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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

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REBUTTAL TESTIMONY

OF

LISA CRUTCHFIELD

**DOCUMENT
FOLDER**

Responding To Opposing Party Testimony
With Respect to Universal Services (Low Income)
Issues and Gas Procurement

July 29, 2005

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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REBUTTAL TESTIMONY OF LISA CRUTCHFIELD

I. INTRODUCTION

Q. Please state your name and business address.

A. Lisa Crutchfield, 2301 Market Street, Philadelphia, PA 19103.

Q. By whom are you employed, and in what capacity?

A. I am Vice President of Regulatory and External Affairs of PECO Energy Company ("PECO" or the "Company").

Q. What are your responsibilities as Vice President of Regulatory and External Affairs?

A. I am responsible for managing the Company's regulatory, governmental affairs, economic development and external affairs divisions.

Q. Please briefly describe your educational background and industry experience.

A. I am a graduate of Yale University and Harvard Business School. I have been involved in the utility industry for about 15 years. I was Vice-Chairman and Commissioner of the Pennsylvania Public Utility Commission from 1993 to 1997, which included the key period during which retail competition legislation was passed in Pennsylvania, and I was actively involved in the

1 crafting of that legislation. During my time on the Commission, I often served
2 as an expert witness before the United States Senate on industry restructuring
3 issues and before the Federal Energy Regulatory Commission on transmission
4 access issues. Subsequently I served as an executive at Duke Energy
5 Corporation, where I managed the utility's energy policy and strategy division,
6 which was responsible for developing the corporation's strategy on issues
7 related to restructuring the electric and gas industries.

8
9 **Q. What is the purpose of your testimony?**

10 **A.** My testimony will address issues related to PECO's universal service programs
11 that were raised in the testimony of Mr. Harry Geller (Action Alliance, et al.
12 Statement No. 1); Ms. Barbara Alexander (Office of Consumer Advocate
13 Statement No. 4); and Senator Anthony H. Williams (Williams Statement No.
14 1). In addition, I will respond to testimony presented at the public input
15 hearings held in Philadelphia on June 30, 2005.¹ Finally, I will respond to OCA
16 witness Jerome D. Mierzwa's recommendation (OCA Statement No. 3) that
17 PECO should be required to seek prior approval of any future change to the
18 structure of its gas procurement function or to the management of PECO's
19 capacity and gas supply contracts.

¹ At the June 30, 2005 public input sessions, Senator Williams reiterated his written testimony. In addition, several individuals testified who are associated with the groups on whose behalf Mr. Geller submitted testimony. *E.g.*, Action Alliance for Senior Citizens (Vivien Hansbury, Tr. 145-148); ACORN (Donald Stokes, Tr. 150-153); Neighborhood Energy Centers (Diane B. Grimes, Tr. 159-164; Anne Czajka, Tr. 186-190; Edward Lynch, Tr. 225-235; John Rowe, Tr. 245-248); Community Legal Services (Beverly Williams, Tr. 165-172; Maria Adames, Tr. 191); Philadelphia Workers Benefit Council (Elizabeth Signil, Tr. 178-185), the Energy Coordinating Agency (Maureen Mulligan, Tr. 250-257); and Lance Haver (Tr. 173-78). PECO's response to these individuals is largely incorporated in its responses to the testimony of Mr. Geller, Ms. Alexander, and Senator Williams

1 **II. OVERVIEW OF UNIVERSAL SERVICES TESTIMONY AND**
2 **SUMMARY OF COSTS OF UNIVERSAL SERVICES**
3 **RECOMMENDATIONS**
4

5 **Q. Please provide an overview of your testimony on universal service issues.**

6 A. First, I explain throughout that PECO has met the low-income commitments
7 that it made in the 2000 PECO/Unicom Merger Settlement Agreement
8 (“Merger Settlement”) (Exhibit LC-1) and other proceedings with respect to
9 universal service. (I have also attached a copy of PECO’s 1998 Restructuring
10 Settlement – the “Restructuring Settlement” -- as Exhibit LC-2 and a copy of
11 the 2002 Petition for Expedited Approval of Consensus Modifications to
12 PECO Energy Company’s Universal Service Program and Associated Tariff
13 Changes – the “Consensus Modifications” – as Exhibit LC-3.) While I
14 conclude that PECO has met its commitments, I also express PECO’s
15 continued commitment to do outreach to identify and enroll customers in the
16 PECO service territory that qualify to be on its CAP Rate. I also outline
17 PECO’s continued commitment to emergency energy funds, known as
18 Hardship Funds.

19
20 Secondly, I point out that, in large part, the interveners are simply re-litigating
21 issues from the Consensus Modifications, which were agreed to by many of the
22 same parties that are litigants in this proceeding. In some cases, the interveners
23 are requesting that the Commission address issues in this merger proceeding
24 that have been or are being addressed in separate, generic, industry-wide

1 proceedings. Neither practice is appropriate, especially as a condition to the
2 proposed merger.

3
4 Finally, I assess the arguments and programs and look at PECO's universal
5 service programs from both a public policy and business perspective, and
6 attempt to balance those views. I recognize that PECO's universal service
7 programs are not perfect, and we are committed to continuing our work in the
8 area and to improve those programs. But those programs, as a whole, are very
9 robust, and in fact PECO provides some of the most extensive, broad-reaching
10 low-income assistance of any utility in the nation. And the programs have
11 grown significantly over the years, including the years since the PECO/Unicom
12 merger.

13
14 **Q. Have you estimated the cost of meeting the interveners' universal service
15 recommendations in this proceeding?**

16 **A.** To some extent. In the text of my testimony, I provide estimates of the cost of
17 many, but not all, of the interveners' low-income proposals. All told, I have
18 totaled the costs of the interveners' proposals of approximately \$96 million to
19 \$103 million, as summarized in the following table.

1

Intervener Proposal	Source	Approximate Cost Over 4 years (Nominal)
CAP Rate – Raise Discount Level to 800 kWh	Alexander, p. 38	\$38 million
CAP Rate – Forgiveness of Program Arrearages	Alexander, p. 40	\$11 million
CAP Rate -- Elimination of \$383 USF Surcharge	Alexander, p. 42	\$31 -- \$38 million
MEAF “shortfall” payment	Geller, p. 24	\$5 million
Annual MEAF contribution	Geller, p. 25	\$8 million
7 additional CARES workers	Geller, p. 27	\$2.8 million
Total*		\$95.8 -- \$102.8 million

2

* Excludes consideration of Mr. Geller’s penalty provisions for the CAP

3

enrollment targets, which range from \$0 to \$200 million.

4

5

This table does not fully capture the costs of the interveners’ universal service

6

requests, as I found it difficult to quantify the costs of some of the proposals.

7

8

III. PECO’S CAP RATE PROGRAM

9

Q. Please provide background on PECO’s Customer Assistance Program.

10

A. The Commission has stated that, according to the 2000 United States Census,

11

the Philadelphia area has approximately 260,000 households that make less

12

than 150% of the federal poverty level. Over the years, PECO has been able to

13

confirm that approximately 200,000 of those households are customers of

14

PECO. Presumably, the others are either in rental, landlord-tenant situations in

15

which they are not PECO’s customers, or have some other arrangement so that

1 they are not PECO's customers. Of those approximately 200,000 low-income
2 customers, a significant percentage (but not all) have trouble making payments
3 on their utility bills. PECO's Customer Assistance Program is designed to
4 assist that group -- low-income customers who are payment-troubled -- to
5 afford utility service.

6
7 PECO began its Customer Assistance Program in 1984. Twelve years later, in
8 1996, PECO had enrolled approximately 30,000 customers in the Customer
9 Assistance Program. In that year, PECO implemented a pilot CAP Rate,
10 initially limited to 10,000 customers. By early 1998 (the year in which PECO
11 entered into its Restructuring Settlement), the CAP Rate had become fully
12 subscribed to its 10,000 customer limit. PECO therefore agreed, as part of its
13 Restructuring Settlement, to transfer the 30,000 participants in the Customer
14 Assistance Program to the CAP Rate, and to expand participation in the CAP
15 Rate on an "open enrollment basis for all eligible customers" to an "initial
16 maximum participation level" of 100,000 customers. PECO also was allowed
17 to initially recover \$650 per year for each enrolled CAP Rate customer in
18 excess of 90,000 through a Universal Service Fund Charge ("USFC") that is
19 assessed on residential customers. (Restructuring Settlement, ¶ 34).

20
21 **Q. Has enrollment in the CAP Rate increased since it was made broadly**
22 **available in 1998?**

1 A. Yes. From the initial 40,000 customer enrollment level at the time of the
2 Restructuring Settlement, the participation grew to about 83,000 customers by
3 March 2000. In that month, PECO entered into its Merger Settlement, in
4 which it agreed to continue to treat the CAP program as an “open enrollment
5 program for all customers,” but now with a “provisional maximum
6 participation level” of 125,000 customers. (Merger Settlement, ¶ 34.) In the
7 Merger Settlement, PECO agreed, in negotiations, to give up some of the cost
8 recovery to which it was entitled under the terms of the Restructuring
9 Settlement. Now, for customers on the CAP Rate in excess of 90,000
10 customers, PECO would recover \$383 per customer through the USFC instead
11 of the \$650 previously agreed to. Under this iteration, CAP Rate participation
12 increased to approximately 99,000 electric customers and approximately
13 15,000 gas customers in 2004, making PECO’s program the largest universal
14 service program in Pennsylvania and one of the largest in the nation.

