being incented by a \$12 million package for the "attainment of goals relating to safety, capacity factors of the plants and operation and maintenance expenses". (19)

16 Exelon's 2004 Annual Report Financial Information Supplement, p. 52

17 Energy Information Administration/Electric Sales and Revenue Publication for 1996, 1998 and 2000.

18 Jacksonville Electric Authority, February 27, 2003. The price includes the cost of base rates, fuel adjustments and franchise fees.

19 PSEG, Form 10-K for the Fiscal Year Ended December 31, 2004, pp. 148-154.

In the fall of 2004, Hope Creek was shut down for three months before returning to service on January 26, 2005. "Sometime in February", according to the new Exelon-PSEG nuclear team, Hope Creek began leaking again. On March 27, 2005, an "incident" put Hope Creek out of service for another two weeks. At the beginning of June, 2005, Hope Creek was shut down twice within a week due to steam leaks.

During a meeting with the Nuclear Regulatory Commission (NRC) on March 18, 2005, Salem's operators gave themselves poor marks in encouraging employees to raise safety and equipment concerns. Five weeks later, on April 20, 2005, Salem 1 was shutdown due to a leak.

During the spring the Institute of Nuclear Power Operations, an industry-funded group that evaluates nuclear reactors, lowered its rating of Public Service Enterprise Group Inc.'s Hope Creek reactor to the second lowest rung on its five-tier system.

The most disturbing trend is the declining performance at Exelon Nuclear. Exelon first quarter 2005 nuclear capacity factor was 89.9%. Exelon's Nuclear President and Chief Nuclear Operating Officer "doesn't foresee this as a long term trend," (20) and the Company's expert witnesses believe that capacity factors will steadily increase. Despite factual evidence to the contrary, Dr. Hieronymous stated that increased capacity factors for the PSEG-operated nuclear plants will improve, and increased nuclear output will have a small but significant tendency to lower wholesale prices. (21)

20 *Nucleonics Week*, Volume 46, #18, April 28, 2005.

21 The only caveats Mr. Arndt considered, begin after 2009 and include, "changes in the business environment, regulatory programs or mandates, and current operating conditions which at this time are not estimable." Mr. Arndt's testimony does not address any directly-assigned unregulated savings. (PECO's Response to OTS-35)

The Joint Applicants have not undertaken any analysis or review to measure the impact of increased capacity factors on wholesale or retail prices. (Response to OCA-V-2) PECO's predictions are not based on readily available fleet capacity factors. "Outage rates are based on industry averages" (PECO's Response to OSBA-18) which resulted in an overstatement of net capacity gains.

This specious research format also produced skewed results in PECO's Response to OSBA-20 (Exhibit 3), and undermines the Company's claim that the merger will increase capacity and drive down prices for consumers in Pennsylvania.

The Company did not attempt to examine the impact of license renewals or power uprates on the proposed "virtual divestiture" scheme. The Company also failed to factor the impacts of extended and simultaneous refueling outages, the cost of generic rule making, or the increased price of uranium in a market dominated by rising domestic and international demand.

Cheap fuel, as described by the Joint Applicants, is the key ingredient to nuclear generation's competitive edge. (22) Yet demand for nuclear fuel continues to increase as supplies remain static. The price of nuclear spot fuel has been steadily climbing since the merger was announced. Pressure on the spot price of uranium during the week of March 21 reached \$22/lb U₃O₈, a 25-cent increase from the week before. "Ux Consulting said that U₃O₈ prices 'are clearly under pressure' and that offers are being made at prices up to \$22.50/lb... recently at a price of \$23.25/lb U₃O₈." (23) During the week of June 13, 2005 "spot sales at \$29.50 a pound of U₃O were reported which is about 50 cents higher than the prices published by TradeTech and Ux Consulting." (24)

22 Exelon 2004 Annual Report Financial Information Supplement, p. 18.

23 *Nuclear Fuel*; Volume 30, Issue 7: March 28, 2005.

24 *Nuclear Fuel*; Volume 30, Issue 13: June 20, 2005.

The era of cheap and inexhaustible supplies of subsidized fuel in the European, North American and international markets is over. Fuel fabricators, like Unreco, are pursuing partnerships and joint ventures in order to secure supplies.

Exelon's chairman and chief executive, John Rowe, announced that "The Exelon Way" Business Model (25) was approved as "the management model on April 29, 2003. On December 20, 2004, the Joint Applicant's touted the efficacy of the new system. According to the Press Release, the "Exelon Way" is projected to increase output for PSE&G's nuclear generating stations, and account for 15% of the proposed merger's cost savings.

Yet, Gerald R. Rainey, AmerGen's former chief executive officer stated that, "The Exelon Way' only works if a nuclear plant is purchased cheaply and operates "just outside the top-performing quadrant" (April 9, 2000).

Staffing cuts, another source of Exelon Nuclear's profitability, has flattened. "Staffing levels at U.S. nuclear plants increased slightly in 2005 compared to a year ago, ending a long-term reduction trend." (26) This merger provides Exelon with another avenue to raise \$1.7 billion for their "free cash" program while reducing staffing levels. (27) Cut and slash personnel programming is the heart and soul of the new Management Model referred to as the "Exelon Way".

Based on the resolute assumptions embedded in the Joint Applicants' Testimony regarding capacity factors and fuel prices, it is clear that nuclear pressures will expose PECO rate payers to increased electric prices in the short and long terms.

25 *Nucleonics Week*, Volume 46, #25, June 23, 2005.

26 Robert Shappard, Exelon's vice president and chief financial officer, speaking to the Deutsche Bank energy conference in New York on June 22, 2004.

27 See PECO's Response to OCA-16 for a description of the "Model."

Section 2 b)

Examine the impact on the cost sharing, responsibilities, liabilities and cost burdens associated with nuclear decommissioning.

Question: Why do you believe the PUC's Nuclear Decommissioning Cost Adjustment (NDCA) tariff for nuclear decommissioning may be adversely affected by the merger?

Decommissioning funding levels are set at "minimum targets" by the Nuclear Regulatory Commission and reviewed every five years by the Pennsylvania Public Utility Commission.

By the Company's own admission, Exelon's decommissioning account is funded "at a rate less than anticipated with respect to the NRC's Funding Levels"(29). This shortfall is compounded by generic uncertainties (30), and the General Accounting Office's (GAO) investigation of underfunded decommissioning accounts (31).

28 Annual Report 2003, Exelon Corporation and Subsidiary Companies, Management's Discussion and Analysis of Financial Condition and Results of Operations, pp. 33, 105-106.

29 Annual Report 2003, Exelon Corporation and Subsidiaries Companies, Management's Discussion and Analysis of Financial Condition and Results of Operations, p. 31

30 The GAO study, released in October, 2003 singled, out Exelon Nuclear as being behind the curve on set-aside funding. GAO said the trust funds for 55% of the nuclear power plants owned by the company were inadequate.

Other Pennsylvania plants that are underfunded, according to the GAO report included Three Mile Island 2, owned by FirstEnergy, and Susquehanna 1 and 2 near Berwick owned and operated by PPL.

The most expensive portions of nuclear decommissioning, the removal of low-level and high-level radioactive waste, continue to accumulate and add an uncertain multiplier (31) to final decommissioning and decontamination costs.

Further consolidation of PSEG's decommissioning assets into Exelon's account will expose the new funds to the volatility of the market as well as Exelon's historic under-performance.

The Commission should obtain binding assurances from the Joint Applicants that any nuclear decommissioning costs or losses in account investments (32) associated with PECO's acquisition of PSEG's decommissioning funds should be assumed by Exelon's shareholders. In the event the Internal Revenue Service does not grant a favorable tax-free transfer ruling, all taxes associated with the transfer should be borne by Exelon's shareholders. In addition, the Commission should examine the projected liabilities and "corporate protections" necessary to insulate PECO rate payers from increased NDCA (33) tariffs.

31 TLG's current estimates have increased **three fold** since 1995 for Hope Creek and Salem, Limerick and Peach Bottom. The 1995 predictions witnessed a **similar increase** when compared to TLG's 1990 assessments:

Decommissioning Cost Analysis for Limerick Generation Station, prepared and completed by TLG for Exelon Nuclear, May, 2003; *Decommissioning Cost Analysis for Peach Bottom Atomic Power Station Units 2 and 3*, prepared and completed by TLG for PSEG, December 5, 2003; and, *Decommissioning Cost Analysis for Salem Generation Station Units 1 and 2*, prepared and completed by TLG for PSEG, December 5, 2003.

ComEd's net nuclear decommissioning costs have almost **doubled** from \$3,089 million in 1990 to \$5,426 million in 1999.

32 Internal Revenue Code section 468(A) F, Department of the Treasury, Internal Revenue Service 26 CFR Parts 1 and 602 [TD 8758] RIN 1545- AU28

33 NDCA tariffs apply to Limerick Generation Station Units 1 and 2; Peach Bottom Atomic Power Station Units 1, 2 and 3; and, Salem Generation Station Units 1 and 2 and Hope Creek.

III. Conclusion

Q. Do you have any other issues you wish to address?

The Joint Applicants' position on the benefits of the merger is not adequately stated in either their Application or Testimony. There is no valid reason to believe that imprecise terms like "synergies" or "best practices" will produce tangible pressures to reduce customer rates for distribution service or improve reliability ratings. (34)

Q. DOES THIS COMPLETE YOUR DIRECT TESTIMONY.

A. Yes.

³⁴ PECO's Response to MAPSA 21 was supplied by Denis P. O'Brien on June 16, 2005.

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**Exhibits Accompanying
The Direct Testimony
Of Eric Joseph Epstein**

On Behalf of Eric Joseph Epstein

June 27, 2005

Exhibits IV.

Exhibit 1

Corporate Reputation Ratings: Electric Power Industry

Rating release date: 9 June 2004

FPL Group, Inc. (FPL)	AA
The Southern Company (SO)	AA
American Electric Power, Inc. (AEP)	A
Dominion Resources, Inc. (D)	A
Duke Energy Corporation (DUK)	A
Progress Energy, Inc. (PGN)	A
Calpine Corporation (CPN)	BBB
Entergy Corporation (ETR)	BBB

Exelon Corporation (EXC) BBB

PPL Corporation (PPL)	BBB
TXU Corporation (TXU)	BBB
Consolidated Edison, Inc. (ED)	BB
Edison International (EIX)	BB
PG&E Corporation (PCG)	BB

**Public Service Enterprise Group
Incorporated (PEG)** BB

Xcel Energy Inc. (XEL)	BB
CMS Energy Corporation (CMS)	B
FirstEnergy Corp. (FE)	B

* *Reputation Strength Rating*

Electric Power Industry

Rating release date: 9 June 2004

Reputation Methodology

RRC employs a rigorous methodology in all phases of the rating process. Our process is based on years of time-tested methodologies in the research survey and credit analysis industries. The assignment of Reputation Strength Ratings (RSRs) is performed by a Rating Committee composed of experts in research methodology, financial analysis and the specific industry under investigation. While quantitative metrics are heavily employed as part of the rating process, it is important to understand that such data is simply a starting point for the rating process. Qualitative input from members of the Rating Committee as well as the financial analysts or other industry experts surveyed is a critical, and often defining, element in the assignment of the final reputational rating.

Companies selected for inclusion in each industry study are identified through a process of merging/purging a variety of lists and/or market indices identifying leading companies in that industry. Additionally, RRC's industry experts identify companies for inclusion in the study that may be smaller in terms of market capitalization but are judged to have potential impact on the industry 'landscape' by the industry experts.

Interviews are conducted among senior executives within the industry and financial analysts specializing in that industry. Respondents are asked to rate a subset of companies in the industry based on their level of familiarity with each company. The survey administered to each group differs but is comprehensive in nature and based on decades of experience in reputational research at Opinion Research Corporation and the input of Professor Stephen A. Greyser of the Harvard Business School (an RRC Board member). All interviews use a telephone survey methodology with strict adherence to rigorous interviewing protocols and CASRO (Council of American Survey Research Organizations) guidelines. Respondents are identified using a multi-stage screening process to ensure appropriateness for inclusion in the survey. All respondents are randomly selected for the interview using sample frames recognized as objective. On average, interviews among senior executives take 25 minutes to complete with interviews among financial analysts taking upwards of one hour. Financial analysts are given an honorarium in exchange for their participation in the study.

A more comprehensive explanation of the methodology is available with the purchase of each industry report.

Reputation Ratings Definitions

AAA

A company reputation that is rated **AAA** is of the highest quality and carries the smallest degree of reputation default risk. Companies with reputations in this category score highly across all reputation dimensions from all constituencies and are viewed as very solid and stable. Companies whose reputations are rated **AAA** are able to deploy their reputational strength as a powerful weapon with which to achieve objectives in strategic diversification, competitive positioning and overall business expansion. Companies in this rating category also enjoy extraordinary support in times of controversy and are easily able to charge a premium to market for products and services offered.

AA

A company reputation that is rated **AA** is of high quality. Although companies with reputations in this category score well across all reputation dimensions from all constituencies, the strength across certain of those dimensions may not be as great as those of the highest quality. Companies whose reputations are rated **AA** are able to deploy their reputational strength in support of business expansion efforts but, unlike companies whose reputations are AAA-rated, the marketplace will not take their success in these endeavors for granted. Companies in this rating category will receive support in times of controversy but not to the same degree or for the same length of time as companies in the AAA category. Companies with **AA**-rated reputations may be able to charge a premium to market in some categories of products and services, but lack the leverage to do so in all.

A

A company reputation that is rated **A** is of upper-medium quality and possesses many favorable reputation characteristics. Although companies with reputations in this category score well across many reputation dimensions from many constituencies, fundamentals may suggest weakness, either in certain dimensions or within certain constituencies. Companies whose reputations are rated **A** are able to deploy their reputational strength selectively in support of business expansion and other strategic efforts. Leveraging their reputation for business expansion efforts will arouse interest among potential and existing markets, but success will not be assumed. Companies in this rating category will receive a level of support in times of controversy that is commensurate with the visibility of their efforts to remedy the situation. These companies may be able to charge a premium to market for their products or services, but only in particular market niches as opposed to across the market as a whole.

Reputation Ratings Definitions

BBB

A company reputation that is rated **BBB** is of medium quality. Companies with reputations in this category score well on many reputation dimensions or from many constituencies, but show weakness in or from others. Companies whose reputations are rated **BBB** may not be able to use their overall reputation as a competitive tool, but may nonetheless be able to differentiate themselves along one or two dimensions. Companies in this rating category will receive limited support in times of controversy, support that will be gauged by highly public and visible corporate actions. Companies with **BBB**-rated reputations are unable to leverage their names to achieve premium pricing and must depend on specific market conditions (*e.g.*, limited supply, first mover advantage) to charge a premium to market for their products or services.

BB

A company reputation that is rated **BB** is of lower medium quality. Companies with reputations in this category show weakness across many reputation dimensions and from many constituencies. Companies whose reputations are rated **BB** will need a dramatic shift in their current perception to be successful future contenders in their industries. Companies with **BB**-rated reputations will not be able to count on their historical reputations as a source of support in times of controversy nor will they be able to price their products or services at a premium to market.

B

A company reputation that is rated **B** is of low quality. Companies with reputations in this category score poorly across most reputation dimensions and from most constituencies, and the likelihood of **reputational distress** is high. Companies whose reputations are rated **B** are unable to leverage their reputation in times of controversy and are likely to have to price their products and services at a discount to market.

CCC

A company reputation that is rated **CCC** is of poor quality. Companies with reputations in this category score poorly across almost all reputation dimensions and from all constituencies. Companies whose reputations are rated **CCC** are in **reputational distress**. No significant reputational advantages accrue to companies in this category.

Reputation Ratings Definitions

CC

A company reputation that is rated **CC** is of very poor quality. Companies with reputations in this category show weakness across all reputation dimensions and from all constituencies, and are on the verge of **reputational default** or have entered the early stages of such default. **Reputational rehabilitation** is, however, still possible. No reputational advantages accrue to companies in this category.

C

A company reputation that is rated **C** is of the poorest quality. Companies with reputations in this category are in outright **reputational default** and have no meaningful hope of reputational rehabilitation. No reputational advantages whatsoever accrue to companies in this category. In fact, the reputations of these companies carry significant negative connotations.

Exhibits 2a and 2b

Please refer to enclosed charts and PDFs.