15
16 In 2002, and pursuant to the Merger Settlement, PECO and many of the
17 Merger Settlement participants conducted another set of negotiations that led to
18 an agreement that came to be known as the Consensus Modifications, which
19 was subsequently approved by the Commission. In that process, the parties
20 reviewed the report and recommendations of Dr. Gil Peach with respect to a
21 “Special Needs” program for PECO’s most vulnerable customers (those with
22 household income at or below 50% of the federal poverty level). After months
23 of discussion and negotiation, the parties submitted the Consensus

1 Modifications to the Commission, setting forth their agreement to proceed with
2 revisions to PECO's CAP Rate and other elements of PECO's universal
3 services programs. In particular, the Consensus Modifications created three
4 new levels to PECO's CAP Rate – levels A, B, and C – which are collectively
5 known as the Special Needs component of PECO's CAP Rate. These new
6 CAP Rates are available to customers with household income at or below 50%
7 of the federal poverty level. (The existing CAP Rates Levels 1 and 2 became
8 CAP Rate Levels D and E, and are available to customers with income up to
9 150% of the federal poverty level.)
10

11 **Q. What challenges to PECO's CAP Rate have been raised by interveners?**

12 A. In this proceeding, the interveners have challenged PECO's CAP Rate in two
13 primary ways. First, they assert that PECO has not taken sufficient steps to
14 ensure enrollment in the CAP Rate; second, they contend that the CAP Rate is
15 not affordable to many current or prospective enrollees. I will respond to both
16 of those claims.
17

18 **A. CAP RATE ENROLLMENT LEVELS -- PECO'S**
19 **COMMITMENTS**
20

21 **Q. How have the interveners challenged the CAP Rate enrollment levels?**

22 A. In a number of ways. Throughout the testimony of Senator Williams, Mr.
23 Geller and Ms. Alexander, claims are made that PECO did not meet enrollment
24 "commitments" or "expectations" from the Merger Settlement. In addition,

1 they note the low level of participation in PECO's CAP Rate A. I respond to
2 both of those concerns in this section of my testimony. In the next section, I
3 address their proposals to increase enrollment levels.
4

5 **Q. In his testimony (p. 16), Mr. Geller claims that PECO made a commitment**
6 **in the Merger Settlement to increase enrollment in the CAP Rate to**
7 **125,000 customers. Senator Williams makes a similar claim on page 3 of**
8 **his testimony. Do you agree with that characterization of the Merger**
9 **Settlement?**

10 A. No. 125,000 was clearly a provisional maximum enrollment limit, not a goal
11 or commitment to achieve. The settlement documents, which I quoted earlier
12 in my testimony, are quite clear on this point. In both settlements, PECO was
13 granted the right to recover certain CAP Rate costs from its remaining
14 residential customers, once CAP Rate participation exceeded 90,000
15 customers. The "maximum enrollment levels" – whether the "initial maximum
16 enrollment" level of 100,000 in the Restructuring Settlement or the
17 "provisional maximum enrollment" level of 125,000 in the Merger Settlement
18 – were simply stop points that would allow all of the parties to reconsider the
19 parameters of the Customer Assistance Program. PECO was not required to
20 attain these enrollment levels; the plain language of the Settlements ("initial
21 maximum" and "provisional maximum") clearly contemplates the possibility
22 that PECO would not reach the 125,000 enrollment figure.²

² In her deposition testimony, Ms. Alexander was asked whether, pursuant to the Merger Settlement, PECO was required to enroll 125,000 customers in its CAP Rate and ultimately stated: "... based on

1 Q. Mr. Geller, Ms. Alexander, and Senator Williams also claim that PECO is
2 required, by the Consensus Modifications, to enroll 40,000 customers in
3 the Special Needs component of its CAP Rate – that is, levels A, B, and C.
4 *Do you agree with that characterization?*

5 A. No. The 40,000 figure was based on PECO's 2000 estimate of the number of
6 customers in its service territory earning below 50% of the poverty level. We
7 reported the number to the Commission in our Universal Services Reporting
8 document covering that year. PECO developed this estimate at a time when it
9 had no income-stratified data for its low-income population, and it was
10 therefore very imprecise. In 2001, our estimate dropped to approximately
11 26,000 customers in this category. In the Consensus Modifications, the
12 40,000 customer limit for the Special Needs Program "open enrollment
13 program" is described as having a "provisional maximum participation level"
14 of 40,000 customers. That plain language clearly contemplates the possibility
15 of fewer than 40,000 customers being enrolled in the Special Needs component
16 of the CAP Rate.

17
18 The Consensus Modifications do note (p. 10): "That 40,000-customer
19 enrollment target may be increased by PECO after consultation with the
20 LIURP advisory committee when that level is reached." Notwithstanding this
21 reference to a "target," I do not believe that the Consensus Modifications
22 committed PECO to move 40,000 customers to the Special Needs portion of its

this paragraph [34 of the Merger Settlement] I do not see that that requirement is here." Alexander
Deposition Transcript pp. 97-99, attached as Exhibit I.C-4

1 CAP Rate. The Special Needs components of the CAP Rate – levels A, B, and
2 C -- are available only to customers whose income is below 50% of the federal
3 poverty level, and under the terms of the Consensus Modifications a customer
4 may only be on a Special Needs component of the CAP Rate if the customer's
5 income has been verified as being at that level. It is these income eligibility
6 conditions, not a target enrollment level, that drive the amount of enrollment in
7 the program.

8
9 PECO has undertaken substantial efforts since the Consensus Modifications
10 became effective to identify and enroll customers in the Special Needs
11 components of the CAP Rate. PECO spent most of 2004 conducting income
12 verification and assigning customers to their proper CAP Rate level, depending
13 upon their level of verified income. (During the implementation of the
14 Consensus Modifications, PECO consulted with various interveners on its
15 income verification process.) PECO sent letters to over 100,000 customers
16 whom it identified as low-income, requesting income verification. A full year
17 of follow-up, processing, and implementation resulted in approximately 14,000
18 customers to date with verified incomes below 50% of the federal poverty
19 level. PECO moved all of those customers to CAP Rate A, B, or C, which
20 collectively are the Special Needs component of the CAP Rate. While these
21 efforts have not met Mr. Geller's expectations, the fact that there are 14,000
22 customers receiving the benefits of these steeply discounted rates is a testament
23 to these earnest enrollment efforts.

1 In addition, PECO has undertaken training programs for the LIURP Advisory
2 Committee and other entities with respect to this new program. In that regard,
3 I was surprised by the public input testimony of the Community Legal Services
4 (“CLS”) paralegals and Neighborhood Energy Center (“NEC”) representatives
5 who testified that they do not have information on PECO Special Needs
6 components. (One CLS witness even testified that, until a few weeks before
7 testifying, she was not aware of the existence of the Special Needs
8 components.) CLS and several of the NECs have seats on PECO’s LIURP
9 Advisory Committee, where implementation of the Special Needs program was
10 regularly discussed. PECO did substantial public outreach, including
11 workshops, seminars and lectures, senior fairs, conferences, organizational
12 partnerships, religious faith-based partnerships, medical senior assistance
13 partnerships, governmental affairs meetings, and advisory meetings. Our
14 records show that PECO did outreach on the Special Needs program to the
15 Utility Emergency Services Fund (an NEC) on March 12, 2004 and November
16 5, 2004 and that it met with CLS for the same reason on November 1, 2004.

17
18 It is clear that this training somehow did not connect with these organizations.
19 I have therefore instructed PECO’s Universal Services group to offer
20 additional training to the entities and individuals who testified at the hearing.

21
22 **Q. Mr. Geller claims (p. 6) that there has been a significant decline in**
23 **universal services being provided to the most vulnerable population, with**

1 PECO estimating in 2001-02 that it had an average of 32,543 customers
2 with income of 50% of the federal poverty level or below, but only about
3 14,000 customers in CAP Rates A, B and C. He implies that the remaining
4 customers are not being helped by PECO's universal services programs.

5 Do you agree?

6 A. No. None, or virtually none, of the 32,543 customers referred to by Mr. Geller
7 was removed from the CAP Rate. The 32,543 figure appears to be the average
8 of PECO's estimates of the number of its customers with income below 50% of
9 the federal poverty level for 2000 (39,469) and 2001 (25,587). The high
10 variability between those two estimates, separated by only a year, underscores
11 that the estimates were based upon non-income-stratified data and were soft
12 estimates. That is why an effort was undertaken to verify those income levels
13 on a customer-by-customer basis. After a year's work, we have confirmed that
14 approximately 14,000 of our CAP Rate customers have income below 50% of
15 the federal poverty level, and have moved those customers to CAP Rates A, B,
16 or C. The remaining 18,000 or so customers continued to qualify for CAP
17 after income verification and were left on CAP Rates D or E because their
18 income was between 50-150% of the federal poverty level. The only
19 individuals who were removed from the CAP Rate altogether were those
20 individuals for whom PECO verified that their income was above 150% of the
21 federal poverty level, and who are therefore not eligible for the CAP Rate. Far
22 from being a decline in participation by those below 50% of the federal poverty
23 level, as Mr. Geller asserts, what we have seen is essentially all of those

1 customers staying on the CAP Rate at a level at least equivalent to their 2001-
2 02 discounts, and nearly 14,000 of them moved to a more attractive rate. Their
3 income eligibility to move to the more attractive rates was verified by PECO's
4 aggressive outreach in 2004.

5
6 **Q. Has PECO enrolled all customers in its service territory whose income is**
7 **below 50% of the federal poverty level in the Special Needs components of**
8 **its CAP Rate?**

9 A. I doubt it. We nearly doubled enrollment in the Special Needs components in
10 the first two months of 2005, and the enrollment has continued to increase
11 since then. It is difficult to know where the upper limit of enrollment will be
12 for the Special Needs components, but for now PECO is proceeding with
13 additional outreach on the assumption that there are still customers who will
14 qualify for Rates A, B, or C when we locate and identify them. We are,
15 however, in the more difficult phase of the outreach. Every CAP Rate
16 customer has received at least one communication requesting income
17 verification data, and the first responders have all been verified and, if eligible,
18 moved to new rates. We also have done substantial follow-up beyond the
19 initial contact, including thousands of phone calls and discussions. Although
20 our aggressive outreach continues, the rate of enrollment growth is slowing.

21
22 **Q. Mr. Geller, Ms. Alexander and Senator Williams note that less than 20**
23 **customers are currently enrolled in CAP Rate A, although it has an**

1 **eligibility cap of 7,500 customers. Are you satisfied with PECO's progress**
2 **in identifying customers who are eligible for CAP Rate A?**

3 A. No. In 2004, we focused on income verification for large numbers of
4 customers. CAP A verification requires not only income verification, but
5 verification of a customer's extenuating circumstances, which typically are
6 more complex and lifestyle related. While I believe that was the correct
7 decision, primarily because it allowed us to identify 14,000 customers who are
8 currently benefiting from lower rates due to that effort, it does not seem to have
9 been conducive to locating CAP Rate A customers. I have instructed PECO's
10 Universal Services team to conduct a mid-program assessment of our efforts in
11 this area.