Exhibit 2 A



NUCLEAR ENERGY INSTITUTE

U.S. Nuclear Power Plants: 2002-2004 Capacity Factors

Unit	2002	2003	2004
Arkansas Nuclear One 1	89.7%	92.8%	93.0%
Arkansas Nuclear One 2	106.5%	105.5%	114.5%
Beaver Valley 1	97.2%	83.2%	92.6%
Beaver Valley 2	90.7%	91.2%	100.2%
Braidwood 1	104.3%	99.3%	96.2%
Braidwood 2	93.5%	98.3%	102.9%
Browns Ferry 2	91.0%	85.5%	99.6%
Browns Ferry 3	94.6%	95.2%	88.6%
Brunswick 1	93.2%	100.8%	89.7%
Brunswick 2	99.6%	98.9%	101.3%
Byron 1	96.5%	96.8%	101.6%
Byron 2	96.3%	103.9%	96.9%
Callaway 1	85.1%	98.4%	79.4%
Calvert Cliffs 1	64.3%	104.2%	91.3%
Calvert Cliffs 2	102.3%	84.2%	100.2%
Catawba 1	95.9%	82.7%	97.9%
Catawba 2	102.9%	94.2%	89.1%
Clinton	85.5%	97.2%	89.1%
Comanche Peak 1	77.3%	95.6%	89.3%
Comanche Peak 2	87.3%	80.6%	99.4%
Cooper	94.4%	67.1%	92.0%
Crystal River 3	99.9%	90.1%	99.2%
Davis-Besse	12.0%	0.0%	74.6%
DC Cook 1	88.4%	75.0%	100.5%
DC Cook 2	82.8%	76.6%	85.3%
Diablo Canyon 1	74.0%	100.7%	75.8%
Diablo Canyon 2	97.5%	81.1%	84.0%
Dresden 2	101.1%	90.0%	79.1%
Dresden 3	81.4%	93.5%	86.2%
Duane Arnold	92.5%	80.6%	99.2%
Farley 1	99.0%	90.8%	85.9%
Farley 2	87.6%	100.4%	90.2%
Fermi 2	97.5%	85.2%	88.4%
FitzPatrick	92.6%	97.8%	90.4%
Fort Calhoun 1	91.0%	83.8%	97.0%
Ginna	91.4%	92.0%	102.2%
Grand Gulf 1	95.1%	103.1%	96.5%
Harris 1	99.4%	91.8%	88.7%
Hatch 1	88.4%	95.3%	90.3%
Hatch 2	97.4%	91.4%	97.0%



NUCLEAR ENERGY INSTITUTE

U.S. Nuclear Power Plants: 2002-2004 Capacity Factors

Unit	2002	2003	2004
✓ Hope Creek 1	96.2%	79.0%	65.6%
Indian Point 3	98.3%	97.6%	101.7%
Indian Point 2	90.7%	90.9%	89.5%
Kewaunee	99.8%	90.3%	79.3%
Lasalle 1	91.7%	100.1%	92.8%
Lasalle 2	92.4%	89.5%	101.9%
Limerick 1	93.5%	101.2%	95.8%
Limerick 2	100.8%	94.5%	99.9%
McGuire 1	94.4%	102.9%	85.3%
McGuire 2	92.5%	93.7%	103.4%
Millstone 2	81.3%	80.5%	98.5%
Millstone 3	88.3%	101.1%	89.1%
Monticello	99.0%	90.7%	99.2%
Nine Mile Point 1	99.1%	88.1%	100.5%
Nine Mile Point 2	85.8%	97.5%	87.9%
North Anna 1	100.8%	80.5%	91.3%
North Anna 2	68.6%	90.4%	91.7%
Oconee 1	89.2%	70.8%	97.7%
Oconee 2	89.2%	102.1%	76.3%
Oconee 3	100.7%	85.2%	77.2%
Oyster Creek 1	92.8%	96.9%	89.1%
Palisades	99.6%	96.3%	83.4%
Palo Verde 1	89.1%	97.2%	84.6%
Palo Verde 2	92.0%	77.6%	90.9%
Palo Verde 3	102.0%	87.5%	75.1%
Peach Bottom 2	92.3%	95.1%	91.0%
Peach Bottom 3	100.8%	91.8%	102.3%
Perry 1	92.2%	79.1%	94.3%
Pilgrim 1	100.9%	82.9%	98.7%
Point Beach 1	89.0%	96.1%	80.1%
Point Beach 2	89.3%	81.8%	96.4%
Prairie Island 1	95.6%	100.5%	78.5%
Prairie Island 2	93.9%	92.7%	101.6%
Quad Cities 1	84.8%	90.9%	86.6%
Quad Cities 2	87.5%	93.1%	82.3%
River Bend 1	100.1%	90.4%	87.5%
Robinson 2	93.7%	103.5%	92.1%
✓ Salem 1	89.8%	94.7%	73.2%
✓ Salem 2	87.5%	84.6%	89.8%
San Onofre 2	90.8%	103.6%	85.8%
San Onofre 3	100.9%	90.9%	73.6%



NUCLEAR ENERGY INSTITUTE

U.S. Nuclear Power Plants: 2002-2004 Capacity Factors

Unit	2002	2003	2004
Scabrook	91.8%	91.7%	100.3%
Sequoyah 1	101.0%	74.6%	92.1%
Sequoyah 2	86.6%	83.7%	95.9%
South Texas Project 1	99.2%	62.6%	101.0%
South Texas Project 2	75.0%	81.4%	93.8%
St Lucie 1	94.1%	102.1%	85.8%
St Lucie 2	101.0%	80.1%	92.0%
Summer 1	87.2%	86.9%	96.4%
Surry 1	100.8%	76.4%	90.8%
Surry 2	91.4%	78.6%	98.5%
Susquehanna 1	82.9%	96.7%	80.5%
Susquehanna 2	95.6%	86.7%	100.4%
Three Mile Island 1	104.1%	88.3%	103.2%
Turkey Point 3	102.4%	89.7%	77.8%
Turkey Point 4	96.4%	91.6%	99.9%
Vermont Yankee	88.7%	99.5%	86.1%
Vogtle 1	85.9%	93.3%	100.4%
Vogtle 2	83.6%	96.7%	90.8%
Waterford 3	94.0%	90.3%	99.6%
Watts Bar 1	92.1%	87.1%	100.1%
WNP 2 (Columbia)	92.6%	78.5%	92.4%
Wolf Creek	88.6%	87.0%	98.9%

Source: UDI/NRC Last Updated: 4/05

Exhibit 2 B

U.S. Commercial Nuclear Power Reactors

Unit Operating Utility Location Docket Number	NRC Region	Con Type NSSS AE Constructor	Licensed MWt	Net MDC	CP Issued OL Issued Comm. Op Exp. Date	License Type & Number	1996-2001* Average Capacity Factors (Percent)
Arkansas Nuclear 1 Entergy Operations, Inc. 6 MI WNW of Russellville, AR 050-00313	IV	PWR-DRYAMB	2568	0836	12/06/1968	OL-FP	85.6
		B&W LLP			05/21/1974	DPR-51	99.0
		BECH			12/19/1974		82.6
		BECH			05/20/2034		91.7
							87.3
			93.9				
Arkansas Nuclear 2 Entergy Operations, Inc. 6 MI WNW of Russellville, AR 050-00368	IV	PWR-DRYAMB	2815	0858	12/06/1972	OL-FP	93.7
		COMB CE			09/01/1978	NPF-6	92.6
		BECH			03/26/1980		86.9
		BECH			07/17/2018		82.8
							69.9
			105.3				
Beaver Valley 1 FirstEnergy Nuclear Operating Company 17 MI W of McCandless, PA 050-00334	I	PWR-DRYSUB	2689	0822	06/26/1970	OL-FP	80.0
		WEST 3LP			07/02/1976	DPR-66	56.3
		S&W			10/01/1976		33.2
		S&W			01/29/2016		86.1
							82.7
			83.3				
Beaver Valley 2 FirstEnergy Nuclear Operating Company 17 MI W of McCandless, PA 050-00412	I	PWR-DRYSUB	2689	0822	05/03/1974	OL-FP	66.2
		WEST 3LP			08/14/1987	NPF-73	85.7
		S&W			11/17/1987		16.9
		S&W			05/27/2027		80.1
							86.5
			98.8				
Braidwood 1 Exelon Generating Co., LLC 24 MI SSW of Joliet, IL 050-00456	III	PWR-DRYAMB	3586	1168	12/31/1975	OL-FP	70.5
		WEST 4LP			07/02/1987	NPF-72	83.9
		S&L			07/29/1988		78.6
		CWE			10/17/2026		101.0
							96.4
			93.4				
Braidwood 2 Exelon Generating Co., LLC 24 MI SSW of Joliet, IL 050-00457	III	PWR-DRYAMB	3586	1122	12/31/1975	OL-FP	81.3
		WEST 4LP			05/20/1988	NPF-77	85.5
		S&L			10/17/1988		97.4
		CWE			12/18/2027		92.0
							98.4
			98.2				
Browns Ferry 1 Tennessee Valley Authority 10 MI NW of Decatur, AL 050-00259	II	BWR-MARK1	3293	0	05/10/1967	OL-FP	0.0
		GE 4			12/20/1973	DPR-33	0.0
		TVA			08/01/1974		0.0
		TVA			12/20/2013		0.0
							0.0
			0.0				
Browns Ferry 2 Tennessee Valley Authority 10 MI NW of Decatur, AL 050-00260	II	BWR-MARK1	3458	1118	05/10/1967	OL-FP	86.0
		GE 4			08/02/1974	DPR-52	89.7
		TVA			03/01/1975		98.9
		TVA			06/28/2014		89.1
							99.1
			85.9				

(Continued)

Unit Operating Utility Location Docket Number	NRC Region	Con Type NSSS AE Constructor	Licensed MWt	Net MDC	CP Issued OL Issued Comm. Op Exp. Date	License Type & Number	1996-2001* Average Capacity Factors (Percent)
Edwin I. Hatch 1 Southern Nuclear Operating Co. 11 MI N of Baxley, GA 050-00321	II	BWR-MARK 1 GE 4 BECH GPC	2763	0863	09/30/1969	OL-FP DPR-57	80.7
					10/13/1974		85.7
					12/31/1975		96.5
					08/06/2034		81.1
							84.5
	99.2						
Edwin I. Hatch 2 Southern Nuclear Operating Co. 11 MI N of Baxley, GA 050-00366	II	BWR-MARK 1 GE 4 BECH GPC	2763	0878	12/27/1972	OL-FP NPF-5	98.8
					06/13/1978		84.2
					09/05/1979		80.6
					06/13/2038		94.4
							89.5
	85.6						
Fermi 2 Detroit Edison Co. 25 MI NE of Toledo, OH 050-00341	III	BWR-MARK 1 GE 4 S&L DANI	3430	1129	09/26/1972	OL-FP NPF-43	62.3
					07/15/1985		63.6
					01/23/1988		67.8
					03/20/2025		100.3
							86.2
	89.8						
Fort Calhoun Omaha Public Power District 19 MI N of Omaha, NE 050-00285	IV	PWR-DRYAMB COMB CE GHDR GHDR	1500	0476	06/07/1968	OL-FP DPR-40	74.5
					08/09/1973		91.2
					09/26/1973		77.8
					08/09/2013		85.6
							92.8
	84.2						
Ginna Rochester Gas & Electric Corp. 20 MI NE of Rochester, NY 050-00244	I	PWR-DRYAMB WEST 2LP GIL BECH	1520	0480	04/25/1966	OL-FP DPR-18	70.2
					09/19/1969		92.6
					07/01/1970		104.1
					09/18/2009		84.0
							90.5
	101.9						
Grand Gulf 1 Entergy Operations, Inc. 25 MI S of Vicksburg, MS 050-00416	IV	BWR-MARK 3 GE 6 BECH BECH	3833	1210	09/04/1974	OL-FP NPF-29	89.3
					11/01/1984		102.9
					07/01/1985		82.0
					11/01/2024		79.9
							100.6
	93.6						
H.B. Robinson 2 Progress Energy 26 MI from Florence, SC 050-00261	II	PWR-DRYA MB WEST 3LP EBSO EBSO	2300	0683	04/13/1967	OL-FP DPR-23	91.0
					09/23/1970		103.6
					03/07/1971		87.9
					07/31/2010		95.0
							104.0
	92.2						
✓ Hope Creek 1 PSEG Nuclear, LLC 18 MI SE of Wilmington, DE 050-00354	I	BWR-MARK 1 GE 4 BECH BECH	3339	1045	11/04/1974	OL-FP NPF-57	74.6
					07/25/1986		70.9
					12/20/1986		92.3
					04/11/2026		85.3
							80.3
	87.8						

(Continued)

Appendix A. U.S. Commercial Nuclear Power Reactors (Continued)

Unit Operating Utility Location Docket Number	NRC Region	Con Type NSSS AE Constructor	Licensed MWt	Net MDC	CP Issued OL Issued Comm. Op Exp. Date	License Type & Number	1996-2001* Average Capacity Factors (Percent)
Point Beach 1 Nuclear Management Co. 13 MI NNW of Manitowoc, WI 050-00266	III	PWR-DRYAMB	1519	0515	07/19/1967	OL-FP	97.7
		WEST 2LP			10/05/1970	DPR-24	19.4
		BECH			12/21/1970		54.9
		BECH			10/05/2010		78.4
							92.3
							82.9
Point Beach 2 Nuclear Management Co. 13 MI NNW of Manitowoc, WI 050-00301	III	PWR-DRYAMB	1519	0507	07/25/1968	OL-FP	69.2
		WEST 2LP			03/08/1973	DPR-27	19.0
		BECH			10/01/1972		77.5
		BECH			03/08/2013		80.0
							78.4
							96.8
Prairie Island 1 Nuclear Management Co. 28 MI SE of Minneapolis, MN 050-00282	III	PWR-DRYAMB	1650	0525	06/25/1968	OL-FP	83.0
		WEST 2LP			04/05/1974	DPR-42	78.4
		FLUR			12/16/1973		89.7
		NSP			08/09/2013		89.0
							98.9
							79.6
Prairie Island 2 Nuclear Management Co. 28 MI SE of Minneapolis, MN 050-00306	III	PWR-DRYAMB	1650	0524	06/25/1968	OL-FP	99.7
		WEST 2LP			10/29/1974	DPR-60	81.2
		FLUR			12/21/1974		78.6
		NSP			10/29/2014		100.5
							91.1
							93.4
Quad Cities 1 Exelon Generation Co., LLC 20 MI NE of Moline, IL 050-00254	III	BWR-MARK 1	2957	0762	02/15/1967	OL-FP	39.7
		GE 3			12/14/1972	DPR-29	82.6
		S&L			02/18/1973		42.1
		UE&C			12/14/2012		94.1
							91.3
							99.6
Quad Cities 2 Exelon Generation Co., LLC 20 MI NE of Moline, IL 050-00265	III	BWR-MARK 1	2957	0762	02/15/1967	OL-FP	69.1
		GE 3			12/14/1972	DPR-30	39.0
		S&L			03/10/1973		50.6
		UE&C			12/14/2012		97.9
							92.1
							93.1
River Bend 1 Entergy Operations, Inc 24 MI NNW of Baton Rouge, LA 050-00458	IV	BWR-MARK 3	3039	0966	03/25/1977	OL-FP	83.4
		GE 6			11/20/1985	NPF-47	83.2
		S&W			06/16/1986		95.1
		S&W			08/29/2025		69.6
							89.4
							95.3
Salem 1 PSEG Nuclear, LLC 18 MI S of Wilmington, DE 050-00272	I	PWR-DRYAMB	3459	1121	09/25/1968	OL-FP	0.0
		WEST 4LP			08/13/1976	DPR-70	0.0
		PUBS			06/30/1977		63.1
		UE&C			08/13/2016		82.7
							92.2
							80.3