12
13 **Q. Ms. Alexander recommends (p. 6) that PECO should eliminate the**
14 **requirement that a customer demonstrate an inability to maintain at least**
15 **two CAP Rate B payment agreements before becoming eligible for CAP**
16 **Rate A. Do you have any response?**

17 A. PECO used that criterion for some of its decisions in 2004. Since CAP Rate A
18 is designed to assist customers who have the greatest financial vulnerability,
19 we believed that we would have greater success identifying eligible CAP Rate
20 A customers if we focused on those who were failing at CAP Rate B, which is
21 itself a very attractive rate with an 85% discount for the first 500 kWh.
22 However, the numbers speak for themselves, and we obviously need to take a
23 new approach to this component of our CAP Rate. I have instructed the

1 Universal Services team to evaluate Ms. Alexander's suggestion in its mid-
2 program assessment.

3
4 **Q. Mr. Geller recommends (pp. 16, 21) that PECO be required to make**
5 **contributions to Hardship Funds if PECO fails to meet certain enrollment**
6 **levels in PECO's CAP Rates. Please comment.**

7 **A.** Mr. Geller has recommended "targets" for both the CAP Rate as a whole
8 (125,000 customers) and for the Special Needs components of the CAP Rate
9 (40,000 customers). He recommends that, for every 500 enrollees that PECO
10 falls short of those goals, it should be required to make a \$500,000 contribution
11 to a Hardship Fund each October 1.

12
13 The amount of contributions being contemplated here is staggering. For
14 example, if the enrollment in PECO's program were to virtually meet Mr.
15 Geller's goals – say to an enrollment of 109,000³ customers in its CAP Rate
16 and 39,000 customers in Special Needs – by October 1 of next year, Mr.
17 Geller's recommendation would still result in a \$2 million contribution. That
18 strikes me as being a fine or penalty, rather than a charitable contribution. A
19 "miss" of 5,000 enrollees in each category – that is, 105,000 CAP Rate
20 enrollees, of which 35,000 are in the Special Needs component – would result

21

³ Mr. Geller recommends that PECO be required to increase the size of its CAP Rate enrollment by 10% per year until it reaches 125,000. Using a nominal base enrollment of 100,000, the Geller target for year one would be 110,000 enrollees.

1 in a contribution of \$10 million per year. If PECO's enrollment levels were to
2 remain approximately as they are today, Mr. Geller's penalties would be \$50
3 million annually, based on missing his perceived CAP Rate target by 25,000
4 customers and his perceived Special Needs target by 25,000 customers.

5
6 PECO does not agree to make these dramatically increased charitable
7 contributions. Aside from the fact that they are tied to failure to achieve
8 "targets" that do not exist, these penalties do not address the enrollment issue.
9 Rather than seeking to fine PECO when enrollment does not meet their
10 expectations, Mr. Geller, the Neighborhood Energy Centers, and other social
11 service agencies and advocates should take that opportunity to make a
12 commitment themselves – a commitment to refer to PECO every eligible
13 customer of which they become aware.

14
15 **B. CAP RATE – ENHANCING ENROLLMENT**

16
17 **Q. Aside from the CAP Rate A issues discussed earlier in your testimony, did**
18 **the interveners make any other suggestions of ways to increase enrollment**
19 **levels in the CAP Rate program?**

20 **A.** Yes. Senator Williams recommends (p. 4) that PECO should conduct
21 additional outreach, utilizing resources of outside agencies and increasing the
22 education component of its outreach materials. Ms. Alexander generally
23 recommends (pp. 6-7) that we conduct additional outreach targeted to the

1 potential hurdles for the most vulnerable customers. She also proposes (p. 6)
2 that PECO rely upon data from social service agencies to identify certain
3 income-strata populations and target them for communications and outreach
4 programs. Both Ms. Alexander and Mr. Geller recommend that PECO accept
5 data from those agencies as proof of income level.

6
7 **Q. What is your reaction to these recommendations?**

8 A. We intend to conduct additional outreach targeted to our most vulnerable
9 customers. We also will contact social service agencies to pursue the ideas
10 suggested by Senator Williams and Ms. Alexander. However, I note that
11 during our 2004 Special Needs implementation, we concluded that the
12 information available from social service agencies at that time was not
13 sufficiently income-stratified to allow PECO to properly identify customer
14 income level for verification of Special Needs' eligibility, and PECO therefore
15 cannot commit to using the data for a particular purpose until we review the
16 current state of the data. However, I anticipate using the data, at a minimum,
17 to help target our communications and outreach programs.

18
19 I would like to note in relation to the use of social service agency data that, in
20 his testimony, Mr. Geller claims (p. 20) that PECO previously agreed to
21 "Accept as adequate proof of income a customer's receipt of a Low Income
22 Home Energy Assistance Program (LIHEAP') grant, citing to the Consensus
23 Modifications. The relevant portion of the Consensus Modifications (p. 11)

1 clearly states that PECO agreed "to evaluate" whether to accept LIHEAP
2 grants as proof of income. PECO is continuing that evaluation as the programs
3 in the Consensus Modifications continue to grow.
4

5 **C. CAP RATE – AFFORDABILITY ISSUES**
6

7 **Q. Mr. Geller, Ms. Alexander and Senator Williams make several**
8 **recommendations regarding the affordability of PECO's CAP Rate.**
9 **Please comment.**

10 **A.** These precise issues were negotiated by most of these same parties in 2002,⁴
11 and the result of those negotiations was the Consensus Modifications, which
12 were specifically designed to address issues of affordability. (Consensus
13 Modification, pp. 19-22.) In fact, the Consensus Modifications itself states (p.
14 22):

15 Accordingly, along with the other modifications proposed for the CAP
16 Rate program concerning income verification and medical certification
17 policy, the Company's CAP Rate program is consistent with the
18 Commission's regulations and *should address the concerns expressed*
19 *by the Commission with respect to the affordability* of the CAP Rate
20 program for all CAP eligible customers, including those with the lowest
21 incomes.
22

23 The Special Needs component of the CAP Rate and the other aspects of the
24 Consensus Modifications are young programs. It is premature to abandon that

⁴ Senator Williams was not a part of the Consensus Modifications discussions. Affordability issues were also raised by several individuals at the public input hearings, some of whom were part of the Consensus Modifications discussions. This section of my testimony also responds to the affordability concerns raised by those witnesses, including Ms. Williams, Ms. Adams, Ms. Hansbury, and Mr. Stokes.

1 effort. Indeed, the Consensus Modifications stated (pp. 15-16) – and the
2 Commission subsequently ordered – that this program would be evaluated *in*
3 *the fall of 2005 and spring of 2006* to determine whether PECO has attained
4 the proper level of affordability in its universal services programs. As the
5 Commission’s April 15, 2004 Order on PECO’s Universal Service and Energy
6 Conservation Plan Submission clearly stated (p.7):

7 Finally, as part of the consensus modifications approved at Docket No.
8 R-00027870, PECO is required to submit an evaluation of its universal
9 services program to the Commission no later than May 1, 2006. As
10 part of that evaluation, an independent evaluator will determine if
11 PECO’s program payments comply with the CAP Policy Statement.
12 The findings from this independent evaluation, combined with
13 consideration of both historical universal service program data and the
14 results of the Commission’s review of informal complaints, will enable
15 the Commission to determine if PECO’s revised CAP payment plan
16 complies with the intent of 66 Pa. C.S. § 2802(10) and § 2804(9).

17
18 In short, the Consensus Modifications – which were agreed to by the OCA,
19 Action Alliance, and the Public Utility Law Project (“PULP,” of which Mr.
20 Geller is Executive Director) – clearly contemplate waiting until May 2006 to
21 evaluate whether or not the Consensus Modifications are successful at attaining
22 affordability.⁵ The interveners are asking to short-circuit that process, renege on
23 the Consensus Modifications, and implement a substitute program -- all before
24 the Commission-ordered evaluation of the Consensus Modifications is even
25 scheduled to begin. This is premature, duplicative of an existing Commission

⁵ I question Mr. Geller’s claim (p. 15) that PECO has been informed of the defects in its CAP program and “has failed to take appropriate action.” Mr. Geller and others informed PECO of what they considered to be defects in the program, and then PECO worked with those entities to craft the Consensus Modifications to address those defects. If Mr. Geller felt that the Consensus Modifications were a “fail[ure] to take appropriate action,” the place to say that was in the Consensus Modifications proceeding.

1 process, directly contrary to the Commission's order, and is unrelated to this
2 merger proceeding.

3
4 **Q. Mr. Geller claims (p. 12) that the Commission has twice found that**
5 **PECO's universal services programs do not meet the affordability**
6 **requirements of 66 Pa. C.S. § 2802(10) or the CAP Policy Statement.**
7 **Please comment.**

8 A. Both of those Commission statements applied to PECO's universal services
9 programs as they existed *prior to* the Consensus Modifications. It was because
10 of those statements by the Commission – and the Merger Settlement
11 commitments -- that PECO met with the OCA, Action Alliance, PULP, and
12 others to craft a method of attaining affordability. That method was the
13 Consensus Modifications, including the rate discounts of the Special Needs
14 component of the CAP Rate. As the Commission stated in its March 6, 2003
15 Order accepting the Consensus Modifications (p. 5):

16 As a result of numerous meetings and consideration of the findings of
17 Peach, PECO and the LIURP Advisory Committee developed a
18 mutually satisfactory consensus agreement (Consensus Modifications)
19 concerning the modifications needed to be made to PECO's Universal
20 Services Programs.
21

22 **Q. Mr. Geller recommends (p. 4) that PECO be required to adopt a**
23 **Percentage of Income Program. Please comment.**

24 A. This is one of the recommendations from the evaluation done by Dr. Peach
25 prior to implementation of the Consensus Modifications. The Consensus
26 Modifications negotiators considered that alternative, but reached the

1 “mutually satisfactory” Consensus Modifications instead, which continued the
2 rate discount approach that PECO had been using for some time. The
3 Commission approved that approach. The Special Needs component to the
4 CAP Rate has hardly had time to be implemented, nor has there been time to
5 study its effectiveness, yet Mr. Geller already advocates abandoning it. I
6 believe that we should continue on the Special Needs course, as agreed to by
7 the Consensus Modifications participants and approved by the Commission.
8 Otherwise, the entire CAP infrastructure would have to be changed to a more
9 complex, tedious, and time-consuming approach of determining and applying
10 individual rates for about 100,000 low-income customers. Such an effort
11 would include new IT programming, billing, staffing, customer outreach and
12 enrollment, and other internal procedures that would entail substantial
13 overhead and cost to PECO and its customers.

14
15 I also note that the Commission’s Guidelines on CAP Design Elements at 52
16 Pa. C.S. § 69.265 clearly contemplate that CAP payment plans should be based
17 on “one or a combination of” a listed series of alternatives. Percentage of
18 income programs are one alternative; rate discounts are another alternative that
19 is allowable under the guidelines. PECO has chosen the rate discount
20 alternative; that choice was embodied in the Consensus Modifications and
21 approved by the Commission; and it will be evaluated in 2005-06 per
22 Commission order.
23

1 Q. Mr. Geller claims (pp. 12-13) that the PUC CAP design elements establish
2 maximum CAP payment guidelines, which he then lists. Do you agree
3 with his characterization?

4 A. No. The payment guidelines that he lists are part of the definition of a
5 Percentage of Income program. They are not applicable to a rate discount
6 program, such as PECO's CAP Rate.

7
8 Q. What other proposals have the interveners in this proceeding made with
9 respect to the affordability of PECO's universal service program?

10 A. Both Mr. Geller and Ms. Alexander discuss increasing the kWh limits at which
11 certain discounts are available. Mr. Geller, Ms. Alexander and Senator
12 Williams also recommend that PECO forgive payment arrearages that develop
13 while a customer is on the CAP Rate.

14
15 Q. What is your response to the proposal to raise the kWh limit to which
16 certain discounts apply?

17 A. Although PECO generally limits its CAP Rate discounts to the first 500 kWh
18 consumed each month, it already has made significant exceptions to that rule,
19 focused on the most vulnerable low-income customers. For instance, CAP
20 Rate A offers a flat, severely discounted charge for usage up to 1,000 kWh per
21 month (2,000 kWh for residential heating customers in the winter months),
22 with other discounts provided on usage over those levels; and CAP Rate B and
23 C customers receive discounts up to 600 kWh in the summer. PECO also has a

1 health usage policy that provides the appropriate CAP Rate discount for all
2 medically-necessary usage even when such usage exceeds the kWh discount
3 levels otherwise applicable. Beyond that, all CAP customers receive a benefit
4 for usage exceeding 500 kWh (or 600 kWh) in the summer months in that the
5 CAP Rate pricing never reverts to the standard, more expensive “end block”
6 rates all other residential customers must pay for the higher usage. The
7 average usage of a low-income customer in PECO’s service territory is in the
8 630 kWh per month range, including heating and non-heating customers, so the
9 program already provides substantial assistance towards providing affordable
10 service. (Mr. Geller cites (p. 14) an average usage figure of 938 kWh. On its
11 face, this figure appears to be dated or otherwise flawed. PECO’s 2004 data
12 show that, system-wide, the average residential customer (Rate R) uses 652
13 kWh per month, while the average Philadelphia residential customer uses 510
14 kWh.)

15
16 I also note that these kWh limits were agreed to in the Consensus
17 Modifications. Nonetheless, Ms. Alexander (p. 37) and Mr. Geller (p. 16)
18 recommend raising the limit for customers on CAP Rates B-E – in Ms.
19 Alexander’s case to 800 kWh across the board; Mr. Geller appears to propose
20 the elimination of all limits.

21
22 **Q. Have you estimated the cost of implementing Ms. Alexander’s proposal?**

1 A. Yes. PECO estimates the cost at approximately \$9.4 million per year
2 (assuming no change in the current CAP participation levels). Over 4 years,
3 the cost would be approximately \$38 million. Because Mr. Geller's proposal
4 would eliminate all limits, it would be substantially more expensive.

5

6 **Q. Mr. Geller notes that other programs of which he is aware do not have**
7 **kWh limits. Please comment.**

8 A. I'm not sure to which programs Mr. Geller is referring, or whether the utilities
9 offering those programs are receiving rate recovery for their uncapped
10 programs. PECO's incremental cost recovery, as referenced in the Merger
11 Settlement, is \$383 per CAP customer in excess of 90,000 CAP customers.
12 This allows PECO to recover some revenue shortfalls from the CAP Rate
13 discounts. The shortfalls were based on a program with discounts for the first
14 500 kWh per month usage, reflecting the program design in place at the time.
15 To increase the design parameters of the program with no additional cost
16 recovery would be detrimental to the compact and fundamentally unfair. I
17 also note that a portion of the Electricity Generation Customer Choice and
18 Competition Act states that universal service programs "shall be funded in each
19 electric distribution territory by nonbypassable, competitively neutral cost-
20 recovery mechanisms that fully recover the costs of universal service and
21 energy conservation service." 66 Pa. C.S. § 2804(9).

22

1 Q. Ms. Alexander states (p. 37) that “there is no basis for the conclusion that
2 low income customers will use more energy as a result of enrollment in a
3 discount program.” Do you agree?

4 A. No. PECO believes that it is important to have limits on the discount in order
5 to encourage customers to find ways to limit their electric usage. If the
6 discounts were available without limit, there would be no incentive to
7 conserve. Generally, all social welfare programs place limits on benefits
8 provided to participants. As noted earlier in my testimony, for the most
9 vulnerable customers who would have the most difficulty conserving, PECO
10 recognizes this fact with higher limits.

11
12 Q. Ms. Alexander also recommends (p. 38) that PECO refer high usage
13 customers to the LIURP program. Please comment.

14 A. I agree that this is good policy, and is one method of addressing the issue of
15 high usage by low-income customers. In fact, PECO already follows this
16 practice.

17
18 Q. What is the interveners’ proposal with respect to arrearages?

19 A. When a customer is on full Rate R (Residential Services) or RH (Residential
20 Heating Services) and falls behind in payments, this creates an arrearage. If
21 the customer subsequently becomes eligible for CAP Rate, PECO sets aside
22 the pre-program arrearage. If the customer then makes timely payments on the
23 CAP Rate for six months, PECO forgives the pre-program arrearages. Both

1 Ms. Alexander and Mr. Geller recommend that PECO take the same approach
2 to arrearages that accumulate after the customer is on one level of the CAP
3 Rate and then is moved to a different level of the CAP Rate.

4
5 **Q. What is PECO's practice with respect to arrearages that develop after a**
6 **customer is on the CAP Rate?**

7 **A.** If a customer is on the CAP Rate and falls behind on payments and contacts the
8 Company, PECO reassesses whether the customer is on the appropriate CAP
9 Rate level (i.e., A, B, C, D, or E). If not, the customer is moved to the
10 appropriate CAP Rate level. PECO makes payment arrangements for
11 arrearages created in this way, but does not forgive such in-program arrearages.
12 We believe this would be unfair and send the wrong signal to CAP Rate
13 customers who make their CAP Rate payments on time. Further, forgiveness
14 of in-program arrearages does not drive accountability and encourage CAP
15 Rate customers to attempt to pay their electric bills. If in-program arrearages
16 were forgiven, it would be possible for a customer to establish arrearages at
17 numerous CAP Rate levels without any adverse consequence. I also note that
18 the approach that PECO uses appears in the Consensus Modifications (p. 13):

19 The Company's arrearage forgiveness component to the CAP Rate will
20 continue. Customers who qualify and are placed on the CAP Rider will
21 have their pre-program arrearage forgiven if they remain current on
22 their CAP bill for six consecutive months. The development of any
23 new arrearage during this period will delay forgiveness. *Customers*
24 *that develop any new arrearage will be offered a payment arrangement.*
25

1 Simply, customers who enroll on the CAP Rate and then develop a “new
2 arrearage” will be offered a payment arrangement – not forgiveness.

3
4 **Q. Have you quantified the cost of the interveners’ arrearage forgiveness
5 recommendation?**

6 A. Yes. PECO estimates that the cost of forgiving in-program arrearages would
7 be at least \$11 million over the next 3-4 years, and could be substantially
8 higher.

9
10 **D. CAP RATE – ELIMINATION OF THE \$383 USFC**

11
12 **Q. Senator Williams recommends (p. 4) that PECO should absorb costs
13 associated with expansion of the CAP Rate enrollment. Ms. Alexander
14 recommends (p. 42) a specific mechanism for doing so -- capping the \$383
15 per customer Universal Service Fund Charge (“USFC”) at 100,000
16 customers until PECO’s next base rate case (which she recommends
17 should not occur until at least 2010). In other words, Ms. Alexander
18 would deny PECO recovery of any CAP Rate costs attributable to
19 enrollment above current levels. Have you quantified the cost of this
20 recommendation?**

21 A. Yes. I estimate that the cumulative, nominal cost of this recommendation for
22 the period a four-year period after the merger would be between \$31 million

1 and \$38.3 million, assuming that enrollment in the CAP Rate continues to
2 increase over that period.

3
4 **Q. Do you have any comment on this recommendation?**

5 A. I am disappointed to see this issue revisited. The \$383 USFC was negotiated
6 and approved in the Merger Settlement (§ 35) and was an integral part of the
7 resolution of universal service issues in that proceeding. The Merger
8 Settlement specifically states that the \$383 surcharge “will remain in effect
9 until the Company’s next base rate case.” Elsewhere (§ 70), the Merger
10 Settlement states that: “This Settlement precludes the Joint Petitioners from
11 asserting contrary positions in derogation of this Settlement with respect to the
12 issues addressed herein during subsequent litigation against PECO.” Ms.
13 Alexander’s proposal to cap the surcharge “until PECO’s next distribution rate
14 case” appears to be directly at odds with those provisions.

15
16 The CAP Rate is a cost of doing business, and the regulatory construct
17 provides for utilities to recover their costs of doing business, specifically as to
18 the costs of universal services programs. 66 Pa. C.S. § 2804(9). Other utilities
19 are allowed to recover the cost of their universal service programs. In fact, in
20 her deposition testimony, Ms. Alexander recognized that these costs – as well
21 as the costs of her kWh limit increase and in-program arrearage proposals – are
22 costs that would typically be absorbed by PECO’s customers as a cost of
23 service. (Alexander Deposition Testimony, pp. 109-10, 115. Exhibit LC - 5).

1 I'm not sure why PECO is being asked to cover the costs of this program. It
2 feels like a penalty to me. Ms. Alexander's recommendation is in total
3 opposition to that normal regulatory construct (as are other intervener
4 recommendations that ask for costs to be imposed on PECO without
5 commensurate cost recovery). It also would be unfair to require a utility to
6 offer a social benefit program but not allow the utility to recover the costs of
7 that program.