Unit Operating Utility Location Docket Number	NRC Region	Con Type NSSS AE Constructor	Licensed MWt	Net MDC	CP Issued OL Issued Comm. Op Exp. Date	License Type & Number	1996-2001* Average Capacity Factors (Percent)
✓ Salem 2 PSEG Nuclear, LLC 18 MI S of Wilmington, DE 050-00311	I	PWR-DRYAMB WEST 4LP PUBS UE&C	3459	1121	09/25/1968 05/20/1981 10/13/1981 04/18/2020	OL-FP DPR-75	0.0 25.5 80.9 82.0 86.3 99.5
San Onofre 2 Southern California Edison Co. 4 MI SE of San Clemente, CA 050-00361	IV	PWR-DRYAMB COMBCE BECH BECH	3438	1070	10/18/1973 09/07/1982 08/08/1983 02/16/2022	OL-FP NPF-10	91.0 70.5 89.1 87.9 90.7 101.3
San Onofre 3 Southern California Edison Co. 4 MI SE of San Clemente, CA 050-00362	IV	PWR-DRYAMB COMBCE BECH BECH	3438	1080	10/18/1973 09/16/1983 04/01/1984 11/15/2022	OL-FP NPF-15	93.2 72.1 95.8 88.9 101.6 60.0
Seabrook 1 North Atlantic Energy Service Corp. 13 MI S of Portsmouth, NH 050-00443	I	PWR-DRYAMB WEST 4LP UE&C UE&C	3411	1161	07/07/1976 03/15/1990 08/19/1990 10/17/2026	OL-FP NPF-86	96.8 78.3 82.7 85.8 78.1 85.9
Sequoyah 1 Tennessee Valley Authority 9.5 MI NE of Chattanooga, TN 050-00327	II	PWR-ICECND WEST 4LP TVA TVA	3411	1122	05/27/1970 09/17/1980 07/01/1981 09/17/2020	OL-FP DPR-77	94.7 85.1 87.8 101.6 78.3 91.8
Sequoyah 2 Tennessee Valley Authority 9.5 MI NE of Chattanooga, TN 050-00328	II	PWR-ICECND WEST 4LP TVA TVA	3411	1117	05/27/1970 09/15/1981 06/01/1982 09/15/2021	OL-FP DPR-79	78.3 89.2 97.3 91.8 92.3 101.6
Shearon Harris 1 Progress Energy 20 MI SW of Raleigh, NC 050-00400	II	PWR-DRYAMB WEST 3LP EBSO DANI	2775	0860	01/27/1978 01/12/1987 05/02/1987 10/24/2026	OL-FP NPF-63	93.6 78.3 93.4 96.2 91.0 71.3
South Texas Project 1 STP Nuclear Operating Co. 12 MI SSW of Bay City, TX 050-00498	IV	PWR-DRYAMB WEST 4LP BECH EBSO	3800	1250	12/22/1975 03/22/1988 08/25/1988 08/20/2027	OL-FP NPF-76	93.1 90.1 98.4 88.0 78.2 94.4

(Continued)

Exhibit 3

PECO Energy Company and Public Service Electric and Gas Company
Docket No: A-110550F0160

OSBA – QUESTION #20:

Reference the Company's response to OSBA-1-2(c). Please provide a list of all PSEG-owned nuclear units included in the referenced nuclear improvement synergy analysis, along with the stand-alone nuclear capacity factor baseline(s) assigned to the PSEG-owned units.

RESPONSE

The baseline capacity factors for PSEG-owned nuclear units are provided in the table below:

	PSEG Units Capacity Factor Baseline				
	2005	2006	2007	2008	2009
Salem 1	84.8%	93.4%	86.6%	86.6%	93.4%
Salem 2	85.2%	86.6%	93.4%	75.1%	86.6%
Hope Creek	93.0%	81.7%	86.6%	93.4%	86.6%
Peach Bottom 2	97.0%	86.8%	97.0%	89.8%	97.0%
Peach Bottom 3	89.0%	97.0%	86.9%	97.0%	89.8%

Responsible Witness: William D. Arndt

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

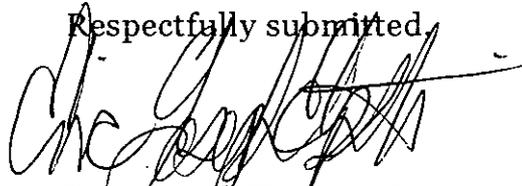
**Joint Application of Peco Energy :
Company and Public Service :
Electric. and Gas Company for : Docket No.
Approval of the Merger of Public : A-110550F0160
Service Enterprise Group :
Incorporated with and into :
Exelon Corporation :**

**ERIC JOSEPH EPSTEIN'S, *Pro se*
SERVICE LIST**

CERTIFICATION OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the active participants named below by US mail or hand delivery in accordance with the requirements of 52 Pa. Code § Section 1.54.

Respectfully submitted,



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DATE: June 27, 2005

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EXPERIENCE: ADULT EDUCATION

- 2002-2005* Principal, EFMR Monitoring Group Incorporated, Harrisburg, Pennsylvania
- 2001-2002* Professor of Holocaust Studies, West Chester University, West Chester, Pennsylvania
- 1992-1999* Visiting Assistant Professor of Humanities, The Pennsylvania State University at Harrisburg
- 1985-2002* Adult Basic Education Administrator and Instructor, Tri County OIC, (Harrisburg, PA); Loysville Secure Treatment Unit (Loysville, PA); The State Correctional Institute at Camp Hill (Camp Hill, PA); and, The Dauphin County Prison (Harrisburg, PA)

EDUCATION

- 1999* Ph.D. Candidate, The Pennsylvania State University. Interdisciplinary Studies: Religion, History and Holocaust Studies
- 1992* Masters of Arts, The Pennsylvania State University. Major: Humanities
- 1982* Bachelor of Science, Willamette University. Major: Political Science

PROFESSIONAL CERTIFICATIONS

- 1998 EQUAL Implementation Training, Pennsylvania Department of Education
- 1990 Solid Waste & Recycling Management, The Pennsylvania State University
- 1989 Corrections' Educator, Pennsylvania Department of Corrections, Training Academy
- 1984 Secondary Education: Social Studies & World Cultures, Millersville University

REFERENCES

- Adult Education* **Dr. H. Keith Florig**, Department of Engineering and Public Policy, Carnegie Mellon University, (Pittsburgh, Pennsylvania)
- Dr. Henryk Klepacki**, Department of History, Jagiellonian University, (Krakow, Poland)
- Mr. Jeffrey Woodyard**, Executive Director, Tri County OIC (Harrisburg, Pennsylvania)

REFERENCES

- Energy* **Mr. James Byrne, P.E.**, Vice President, GPU Nuclear, (Middletown, Pennsylvania)
- Dr. Michio Kaku**, Department of Physics, City University of New York, (New York City, New York).
- Mr. Arthur Morris, P.E.**, Chairman, Nuclear Regulatory Commission's Advisory Panel for the Decontamination of the Three Mile Island Unit 2 and former Mayor of Lancaster (Lancaster, Pennsylvania).

COMMUNITY APPOINTMENTS

Boards

- 1994-1997 President, Historic B’Nai Jacob Synagogue (Middletown, PA)
- 1993-1997 Coordinator, Edna Silberman Holocaust Oral History Project of Central Pennsylvania
- 1993-1997 Chairman, Holocaust Education Committee of the United Jewish Committee (Harrisburg, PA)
- 1993-1995 Chairman, Community Relations Committee of the United Jewish Committee (Harrisburg, PA)

ECONOMIC, ENVIRONMENTAL & ENERGY

Boards

- (2003- Present) Greater Middletown Economic Development Corporation, (Middletown, PA)
- (2002- Present) Founding Board Member, Alternative Fuels Council, (Camp Hill, PA)
- (1999-Present) Board Member, the Sustainable Energy Fund of Central Eastern Pennsylvania, (Allentown, PA)
- (1995-2003) Director, Community Environmental Legal Defense Fund, (Shippensburg, PA)
- (1992-Present) Coordinator, EFMR Monitoring Group, Inc., (Harrisburg, PA)
- (1984-Present) Chairman and Spokesperson, Three Mile Island Alert, Inc., (Harrisburg, PA)
- (1983-1984) Coordinator, the Susquehanna Valley Alliance, (Lancaster, PA)

MAJOR RESEARCH PUBLICATIONS

- Holocaust Reference* Co-author, *Dictionary of the Holocaust: Biography, Geography, and Terminology*, (Westport, Connecticut and London, 1997).
- Holocaust Reference* Author of the Appendices *The Holocaust Chronicle* (Publications International, Ltd., 1999).