8
9 In addition, I note that this proposal does not actually assist low-income
10 customers in any targeted way. In fact, quite to the contrary may be the case.
11 Under the Merger Settlement, PECO's residential customers are obligated to
12 partially fund⁶ the expansion of PECO's CAP Rate by paying \$383 toward the
13 cost of each CAP Rate enrollee above 90,000. Ms. Alexander proposes to
14 eliminate that source of funding for low-income programs. Under the
15 proposal, the \$31-38.3 million in question would remain in the pockets of
16 PECO's other residential customers, and would not be available to fund low-
17 income programs. While Ms. Alexander is obviously proposing that PECO
18 make up this shortfall from its own funds, the proposal nonetheless
19 dramatically decreases the overall pool of funds that was intended to be
20 available to fund low-income programs. Even if the USFC were capped and
21 PECO made sufficient funds -- \$31-38.3 million -- available, the net effect of

⁶ The funding is only partial. As recognized in PECO's Restructuring Settlement (¶34), PECO's actual costs of providing CAP Rate service to a customer exceed \$383 per year. PECO pays that difference for all customers, even those for which it receives the \$383 USF surcharge. (Merger Settlement ¶ 35)

1 capping the USFC would be to give that money to other residential customers
2 through a “back door” rate reduction. There would be no benefit to low-income
3 customers, and in fact the Company would be penalized for every additional
4 customer enrolled in the CAP Rate.

5
6 Finally, I note that the Merger Settlement (§ 37) specifically provided that
7 PECO would be allowed to recover the additional costs of the Special Needs
8 component through the USFC. Notwithstanding that right, and
9 notwithstanding the substantial additional discounts granted in CAP Rates A,
10 B, and C and the attendant costs to PECO of providing those discounts, PECO
11 is not recovering the additional costs of the Special Needs component through
12 the USFC. In other words, although PECO plainly has the right to seek rate
13 recovery for these additional costs, it has not. It would be unfair to impose
14 additional cost burdens on it at this time.

15
16 **IV. HARDSHIP FUNDS**

17
18 **Q. What is a Hardship Fund, also referred to as the Matching Energy**
19 **Assistance Fund, or “MEAF”?**

20 **A.** Essentially, the Company solicits contributions from its customers for a fund to
21 assist low-income customers in paying their utility bills. The Company also
22 contributes to the fund by matching contributions dollar-for-dollar when used
23 to pay for PECO service.

1 **Q. Has the Company supported Hardship Funds in the past?**

2 A. Yes. Every year, the Company contributes matching funds. For the period
3 2000-2004, the total Company matching contributions totaled approximately
4 \$1.775 million. In addition, PECO contributes \$160,000 per year toward the
5 administrative costs of the UESF and between \$30,000 and \$45,000 per year
6 toward the administrative costs of suburban MEAF agencies (an additional \$1
7 million over the past 5 years). The Company also contributed an additional \$3
8 million to these funds pursuant to the Merger Settlement. Finally, the
9 Company solicits customer contributions through bill inserts and fund raisers,
10 maintains donor lists, and meets with MEAF agencies to discuss the programs.
11 (The MEAF agencies are members of PECO's LIURP Advisory Committee.)
12 In addition, PECO conducts training sessions with MEAF agencies.

13
14 **Q. Ms. Alexander notes (p. 34) that PECO's contribution to its MEAF
15 decreased by \$100,000 from 2003 to 2004. Please comment.**

16 A. Ms. Alexander is referring to the matching contribution PECO makes when
17 MEAF dollars are used to pay PECO bills. PECO's matching contributions for
18 2000-2004 were as follows:

19	Year	Company Contributions
20	2000	\$319,239
21	2001	\$233,217
22	2002	\$353,656
23	2003	\$483,323
24	2004	\$385,813

25

1 Thus, while Ms. Alexander is technically correct that PECO's contributions
2 decreased \$100,000 from 2003-2004, I believe that it is more important to note
3 that PECO's MEAF contributions have clearly increased in recent years and
4 *are 20% higher than its similar contributions at or shortly after the*
5 PECO/Unicom Merger.

6
7 **Q. Mr. Geller suggests (p. 23) that PECO's corporate commitment to**
8 **Hardship Funds has faltered, citing as proof for this conclusion that "Mr.**
9 **O'Brien failed to even refer to PECO's MEAF program . . . in his**
10 **testimony." Please respond.**

11 A. PECO's corporate commitment is demonstrated by, among other things, the
12 nearly \$6 million it has cumulatively contributed to these funds and their
13 administration over the last 5 years, and the fact that, as compared to the year
14 in which the Merger Settlement was approved, PECO's 2004 matching
15 contributions to MEAF were up significantly.

16
17 **Q. Senator Williams (p. 3) and Mr. Geller also claim (pp. 23-24) that PECO**
18 **has not met its commitments to the MEAF program under the Merger**
19 **Settlement. Do you agree?**

20 A. No. PECO committed to pay an additional \$3 million to the funds, and it made
21 those payments. In addition, in the Consensus Modifications (pp. 14-15),
22 PECO agreed to "specific measures designed to support local MEAF
23 agencies." Those measures were: (1) bill inserts giving customers the

1 opportunity to sign and return a pledge, (2) maintenance of donor list
2 information, and (3) meeting with MEAF agencies. Although PECO recently
3 fell short of the specified number of bill inserts, overall PECO has performed
4 these tasks as agreed. I have directed PECO's Universal Services group to
5 increase the number of bill inserts to five in 2005. The meetings with MEAF
6 agencies have occurred as part of the LIURP Advisory Committee meetings –
7 as I noted previously, the MEAF agencies are members of the LIURP Advisory
8 Committee – and I have directed PECO's Universal Service group to schedule
9 a separate meeting with the MEAF agencies devoted solely to the issue of
10 developing measures to improve contributions to the Hardship Funds.

11
12 **Q. What requests have the interveners made with respect to MEAF funds?**

13 A. Senator Williams recommends (p. 4) that PECO should increase its MEAF
14 funding. Mr. Geller has requested (pp. 23-25) increased contributions,
15 consisting of a \$5.02 million one-time contribution for what Mr. Geller
16 describes as past underfunding, plus a \$2 million per year contribution “for
17 every year into the future that [PECO] generates a profit.” Over the next four
18 years, those requests would have a cumulative cost of \$13.02 million. Ms.
19 Alexander has requested (p. 44) that PECO continue its to do bill inserts four
20 times a year, revise its bill to have a check-off on the bill, and allow a check-
21 off for electronic bill payers. At the public input hearing, Mr. Lynch of the
22 UESF (Tr. 231-233) recommended checkoffs six times a year; that direct
23 payment customers have access to a checkoff; that PECO pay for and develop

1 marketing materials with the MEAF agencies; and that PECO needs to make
2 ongoing contributions through a \$2 million annual contribution, increased size
3 of matching grants, and payment of administrative costs for UESF and the
4 other MEAF agencies.

5
6 **Q. What is your response to those proposals?**

7 **A.** PECO will do five bill inserts in 2005. It will then continue with four bill
8 inserts per year. We will also continue to seek a checkoff on bills rather than
9 inserts. Our current bill format (dating since the bill was reconfigured
10 following the Restructuring to show unbundled charges) does not allow a
11 check-off on the bill, but as it changes its bill format over time PECO will
12 investigate whether new bill formats could accommodate a check-off for this
13 purpose. PECO already is investigating whether a check-off for electronic bill
14 payers is feasible. As I stated previously, I have directed PECO's Universal
15 Services group to contact the MEAF agencies regarding an additional,
16 separate, meeting regarding marketing activities. PECO funds the programs
17 through matching funds and by supporting administrative costs, and it is
18 prepared to continue doing so. It also believes that the current level of its
19 funding of MEAF programs is sufficient, and that no "shortfall" contribution or
20 "profit tax" contribution is appropriate.

V. CARES

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Q. The interveners make several requests with respect to PECO's CARES program. Please comment on those requests.

A. Mr. Geller states (p. 24) that PECO's staffing level for its CARES program is "inadequate" and recommends that PECO be required to staff 10 full-time CARES workers. Both Mr. Geller (p. 27) and Ms. Alexander (p. 43) further request that PECO CARES workers should be required to possess certain professional qualifications. Ms. Alexander recommends (p. 7) that CARES workers should focus on the provision of social services to individual customers. Mr. Geller recommends (p. 27) that PECO should contract with Neighborhood Energy Centers (NECs) to provide outreach work.⁷

Q. Have you quantified the cost of these recommendations?

A. Partially. PECO currently has 3 CARES workers. Increasing the staff to 10 would have a nominal cost of \$700,000 annually, or more if the professional qualifications of the workers are upgraded. Over 4 years, this is a \$2.8 million cost.

Q. Why does PECO have 3 CARES workers?

A. This level of staffing was agreed to in the Consensus Modifications (p. 13).

⁷ Several of the public input witnesses also expressed belief that the Neighborhood Energy Centers should be involved in outreach work, including Mr. Stokes, Ms. Grimes, Ms. Czajka, Ms. Fernandez, Mr. Rowe, and Ms. Hansbury.

1 **Q. What is your response to these proposals?**

2 A. PECO always is interested in ways to increase the effectiveness of its CARES
3 workers and outreach. We would therefore be willing to hire some additional
4 workers. We believe that the current qualification level – all of our current
5 CARES workers have four years of college – is adequate. We also believe
6 that, if social service agencies and NECs are to be utilized to assist in outreach,
7 the CARES workers need to focus on the relationship with those agencies.

8

9 PECO has seen mixed success with energy audit work conducted by the NECs.
10 However, PECO is willing to pursue further discussions with the NECs about
11 working with them to take advantage of their access to the low-income
12 community for outreach and enrollment purposes.

13

14 **VI. DATA WAREHOUSE ISSUES**

15

16 **Q. In her testimony, Ms. Alexander raises several issues with respect to**
17 **PECO's data warehouse. Are you responding to those issues?**

18 A. No. These issues are addressed in the testimony of M. Bridget Reidy. (PECO
19 Statement No. 5-R.)

1
2 **VII. ACT 201 ISSUES**
3

4 **Q. Both Ms. Alexander and Mr. Geller recommend that PECO make changes**
5 **to its procedures for implementing Act 201, which was passed last year by**
6 **the General Assembly and which gives utilities additional tools for**
7 **addressing customers who have the ability to pay, but do not pay, their**
8 **utility bills.⁸ Do you have any comment on these proposals?**

9 **A.** Act 201 implementation issues are the subject of ongoing Commission
10 workshops and other proceedings. At its July 1, 2005 workshop on Act 201
11 implementation, the Commission staff stated that a rulemaking proceeding will
12 be initiated later this year. Indeed, Action Alliance and the OCA are making
13 many of the same arguments in those proceedings that they have made in their
14 testimony in this proceeding. I believe that Act 201 implementation should be
15 allowed to develop in the context of those proceedings and workshops.
16

17 **Q. Do you have any final comments on universal service issues?**

18 **A.** Yes. Mr. Geller recommends (p. 21) that PECO should file a detailed
19 universal services plan with the Commission three months after approval of the
20 merger. I think that effort would be entirely duplicative of the Consensus
21 Modifications evaluation, which is due to the Commission in May 2006.
22

⁸ Public input witness Ms. Signil also discussed Act 201 issues.