PROFESSIONAL PAPERS & PUBLICATIONS

Holocaust

"Eugenics in American Society" (ARIPPA, November, 2003); "PETA and the Holocaust" (Op-Ed, Spring, 2003); "Imaging Judaism" (Susquehanna Art Museum, 2001); "The Holocaust and Jewish Culture in Poland," *The Memory of the Holocaust in the 21st Century: The Challenge for Education*, (Yad Vashem, 1999); "Fit to Be Tried: Maurice Papon and the Vichy Syndrome. Defeat and Collaboration," (*Journal of Genocide Research*, 1999); "Fit to Be Tried: Maurice Papon and the Vichy Syndrome," (Millersville University, 1998); "The Etymology of the Holocaust" (University of Nebraska at Omaha); "The Legal Path to Judeocide," (*Electronic Journal of Annual Holocaust Papers*, 1997 & Dickinson Law School, 1995); "Hating the Holocaust," (*The Genocide Forum*, 1996); "The Etymology of the Holocaust," (Millersville University, 1996); "Springtime in Austria," (*Martyrdom and Resistance-Yad Vashem*, New York, 1996); "Nazi Medicine," (*Friends of the National Parks at Gettysburg*, 1995); "Rewriting History: The Holocaust in Contemporary Europe," (Millersville University, 1995); "The Holocaust as A Tourist Industry," (Willamette Scene-Willamette University; 1995 and *Martyrdom and Resistance-Yad Vashem*, New York, 1994); and, "Law, Ethics and Morality," (Susquehanna University, 1994).

PROFESSIONAL PAPERS & PUBLICATIONS

- Adult Education* "Adult Education in Correctional Facilities" and "Teaching in the 'Real World:' A Personal Perspective," Pennsylvania Department of Education, *The Pennsylvania ABLE Staff Handbook*, 1998 Edition, (Harrisburg, PA)
- Assistance Guide* "Where to Go If You Need Help," EFMR Monitoring, 2005 Edition, (Harrisburg, PA)
- Energy & Economic Development* *Publisher, 2005 Biennial Report: The EFMR Monitoring Group, Inc.*
- Energy (1999-2002)* *Publisher, EFMR Monitor: Monitoring Nuclear Power Generation at Peach Bottom and Three Mile island (Harrisburg, PA)*
- Energy (1993-1999)* *Publisher, EFMR Monitor: Monitoring Radiation Trends in the Three Mile Island area (Harrisburg, PA)*

PROFESSIONAL PAPERS & PUBLICATIONS

Energy

Emergency Preparedness Survey of Child Care Facilities Located Near Three Mile Island Nuclear Facility (Nuclear Regulatory Commission (March 2, 2005); Direct Testimony of Eric Joseph Epstein, Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation (June 29, 2004); "Comments on the Nuclear Regulatory Commission's Request for Public Comment on the Fourth Year of the Reactor Oversight Process", (Nuclear Regulatory Commission, Washington, D.C., December 30, 2003); "Backed Into A Corner: Cleaning Up Pennsylvania's Nuclear Power Plants", (Dickinson College, October 23, 2003); PECO ENERGY COMPANY: NDCA Supplement No. 44, "Decommissioning Cost Analysis for Limerick Generation Station, Peach Bottom Atomic Power Station Units 2 and 3, Salem Generation Station Units 1 and 2," (PA Public Utility Commission, May 29, 2003); "The Reactor Oversight Process: Deregulated Regulation" (Nuclear Regulatory Commission, Washington, D.C., April 16, 2003);

PROFESSIONAL PAPERS & PUBLICATIONS

Energy

Expert Testimony, PECO Energy Company, Supplement No. 34. Tariff Electric No. 3, "Wind Tariff" (Pennsylvania Public Utility Commission, 2003) "Security at Three Mile Island: Seven Recommendations to Improve TMI's Nuclear Plant Security that have Gone Unheeded", Public Utilities Fortnightly, July 15, 2002); Comments on the Nuclear Regulatory Commission's Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities; NUREG-0586: Draft Supplement Dealing With Decommissioning of Nuclear Power Reactors, (Nuclear Regulatory Commission, December 28 , 2001); Three Mile Island Alert's Comments on the Governor's Energy Task Force Recommendations", (August 7, 2001); Expert Testimony on Application of PECO Energy Company, 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 (Pennsylvania Public Utility Commission, 2000); Petition to Amend The Financial Assurance Record Keeping for Decommissioning Planning (Nuclear Regulatory Commission, 2000) Presentation at the Environmental Protection Agency: Radiation Information Initiative Team, (Washington, D.C., 1999); Testimony on the Nuclear Energy Institute's Petition for Rulemaking [SAMA], Nuclear Regulatory Commission, 1999); Testimony on the Proposed Rule Making Amendments; Financial Assurance Requirements for Decommissioning Nuclear Power Reactors, (Nuclear Regulatory Commission, 1997); Expert Testimony on Pennsylvania Power & Light's Proposal for Electric Restructuring (Pennsylvania Public Utility Commission, 1997); Testimony on the "Investigation into Electric Power Competition," (Pennsylvania Public Utility Commission, 1996); Expert Testimony on Pennsylvania Power & Light's 1995 Base Rate Case, (Pennsylvania Public Utility Commission); Testimony on "Hostile Takeovers of Electric Utilities," (Pennsylvania Senate Consumer Protection and Professional Licensure Committee, 1995);

PROFESSIONAL PAPERS & PUBLICATIONS

Energy

“Assessing Risk-Assessment,” (University of Tennessee, 1995); “Old and New Forms of Public Participation at the PUC,” (Public Utility Commission, University Park, PA, 1995); “Radioactive Scrap Metal: An Environmental Perspective,” (University of Tennessee, 1994); “On-Site Storage and the Period Prior to Decommissioning,” (League of Women Voters, 1993); Testimony on the Security Intrusion at Three Mile Island (Pennsylvania House of Representatives, 1993); Settlement Agreement with General Public Utilities and the Nuclear Regulatory Commission on Post-Defueling Monitored Storage at Three Mile Island Unit-2, (Atomic Safety & Licensing Board, 1992); Testimony on Chem Nuclear’s Siting Plan for A Low-Level Radioactive Waste Site, (Department of Environmental Resources, 1991, 1990, 1989); Testimony on the Cleanup and Decommissioning of Three Mile Island Unit 2, (Nuclear Regulatory Commission, Three Mile Island Advisory Panel for the Decontamination of Three Mile Island, Unit 2, 1994, 1993, 1992, 1991, 1990, 1989, 1988, 1987, 1986, 1985); Testimony on the Pennsylvania Energy Plan, (Lt. Governor Mark Singel, Pennsylvania Energy Office, 1987); Testimony on the Shutdown of Peach Bottom, (Pennsylvania House of Representatives, 1987); Testimony on the Restart of Three Mile Island, (Nuclear Regulatory Commission, Washington, D.C., 1985)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

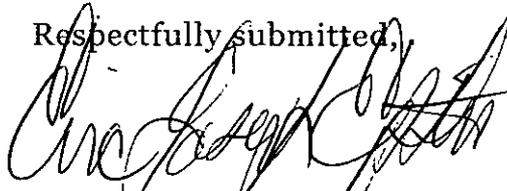
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I hereby certify that I have this day served a true and correct copy of the foregoing document upon the active participants named below by US mail or hand delivery in accordance with the requirements of 52 Pa. Code § Section 1.54.

Respectfully submitted,



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ORIGINAL

June 27, 2005

Via Federal Express

James McNulty
Secretary
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JUN 27 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

RE: Joint Petition of PECO Energy Company and Public Service Electric and Gas Company for Approval of the Merger of Public Service Enterprise Group Incorporated with and into Exelon Corporation - Docket No. A-110550F0160

Secretary McNulty:

Enclosed for filing are an original and three (3) copies of the Testimony of Pennsylvania Senator Anthony H. Williams and the Certificate of Service in the above-referenced matter.

If you have any questions with regard to this filing, please call me at 215.496.7232. Thank you for your attention to this matter.

Sincerely,


KAHIGA A. TIAGHA

KAT/gh

Enclosures

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JUN 27 2005

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

**Joint Application of PECO Energy
Company and Public Service Electric and
Gas Company for Approval of the Merger
of Public Service Enterprise Group
Incorporated with and into Exelon
Corporation** :

Docket No. A-110550F0160

DOCKETED
OCT 07 2005

TESTIMONY OF SENATOR ANTHONY H. WILLIAMS

My name is Senator Anthony H. Williams and I am a petitioner in the above captioned proceeding before the Pennsylvania Public Utility Commission (the "PUC"). I am a Pennsylvania State Senator, representing the 8th Senate District, which includes constituents from both Philadelphia and Delaware counties. I am the Minority Chair of the State Government committee, and sit on the Senate committees on Banking and Insurance, Environmental Resources and Energy, and Finance. I attended Franklin & Marshall College where I received a Bachelor of Science in Economics. I am a resident of Philadelphia, Pennsylvania and PECO is my electricity supplier.

As stated in my petition, in my review of the joint application of PECO Energy Company ("PECO") and Public Services Electric and Gas Company ("PSEG", together with PECO the "Applicants") for approval of the merger of Public Service Enterprise Group Incorporated with and into Exelon Corporation (the "Joint Application"), I determined that, in spite of the requirements of Pennsylvania's Public Utility Code (the "Code"), the Applicants do not specifically detail how the merger will provide substantial benefits to its ratepayers. After reviewing the Joint Application, it appears to me that solely the merged company will realize any

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significant benefits from the proposed merger. Furthermore, the discussion about the alleged benefits to consumers is vague.

As both a ratepayer and a representative of PECO's customers, I am concerned that PECO's customers, especially its low-income customers, will not receive any benefits from this merger, if it is ultimately approved. This is particularly troubling in light of the previous transaction in 2000 involving PECO's merger into ComEd thereby creating Exelon (the "2000 Merger"), in which PECO enumerated certain benefits that its low-income customers would enjoy in the Universal Services Program as a result of the merger. Research shows that those benefits have not been fully implemented by PECO or realized by its customers. PECO enumerated those benefits in the settlement agreement between PECO and the Joint Petitioners dated March 23, 2000 (the "Settlement Agreement") and in its Petition to approve these changes regarding its Universal Service Program submitted to the PUC on October 1, 2002 (the "Petition"). By Order dated March 6, 2003, the PUC approved the Petition and lauded both PECO and the advocacy groups for their diligent efforts in developing consensus modifications to PECO's customer assistance program. PECO's failure to fulfill these prior commitments must be reviewed to determine whether its promises of public benefits in this Merger are simply hollow rhetoric. In assessing whether its customers will realize any benefits from this proposed merger, its track record on past promised benefits is directly relevant.

In its Joint Petition (ultimately approved by the PUC), PECO committed to the following major improvements to its Universal Services Program:

- Development of a Special Needs Program for households whose income is equal to or less than 25% of Federal Poverty Level ("FPL"). The CAP A portion of this program would provide rate relief for ratepayers with "extenuating circumstances" such as health issues, sudden loss of employment or high non-discretionary electric usage related to conditions not susceptible to mitigation through energy reduction programs. Enrollment in this program

was limited to 7,500 customers. The CAP B portion of this program was for customers with the same income levels as CAP A but with no “extenuating circumstances”. Rate relief was provided for this group but at levels not as “generous” as the CAP A customers. The CAP C portion of the Special Needs Program provided rate relief for ratepayers at 25% - 50% of FPL. Once again, rates paid by these customers were higher than those in the CAP A and B Programs.

- A 40,000-customer enrollment target for the CAP A, B and C Programs with the potential for increase once this number was reached.
- An increase to 125,000 customers for the entire CAP Program subject to revision once this level was reached.
- An extensive outreach program for the low-income customer population designed to effectuate these enrollment goals and to explain the details of the new programs.
- Increased commitment to the various relief programs to improve hardship contributions by ratepayers.
- Increased commitment to the CARES Program.

PECO’s record on fulfilling these promised has been woefully inadequate. For example:

- Instead of 7,500 people in the CAP A Program, PECO has only enrolled 9 customers.
- Instead of 40,000 people in the CAP A, B and C Program, PECO has enrolled 15,000.
- Instead of 125,000 people in the entire CAP Program, PECO has enrolled approximately 100,000.
- Instead of an increase in hardship contributions, there has been a dramatic decrease.

The PUC has recently determined that there are approximately 260,000 households in PECO’s service territory that are eligible for the CAP Programs. As noted above, PECO is only servicing 100,000 of these people. Thus, it is clear that a vast number of people who are eligible and in need of these programs are not being served. Moreover, the PUC found that the average monthly residential non-heating usage for a PECO customer is almost twice the level of that for

which the CAP rate discount is provided. As a result, a CAP ratepayer, who is often in desperate need for help to pay energy bills, often gets no discount on a significant portion of its bill.

In my view, the PUC would not be fulfilling its obligations to Pennsylvania ratepayers, if, in assessing the promises of public benefit in this merger, it failed to assess PECO's declaration of public benefit in the 2000 Merger.

In order to rectify PECO's past failures, I recommend the following:

- A specific expedited timetable should be set for PECO to meet the enrollment targets for the various CAP Programs set forth in its prior settlement. Contracts should be entered into with outside advocacy groups to achieve this goal. Specific penalties should be imposed if the targets are not timely met.
- Outreach efforts, including the use of outside groups, should be undertaken to increase the enrollment in the CAP Programs. Particular attention should be paid to ratepayers who are eligible for the Special Needs Programs.
- The Outreach effort should contain a significant educational element that explains the CAP Program, provides information on available energy conservation programs and other assistance and identifies steps that can be taken to enroll.
- Affordable rates must be established for CAP ratepayers. Special attention should be paid to those households with high energy usage. In order to provide long term solutions to these customers, PECO should provide increased funding to energy reduction programs and make increased use of *community based organizations for appropriate outreach.*
- PECO should make substantial financial contributions to low-income energy hardship funds and assure that sufficient educational material is provided to its ratepayers to maximize contributions.
- As CAP Program enrollment increases, PECO shareholders should pay a *significant portion of these increased costs.*
- A program of low-income arrearage forgiveness should be implemented for customers as they move into the CAP Program.
- PECO should be required to submit a detailed plan within 90 days to implement these various requirements.

In addition to my concerns regarding PECO's low-income customers, I am also concerned about PECO's commitment towards its workforce and the communities in which it currently operates. In light of PECO's record of broken promises, regarding PECO's workforce and corporate citizenship, I recommend the following:

- PECO should ensure that its workforce remains at its current level and for at least five (5) years from the time the proposed merger becomes effective.
- PECO should ensure that its workforce remains diverse and it is compliant with all applicable employment and discrimination laws.
- PECO should ensure that its contributions to local area charities are maintained at current levels.

[Remainder of page left intentionally blank]

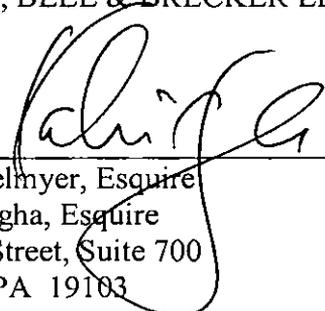
CONCLUSION

It is important to remember that a family at 25%, 50% or even 150% of FPL fights everyday for survival. Basic necessities such as affordable electricity and heating is a major component of this constant struggle. It is simply unacceptable that the benefits promised low-income ratepayers in the last Merger have not been fulfilled.

This Merger creates a substantial risk of concentrated market power, substantial job losses and a decreased commitment to local charities. While these issues are being more fully addressed by other parties in this case, they clearly have the potential to further exacerbate the problems faced by low-income customers in paying their energy bills. Therefore, it is critical that the PUC carefully analyze these issues and impose firm and enforceable requirements on PECO to properly address these problems.