1 Mr. Geller also recommends (p. 22) that PECO should be ordered to develop
2 certain universal service outreach materials, in coordination with the LIURP
3 Advisory Committee, by November 1, 2005. I think it is noteworthy that Mr.
4 Geller recommends that the Commission issue an order with an effective date
5 that likely will occur during the briefing period in this proceeding. This
6 strongly underscores the fact that this proposal – in fact, that many, if not all,
7 of the universal service proposals -- have little or nothing to do with the merger
8 itself. They are simply attempts to change the terms of the Consensus
9 Modifications on matters about which the low-income interveners obviously
10 feel quite strongly, but which are unrelated to the merger.

11

12 **VIII. GAS PROCUREMENT ISSUES**

13

14 **Q. Are you familiar with OCA witness Mierzwa's testimony?**

15 Yes, Mr. Mierzwa recommends that PECO be required to seek prior approval
16 of any future change to the structure of its gas procurement function or to the
17 management of PECO's capacity and gas-supply contracts. Specifically, Mr.
18 Mierzwa (pp.7-8) would subject to a prior approval process "any arrangements
19 beyond the customary storage asset management arrangements that PECO has
20 historically entered into which transfer greater control of the use of PECO's
21 capacity and/or gas supply contracts to another entity." Mr. Mierzwa's
22 recommendation would apply to transactions that combine PECO's gas
23 procurement function with "PSE&G or another entity" or that transfer control

1 or the use of PECO's capacity and/or gas supply contracts to another entity
2 beyond that "currently and customarily" done by PECO.

3
4 **Q. Do you agree with Mr. Mierzwa's recommendation?**

5
6 A. No, I do not. Mr. Mierzwa's recommendation is unreasonable and
7 unnecessary and should be rejected for two reasons:

- 8
9 1) Mr. Mierzwa's recommendation is unworkable because it does not
10 provide the Company with sufficient notice of the types of
11 transactions for which it would be required to seek prior approval;
12 and
13
14 2) I have been advised by counsel that Chapters 11, 13 and 21 of the
15 Public Utility Code already provide the Commission with statutory
16 means for reviewing post-merger gas-supply or procurement
17 transactions between PECO and affiliates or non-affiliates.
18
19

20 **Q. Why do you believe that Mr. Mierzwa's recommended prior-approval**
21 **process does not provide the Company with sufficient notice of the**
22 **types of transactions for which it would be required to seek prior**
23 **approval?**

24
25 A. In order for a prior-approval process of the sort recommended by Mr.
26 Mierzwa to be workable, the types of transactions subject to the process
27 must be clearly and unambiguously defined. This enables the entity subject
28 to the requirement to understand the nature of the transaction or

1 arrangement that would need to be filed. Uncertainty over whether prior
2 approval is needed for a certain type of transaction could result in an
3 unknowing violation of the requirement or needless filings that would
4 burden the Commission's administrative resources.

5
6 In the case of Mr. Mierzwa's proposal, the filing requirement would be
7 applied to transactions that either: (1) combine the PECO gas procurement
8 function with that of PSE&G or another entity, or (2) transfer control or the
9 use of PECO's capacity and/or gas supply contracts to another entity
10 beyond that "currently and customarily" done by PECO.

11
12 In my view, the latter type of transaction is ill-defined because the phrase
13 "beyond that currently and customarily done by PECO" is vague in its
14 meaning and therefore impossible to practically apply. PECO engages in
15 numerous types of transactions that involve the control or the use of
16 PECO's capacity and/or gas supply contracts, some of which are novel in
17 one year and accepted practice in the next due to the evolving nature of the
18 natural gas marketplace. However, unless it is known which types of
19 contracts Mr. Mierzwa believes fall into the "currently and customarily"
20 done by PECO category, it would be impossible for PECO to be certain
21 about which transactions would be subject to the prior approval process.
22

1 Q. Please explain why you believe Mr. Mierzwa's recommendation, as it
2 relates to affiliated transactions, is unnecessary.

3
4 A. As it relates to transactions with affiliated entities, it is my understanding
5 that Chapter 21 of the Public Utility Code already addresses Mr. Mierzwa's
6 concerns for prior approval. In PECO's case, PECO has received
7 Commission approval under Chapter 21 of the Public Utility Code to
8 engage in defined types of natural gas transactions with its affiliated
9 companies. See Commission Letter approving PECO gas-commodity
10 transactions with affiliates, Exhibit LC-6. These transactions include gas
11 purchases or sales using Gas Industry Standards Board (now North
12 American Energy Standards Board or "NAESB") short-term form
13 contracts, PECO's standard long-term gas purchase agreement and asset-
14 management agreements for terms that do not last for more than one year.
15 While the Commission has authorized PECO to engage in these
16 transactions, the order granting such authority specifically provides that
17 such approval does not constitute prior approval of the prudence of the
18 arrangements or the recoverability of any costs incurred through those
19 transactions. It is my understanding, as advised by counsel, that the
20 recoverability of those costs would be governed by the Commission's
21 authority under Sections 1307(f), 1317 and 1318 of the Public Utility Code.
22 What this suggests is that Mr. Mierzwa's recommendation, to the extent
23 that it requires a filing in addition to the Chapter 21 filing, would

1 unnecessarily duplicate processes that the Company is already required to
2 follow.

3
4 **Q. Please explain why you believe Mr. Mierzwa's position that PECO**
5 **should seek prior approval of transactions with "any other entity" is**
6 **similarly unnecessary.**

7
8 A. The merger will not affect PECO's relations with unaffiliated third parties in
9 the area of gas procurement, as gas transactions with those parties will
10 continue to be the result of reasonable and fair arms-length negotiations.
11 Simply stated, the merger should have no impact on PECO's transactions
12 with third parties.

13
14 Applying a prior-approval process requirement to changes in PECO's gas-
15 procurement function is also unreasonable since the Company does not have
16 a history of imprudent or abusive gas procurement decisions. Management
17 functions such as fuel procurement require managers to make transactional
18 decisions on a daily basis, much of it in real time. Following the market to
19 purchase gas and to engage in capacity-portfolio decisions requires the
20 manager to be flexible in order to identify and engage in transactions that are
21 reasonable and in the interest of the Company and its customers alike.

22 Placing a vague prior-approval process on top of this decision-making
23 process would make it impossible to select reasonable least-cost options that

1 require efficient and timely decisions. The Commission should be mindful
2 of removing this managerial flexibility where, as in PECO's case, its gas
3 procurement management has a clean history and has not shown a history of
4 managerial indiscretion.

5

6 **Q. Does this conclude your testimony?**

7 **A. Yes.**

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

APPLICATION OF PECO ENERGY :
COMPANY, PURSUANT TO CHAPTERS :
11, 19, 21, 22 AND 28 OF THE PUBLIC :
UTILITY CODE, FOR APPROVAL :
OF (1) A PLAN OF CORPORATE :
RESTRUCTURING, INCLUDING THE : APPLICATION
CREATION OF A HOLDING COMPANY : DOCKET NO. A-110550F0147
AND (2) THE MERGER OF THE NEWLY :
FORMED HOLDING COMPANY AND :
UNICOM CORPORATION :

JOINT PETITION FOR SETTLEMENT

March 23, 2000

154427

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UNICOM CORPORATION :**

JOINT PETITION FOR SETTLEMENT

This Joint Petition for Settlement ("Joint Petition") is submitted by the following parties in the above-captioned proceeding: PECO Energy Company ("PECO" or the "Company"); the Office of Trial Staff ("OTS"); the Office of Consumer Advocate ("OCA"); the Office of Small Business Advocate ("OSBA"); Citizens for Pennsylvania's Future and the ten named individuals that joined in its Protest and Petition to Intervene (collectively, "PennFuture"); Senator Vincent J. Fumo; the City of Philadelphia; Clean Air Council and the three named individuals that joined in its Protest and Petition to Intervene ("CAC"); the Consumers Education and Protective Association *et al.* ("CEPA")¹; Enron Energy Services, Inc. ("Enron"); the Philadelphia Area Industrial Energy Users Group ("PAIEUG"); the Industrial Energy Consumers

¹ As used herein, "CEPA" refers collectively to the Consumer Education and Protective Association ("CEPA"), the Association of Community Organizations for Reform Now ("ACORN") and the Tenants' Action Group ("TAG"), which are represented by common counsel and submitted a joint protest and petition to intervene.

of Pennsylvania ("IECPA"); Conectiv Energy ("Conectiv"); Eric Joseph Epstein; Patricia McNamara; the National Railroad Passenger Corporation ("Amtrak"); and the Mid-Atlantic Power Supply Association ("MAPSA") (all such parties collectively referred to as the "Joint Petitioners").

The terms and conditions set forth in this Joint Petition represent a comprehensive settlement ("Settlement") among the aforementioned parties that resolves all issues pertaining to the above-captioned Application.² The Joint Petitioners aver that this comprehensive Settlement is in the public interest and, therefore, request that the Commission: (1) approve without modification the proposed Settlement as set forth herein; (2) issue the Certificates of Public Convenience and enter Orders granting the approvals and making the findings requested in PECO's Application; and (3) approve the tariff supplements, appended hereto, that are necessary to implement the rate reductions and other changes agreed to as part of the proposed Settlement.

In support of their request, the Joint Petitioners state as follows:

I. SUMMARY OF SETTLEMENT

The Joint Petitioners have agreed to the proposed Settlement terms and conditions set forth in this document as a means to resolve, fairly and equitably, all issues arising from the Application filed by PECO for approval of the proposed corporate restructuring and merger. As a result of this Settlement, further protracted litigation is avoided and customers can begin to realize the benefits of this Settlement sooner.

The Joint Petitioners have agreed to terms and conditions that fairly balance the interests

² The Joint Petitioners understand that West Penn Power Company, The Potomac Edison Company and Monogahela Power Company ("Allegheny Power") and Allegheny Energy Supply Company, LLC ("AESC") will submit a separate letter indicating they do not oppose or take exception to the Settlement. Additionally East Brandywine Township and Wallace Township have indicated that they are taking no position on the Settlement at this time. PECO agrees that East Brandywine Township and Wallace Townships are in no way precluded from pursuing a separate agreement with PECO as to additional reliability upgrades and assurances.

of all parties and affirmatively promote the public interest. In particular, on January 1, 2002, PECO will reduce its retail electric distribution rates by \$60.0 million annually.³ Such \$60.0 million reduction will remain in effect until January 1, 2004, when the annual rate decrease will become \$40.0 million. The \$40.0 million rate reduction will remain in effect through December 31, 2005. PECO will also extend the cap on its retail transmission and distribution charges agreed upon in the settlement of PECO's restructuring proceeding at Docket No. R-00973953 (the "1998 Electric Restructuring Settlement"), which would otherwise expire on June 30, 2005, for an additional eighteen months, or through December 31, 2006.

In addition, the Settlement: (1) imposes limitations on PECO's right to request recovery of any increases in nuclear decommissioning costs; (2) establishes benchmarks and measurement criteria for reliability and customer service and commits PECO to develop, with other parties, and implement, a quality of service plan to provide higher levels of reliability and customer service; (3) provides for enhancements in PECO's electric and gas universal service programs; (4) commits PECO to implement various initiatives to foster and promote renewable energy and related economic development; (5) promotes increased retail electric competition in PECO's service area, through a variety of commitments; (6) adopts various corporate structure protections to insulate retail customers from the risks of unregulated ventures and avoid the potential for improper cross-subsidization; (7) provides for PECO to maintain a strong corporate presence in Southeastern Pennsylvania through specific commitments regarding its corporate headquarters, employment and staffing levels and charitable and civic giving; and (8) enhances PECO's customer relationship with the City of Philadelphia.

³ PECO has already agreed to reduce its retail rates by \$60.0 million for the duration of 2001 pursuant to the terms of a separate settlement of PECO's restructure/securitization filing at Docket No. R-00005030. The settlement was approved by the Commission on

The other Joint Petitioners agree, in turn, to resolve all objections to the Application and the granting of the various approvals requested therein and, subject to certain exceptions and qualifications as more fully set forth in Section 71, *infra*, to withdraw all actions, interventions or protests filed, and to terminate all other participation by themselves and their affiliates, in all proceedings involving or related to the merger of PECO and Unicom or the PECO, Unicom or Commonwealth Edison corporate restructurings, transfers of assets and related transactions. The other Joint Petitioners also agree to fully support the Settlement and to make reasonable good faith efforts to obtain its approval by the Commission and, if necessary, any Courts.

II. BACKGROUND

1. This proceeding was initiated by the filing, on November 22, 1999, of the *Application Of PECO Energy Company, Pursuant To Chapters 11, 19, 21, 22 and 28 Of The Public Utility Code, For Approval Of (1) A Plan Of Corporate Restructuring, Including The Creation Of A Holding Company And (2) The Merger Of The Newly Formed Holding Company And Unicom Corporation* ("Application").

2. The transactions comprehended by the Application consist of the following: (1) the creation of NEWHOLDCO Corporation ("NewCo.") as a wholly owned subsidiary of PECO⁴; (2) the exchange of PECO common stock for NewCo. common stock, such that, after the share exchange, NewCo. will be the parent of PECO; (3) PECO's transfer of its generating assets and wholesale power contracts to a newly formed generation subsidiary ("GenCo.") and its transfer of certain other assets and common facilities to NewCo., to a newly formed service company

March 16, 2000.

⁴ Subsequent to the filing of the Application, it was announced that NEWHOLDCO Corporation would be renamed Exelon Corporation.

("ServeCo.") and to newly formed non-utility business subsidiaries ("VenturesCo."); (4) PECO's distribution to NewCo. of its shares in GenCo., ServeCo. and VenturesCo., thereby making those companies direct subsidiaries of NewCo.; and (5) concurrent with the consummation of the restructuring, and pursuant to the terms of their Agreement and Plan of Exchange and Merger, the merger of NewCo. and Unicom Corporation ("Unicom"). Hereafter, the transactions identified in (1)-(4), above, are referred to collectively as the "Corporate Restructuring," and the transaction identified in (5), above, is referred to as the "Merger." The Corporate Restructuring and Merger are described in greater detail in Paragraph Nos. 7-16 of the Application.

3. In the Application, PECO requested that the Commission grant the approvals necessary to effect the transactions described above, which consist of (1) the issuance of Certificates of Public Convenience under Section 1102 of the Public Utility Code (66 Pa.C.S. §1102), as more fully described in Paragraph Nos. 18-22 of the Application; (2) the registration of Securities Certificates under Section 1901 of the Public Utility Code (66 Pa.C.S. §1901), if required, as more fully described in Paragraph No. 22 of the Application; (3) the approval of contracts with affiliated interests under Section 2102(b) of the Public Utility Code (66 Pa.C.S. §2102(b)), as more fully described in Paragraph Nos. 23-25 of the Application; (4) making the findings described in Sections 2210 and 2811(e) of the Public Utility Code (66 Pa.C.S. §§2210 and 2810(e)), as more fully described in Paragraph No. 26 of the Application; and (5) making the findings required by Sections 32(c) and 32(k) of the Public Utility Holding Company Act (15 U.S.C. §793-5a(c) and (k)) for PECO to seek from the Federal Energy Regulatory Commission

("FERC") Exempt Wholesale Generator ("EWG") status and approval to purchase electric power from an affiliate at market-based rates, as more fully described in Paragraph Nos. 27-29 of the Application.

4. Along with its Application, PECO submitted Appendices A-O and Statement Nos. 1-5 and accompanying exhibits. The statements and exhibits are summarized in Paragraph No. 38 of the Application. An element of PECO's supporting information is the market power analysis conducted by William H. Hieronymus, Senior Vice President of PHB Hagler Bailly, Inc. (PECO Statement No. 5 and Exhibit WHH-1), that was conducted in accordance with the Competitive Analysis Screen described in Appendix A to the FERC's Merger Policy Statement, which in turn is intended to comport with the Department of Justice and Federal Trade Commission Horizontal Merger Guidelines. In addition, on February 2, 2000, PECO submitted supplemental testimony to explain certain amendments made to the Agreement and Plan of Merger after the filing of the Application (PECO Statement No. 2S).

5. PECO notified its customers of the filing of the Application by bill inserts. In addition, PECO issued a press release announcing and describing the Merger. PECO also served copies of its filing on the OTS, the OCA and the OSBA and served notice of the filing on all of the active parties to PECO's electric restructuring proceeding at Docket No. R-00973953 and all active parties to PECO's natural gas restructuring proceeding at Docket No. R-00994787, as more fully explained in Paragraph No. 51 of the Application and its accompanying Certificate of Service.

6. On December 4, 1999, the Commission caused a notice of the filing of PECO's Application to be published in the *Pennsylvania Bulletin* (29 Pa. Bulletin 6208), which allowed

interested parties until December 20, 1999 to file protests and petitions to intervene. Twenty-four parties filed protests or petitions to intervene in response to the Commission's Order.⁵ In addition, the OTS entered its appearance.

7. The Commission assigned this matter to Administrative Law Judge Charles E. Rainey to conduct hearings and issue an initial decision. By its Order entered March 4, 2000, the Commission denied PECO's request that, in lieu of an initial decision, the Administrative Law Judge certify the record to the Commission for final decision pursuant to Section 335(a) of the Public Utility Code (66 Pa.C.S. §335(a)). On January 20, 2000, a Prehearing Conference was held in Philadelphia at which various procedural matters were addressed and resolved, including the establishment of a schedule in the event that litigation of the proceeding proved necessary.

8. Commencing shortly after PECO filed its Application, the parties engaged in extensive formal and informal discovery. To date, PECO has responded to approximately 500 interrogatories and requests for production of documents, which provided extensive additional information about the transactions for which approval is requested and about other issues of importance to the parties.

9. All parties actively engaged in a collaborative process to address what they perceive to be the issues raised by the Application. To that end, the schedule established at the Prehearing Conference committed the parties to two days of face-to-face meetings, on March 1 and 2, 2000, to attempt to resolve their differences. The success of those meetings prompted further rounds of negotiation, which ultimately led to the Settlement set forth herein.

⁵ Twenty-two of the filings were made before the Commission-imposed deadline. Two parties, New Energy and the City of Philadelphia, filed protests and petitions to intervene after December 20, 1999. NewEnergy was permitted to intervene over PECO's objection. PECO chose not to contest the intervention of the City of Philadelphia. Additionally, the Department of the Navy filed a Notice to Intervene Out of Time, which it withdrew pursuant to a Notice of Withdrawal filed on March 22, 2000.

III. TERMS AND CONDITIONS

The Joint Petitioners, intending to be legally bound and for due consideration given, agree that the Application should be approved and the relief requested therein granted, subject to the following terms and conditions:

A. Rate Reductions and Extension of Transmission and Distribution Rate Cap

10. **Rate Reductions.** On January 1, 2002, PECO will reduce its retail electric distribution rates by \$60.0 million annually from the levels that otherwise would be in effect pursuant to the Commission's Order, entered May 14, 1998, approving the 1998 Electric Restructuring Settlement.⁶ That \$60.0 million distribution rate reduction will remain in effect until January 1, 2004, at which time the annual rate decrease will become \$40.0 million. The \$40.0 million rate reduction will remain in effect through December 31, 2005. The following distribution rate reductions will apply to all retail rate classifications and all customers within those rate classifications as set forth on a system average basis in Schedule 1 below.⁷

⁶ PECO has already agreed to reduce its retail rates by \$60.0 million for the duration of 2001 pursuant to the terms of a separate settlement of PECO's re-securitization filing at Docket No. R-00005030. The settlement was approved by the Commission on March 16, 2000.

⁷ Rates reflecting the distribution rate reductions agreed to herein will be reflected on customers' bills commencing with regular billing cycles beginning after January 1 of the respective years shown on Schedule 1 and ending with the first regular billing cycle of the next subsequent year.