Respectfully submitted

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Attorneys for Senator Anthony H. Williams

Dated: June 27, 2005

CERTIFICATE OF SERVICE

I, Kahiga A. Tiagha, hereby certify that on the 27th day of June, 2005, I caused true and correct copies of the Testimony of Pennsylvania State Senator Anthony H. Williams to be served upon the following:

VIA FEDERAL EXPRESS

James McNulty
Secretary
Pennsylvania Public Utility Commission
400 North Street
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Harrisburg, PA 17120

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JUN 27 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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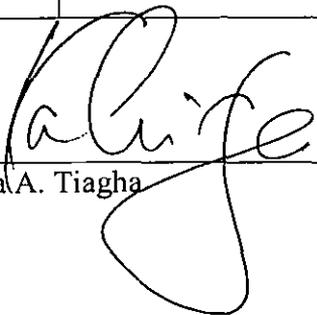
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<p>Thomas P. Gadsden, Esquire Anthony C. DeCusatis, Esquire Morgan, Lewis & Bockius, LLP 1701 Market Street Philadelphia, PA 19103-2921</p>	<p>Paul R. Bonney Deputy General Counsel Kent D. Murphy Assistant General Counsel</p> <p>Peco Energy Company 2301 Market Street P.O. Box 8699 Philadelphia, PA 19101-8699</p>
<p>Richard P. Bonnifield Vice President - Law Public Service Electric and Gas Company 80 Park Plaza, TSE Newark, NJ 07102</p>	



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CHARLES E. THOMAS
(1913 - 1998)

June 27, 2005

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2005 JUN 27 PM 4: 12
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BY OVERNIGHT DELIVERY

Honorable Marlane R. Chestnut
Administrative Law Judge
Pennsylvania Public Utility Commission
1302 Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130

In re: Docket No. A-110550F0160
Joint Application of PECO Energy and Public Service Electric and Gas Company

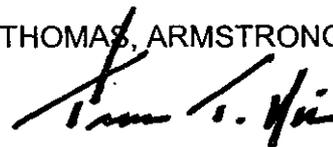
Dear Judge Chestnut:

Enclosed in connection with the above referenced proceeding and in accordance with your Revised Prehearing Order #2, dated March 31, 2005, is PGW Statement No. 1, the Direct Testimony of Paul R. Carpenter on behalf of Philadelphia Gas Works. Copies of PGW Statement No. 1 are being served upon the parties to the proceeding in accordance with the attached certificate of service.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By



Thomas T. Niesen

**DOCUMENT
FOLDER**

cc: Certificate of Service (w/encl.)
Denise Adamucci, Esquire (w/encl.)
Paul Carpenter (w/encl.)
James J. McNulty, Secretary (w/o encl.)

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOINT APPLICATION OF PECO : Docket No. A-110550F0160
ENERGY COMPANY AND PUBLIC :
SERVICE ELECTRIC AND GAS :
COMPANY FOR APPROVAL OF THE :
MERGER OF PUBLIC SERVICE :
ENTERPRISE GROUP INCORPORATED :
WITH AND INTO EXELON :
CORPORATION :

CERTIFICATE OF SERVICE

I hereby certify that I have this 27th day of June, 2005, served a true and correct copy of PGW Statement No. 1, the Direct Testimony of Paul R. Carpenter, upon the persons and in the manner set forth below:

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A handwritten signature in black ink, appearing to read "Thomas T. Niesen", written over a horizontal line.

Thomas T. Niesen

ORIGINAL

Donald A. Kaplan
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June 28, 2005

VIA FEDERAL EXPRESS

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
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JUN 28 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S OFFICE

Re: Joint Application of PECO Energy Company and Public Service Electric and Gas Company For Approval of the Merger of Public Service Enterprise Group Incorporated With and Into Exelon Corporation; Docket No. A-110550F0160

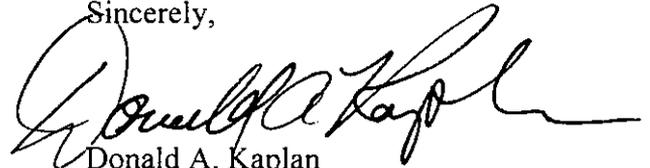
Dear Secretary McNulty:

Enclosed please find an original and three (3) copies of a Certificate of Service evidencing service of Statement No. 1, the Direct Testimony of Joseph P. Kalt, Ph.D on behalf of the PPL Companies.

If you should have any questions in this regard, please contact the undersigned.

DOCUMENT
FOLDER

Sincerely,



Donald A. Kaplan
Attorney for the PPL Companies

51

ORIGINAL

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JUN 28 2005

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION
PA PUBLIC UTILITY COMMISSION SECRETARY'S OFFICE

JOINT APPLICATION OF PECO
ENERGY COMPANY AND PUBLIC
SERVICE ELECTRIC AND GAS
COMPANY FOR APPROVAL OF THE
MERGER OF PUBLIC SERVICE
ENTERPRISE GROUP
INCORPORATED WITH AND INTO
EXELON CORPORATION

DOCKET NO. A-110550F0160

DOCKETED
AUG 04 2005

CERTIFICATE OF SERVICE

I hereby certify that I have this 28th day of June served a copy of the foregoing PPL Statement No. 1, Direct Testimony of Joseph P. Kalt, Ph.D. upon the active participants listed below by electronic delivery and overnight mail:

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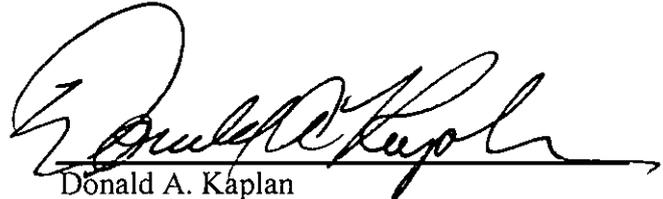
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Date: June 28, 2005



Donald A. Kaplan
Attorney for the PPL Companies



Pennsylvania Department of Environmental Protection

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June 28, 2005

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

**DOCUMENT
FOLDER**

RE: Joint application of PECO Energy Company and Public Service Electric and Gas Company for approval of the merger of Public Service Enterprise Group Incorporated with and into Exelon Corporation.
PUC Docket No. A-110550F0160.

Dear Secretary McNulty:

In accordance with the Public Utility Commission's Rules of Practice and Procedure at 52 Pa. Code § 5.412(f), please find for filing a Certificate of Service for the testimony of David Allard, John F. Slade and Daniel Desmond who are testifying on behalf of the Commonwealth of Pennsylvania, Department of Environmental Protection in the above referenced matter. Thank you for your assistance.

Sincerely,

Scott Perry
Assistant Counsel

cc: Certificate of Service
Honorable Marlane Chestnut, PUC ALJ

enclosure

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COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PUBLIC UTILITY COMMISSION

JOINT APPLICATION OF PECO :
ENERGY COMPANY AND PUBLIC :
SERVICE ELECTRIC AND GAS :
COMPANY FOR APPROVAL OF THE : Docket No. A-110550F0160
MERGER OF PUBLIC SERVICE :
ENTERPRISE GROUP :
INCORPORATED WITH AND INTO :
EXELON CORPORATION :

SECRETARY'S BUREAU

2005 JUN 28 PM 2:02

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CERTIFICATE OF SERVICE

I do hereby certify that on this day, I served a true and correct copy of the Department of Environmental Protection's Direct Testimony of Daniel Desmond, John F. Slade and David Allard, upon the participants listed below, in accordance with the requirements of § 1.54 (relating to service by a participant).



AUG 04 2005

Honorable Marlane R. Chestnut
Administrative Law Judge
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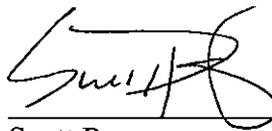
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June 28, 2005

Via UPS Overnight

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, Pennsylvania 17120

**DOCUMENT
FOLDER**

Re: Joint Application of PECO Energy Company and Public Service Electric
and Gas Company for Approval of the Merger of Public Service
Enterprise Group Incorporated with and into Exelon Corporation
Docket No. A-110550F0160

Dear Secretary McNulty:

Enclosed please find an original and three (3) copies of a Certificate of Service evidencing service of Testimony on behalf of the FirstEnergy Companies in the above-referenced matter.

If you have any questions, please contact me.

Very truly yours,

RYAN, RUSSELL, OGDEN & SELTZER LLP

W. Edwin Ogden

W. Edwin Ogden

Enclosures
WEO:jab

c: Administrative Law Judge Marlane R. Chestnut
As per Certificate of Service

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JUN 28 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

34

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Application of PECO Energy :
Company and Public Service Electric :
and Gas Company for Approval of : Docket No. A-110550F0160
the Merger of Public Service Enterprise :
Group Incorporated with and into Exelon :
Corporation :

DOCKETED
AUG 04 2005

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of FirstEnergy Companies' Testimony upon the persons and in the manner indicated below in accordance with the requirements of 52 Pa. Code § 1.54.

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