Schedule 1

SCHEDULE OF SYSTEM-WIDE AVERAGE RATES (a)

<u>Effective Date</u>	<u>Transmission</u> (b) (1)	<u>Distribution</u> (2)	<u>T&D Rate Cap</u> (3) = (1) + (2)	<u>CTC or ITC</u> (4)	<u>Shopping Credit</u> (5)	<u>Generation Rate Cap</u> (6) = (4) + (5)
	¢/kWh	¢/kWh	¢/kWh	¢/kWh	¢/kWh	¢/kWh
January 1, 2002	0.45¢	2.35¢	2.80¢	2.51¢	4.47¢	6.98¢
January 1, 2003	0.45¢	2.35¢	2.80¢	2.47¢	4.51¢	6.98¢
January 1, 2004	0.45¢	2.41¢	2.86¢	2.43¢	4.55¢	6.98¢
January 1, 2005	0.45¢	2.41¢	2.86¢	2.40¢	4.58¢	6.98¢
January 1, 2006	0.45¢	2.53¢(c)	2.98¢(c)	2.66¢	4.85¢	7.51¢

- (a) All prices reflect average retail billing for all classes of service (including gross receipts tax). Detail of actual individual rates for each class of service is provided in Appendix A. The average prices as presented in this Schedule 1 reflect the profile of service contained in PECO's proof of revenue set forth in Appendix A.
- (b) The transmission prices listed are for unbundling only. The Pennsylvania Public Utility Commission does not regulate the rates for transmission service.
- (c) The cap on PECO's transmission and distribution rates under Section 2804(4) of the Electric Competition Act will be extended until December 31, 2006.

11. **a. Extension of Rate Cap.** The cap on PECO's retail transmission and distribution charges, under Paragraph 21 of the 1998 Electric Restructuring Settlement, entitled "Rate Caps and Transmission and Distribution Charges," which otherwise would expire on June 30, 2005, will be extended an additional eighteen months, or through December 31, 2006. The other provisions of Paragraph 21 of the 1998 Electric Restructuring Settlement will remain in full force and effect and will apply for the duration of the new transmission and distribution rate cap period through December 31, 2006.

b. Other Costs. PECO agrees that expenses directly attributable to achieving the synergies under the merger will be incurred prior to the conclusion of the transmission and distribution rate cap period. PECO also hereby confirms that the Merger is a merger of equals and does not include an acquisition premium.

B. Recovery Of Nuclear Costs, Including Decommissioning Expense; Nuclear Monitoring and Waste Storage.

12. **Recovery of Nuclear Costs.** PECO agrees that it will not seek to recover through Pennsylvania retail electric distribution rates the costs associated with the ownership and operation of any nuclear generating plants, or any fractional interests in such nuclear generating plants, that it did not hold on December 31, 1999 ("PECO's Pre-Existing Nuclear Interests").⁸ For purposes of this section, such costs include, *inter alia*, nuclear decommissioning expense obligations, but do not include nuclear-related costs included in purchased power costs, or other

⁸ The Joint Petitioners agree that the PECO Pre-Existing Nuclear Interests consist of a 100% ownership interest in Peach Bottom Unit No. 1, a 42.49% ownership interest in Peach Bottom Unit Nos. 2 and 3, a 42.59% ownership interest in Salem Unit Nos. 1 and 2 and a 100% ownership interest in Limerick Unit Nos. 1 and 2.

nuclear costs. To the extent otherwise not prohibited by the Distribution Rate Cap established pursuant to this Settlement, the Generation Rate Cap established under the 1998 Electric Restructuring Settlement, or by this Settlement, PECO shall not be precluded from recovery of purchased power costs related to nuclear generation, or other nuclear-related costs, that are incurred by PECO based on market pricing principles.

13. Except as specifically provided herein, nothing in this Settlement is intended to limit or otherwise modify PECO's rights to seek recovery through Pennsylvania retail electric rates of nuclear decommissioning costs associated with PECO's Pre-Existing Nuclear Interests. However, PECO agrees that if and when it seeks to increase its annual nuclear decommissioning expense allowance above the base \$29.162 million annual accrual level used for the purpose of calculating its Nuclear Decommissioning Cost Adjustment Charge ("NDCAC"), it will, under specifically defined circumstances as set forth in the Distribution Tariff attached as Appendix A, voluntarily forego recovery of (1) \$50 million of its total decommissioning cost obligations, plus (2) 5% of any additional increase in the annual accrual level above the base \$29.162 million annual accrual level.

14. To the extent permitted under applicable law, separate decommissioning trust funds, or sub-funds, shall be established for the decommissioning liability associated with any nuclear generating plant, or any fractional interest in a nuclear generating plant, that is not included in the definition of PECO's Pre-Existing Nuclear Interests ("Acquired Nuclear Interests"). To the extent permitted under applicable law, each Acquired Nuclear Interest fund or subfund shall be maintained separately and apart from the decommissioning funds established and existing for PECO's Pre-Existing Nuclear Interests ("PECO's Pre-Existing Nuclear Interest

Funds"). No part of the cost of decommissioning Acquired Nuclear Interests shall be paid from PECO's Pre-Existing Nuclear Interest Funds.

15. The Joint Petitioners agree that if the actual expenditures necessary to accomplish the full decommissioning of PECO's Pre-Existing Nuclear Interests are less than the full balance of PECO's Pre-Existing Nuclear Interest Funds, PECO is entitled to obtain release of such funds for the purpose of sharing the amount between customers and shareholders. In the event of such release, PECO will be permitted to retain for its own benefit (1) the first \$50.0 million of the net after tax released amount and (2) 5.0% of the remaining net after-tax released amount. The balance of the released funds not retained by PECO shall be returned to retail customers in a manner to be directed by the Commission.

16. Nothing in this Settlement is designed to prevent PECO from entering into purchase power agreements with any entity, affiliated or otherwise, for the procurement of nuclear generation.

17. PECO also agrees that, in the event that any nuclear generating unit owned by PECO or a PECO affiliate experiences an incident or accident that results in uninsured damage claims in excess of \$1 billion, PECO shall: (i) notify the PUC within 60 days of such incident or accident, and (ii) within 90 days thereafter, demonstrate that PECO's net cash flows are sufficient for PECO to provide safe, adequate, continuous, efficient, reliable and reasonable distribution service to its Pennsylvania customers at reasonable rates.

18. **Nuclear Monitoring and Waste Storage.** PECO shall enter into an agreement with Eric Joseph Epstein which shall be substantially in the same form as that attached hereto as Appendix B. This Agreement shall specifically address certain issues relating to the continued

safe operation of Peach Bottom 2 and 3, robotics research, and community involvement concerns raised by Mr. Epstein. This Agreement is referenced for informational purposes only. The parties do not specifically request the Commission to approve this Agreement as part of the Joint Petition for Settlement.

C. Reliability And Customer Service.

19. PECO commits to a Quality of Service Plan ("Service Plan") designed to provide higher levels of reliability and customer service in PECO's service territory. The Company also agrees to continue its commitment and efforts to resolve reliability problems identified in several specific areas, which include, but are not limited to, the on-going efforts in East Brandywine Township, Aston Township, Wallace Township, York County as well as other areas. The Company agrees that it will continue to respond to customer and community concerns regarding reliability and will not argue that this Settlement or Service Plan limits or eliminates its responsibility to address reliability concerns throughout its service territory.

20. The Company agrees to establish service quality standards that enhance reliability and customer service over the period from January 1, 2001 to December 31, 2005. The Company and the Joint Petitioners further agree to reconvene in 2005 to determine if further action is necessary and, if so, the nature and scope thereof.

21. The Company, OCA, OTS, the City of Philadelphia and other interested parties agree to work cooperatively to provide higher levels of reliability and customer service over the period from January 1, 2001 through December 31, 2005. The parties also agree to work cooperatively to determine necessary action to be implemented pursuant to the Service Plan each year.

22. The Service Plan will include specific measurement areas where the Company will be expected to provide higher levels of service. In addition, the Service Plan will identify areas where performance must be maintained and areas that must be reported to the OCA, the OTS, the Commission, the City of Philadelphia and other interested parties.

23. **Reliability.** The Joint Petitioners have set targets utilizing, where available, five-year historic data from 1994 through 1998 and reflecting agreed upon higher levels of service over the period 2001 through 2005. The following indices, utilizing Commission definitions where available, will be measured and/or reported. A mutually agreed upon range and/or reporting requirement for higher levels of service for these indices is set forth below:

- **Customer Average Interruption Duration Index (CAIDI):** The Company agrees to move, by 2005, to a level of reliability measured by CAIDI that is 10% higher than the level set by the Commission in its Reliability Benchmarks and Standards (PUC Docket No. M-00991220).
- **System Average Interruption Frequency Index (SAIFI):** The Company agrees to move, by 2005, to a level of reliability measured by SAIFI that is 10% higher than the level set by the Commission in its Reliability Benchmarks and Standards (PUC Docket No. M-00991220).
- **Repeat Outages:** The Company agrees to provide a yearly plan, beginning in 2001, to reduce the number of customers with repeat outages and agrees to a yearly reporting requirement regarding this index.
- **Five Worst Circuits:** The Company agrees to provide yearly plan, beginning in 2001, to provide a higher level of service for the five worst circuits and agrees to provide a yearly report of its results in achieving this plan.
- **System Average Interruption Duration Index (SAIDI):** Reporting Requirement. The levels for SAIDI expected to be consistent with CAIDI and SAIFI.
- **Momentary Average Interruption Frequency Index (MAIFI):** Reporting Requirement.
- **Storm Management:** The Company will provide to the OCA, the OTS, The City of Philadelphia, and the Commission individual storm performance reports

addressing the Company's storm management efforts for storms excluded by the Commission's definition.

24. **Customer Service.** Initial targets have been developed from historical data, where available, and from Company standards, Bureau of Consumer Services ("BCS") standards and industry practices, reflecting agreed upon higher levels of service over the period 2001 through 2005. The indices may be increased to reflect the PUC standards as set forth in the Commission's future rulemaking. A mutually agreed upon range and/or reporting requirement for higher levels of services for these indices is set forth below:

- **Percentage of calls answered within 30 seconds (as defined by the Company):** The Company agrees to a target of 70% through 2005, which reflects a higher level of performance. The Company will be considered non-compliant for this index if the percentage of calls answered within 30 seconds is below 65% in any year of the Service Plan.
- **Average "Busy-Out" rate (% of calls that encounter a busy signal):** The Company agrees to a target of 4% through 2005, which reflects a higher level of performance. The Company will be considered non-compliant for this index if the percentage of calls that encounter a busy signal is above 5% in any year of the Service Plan.
- **Number of residential customer disputes not issued a Company report within 30 days.** The Company agrees to 50% decrease in this index over the period 2001 through 2005.
- **Gas Response Time to Safety Calls.** The Company commits to maintain its current high level of performance, by continuing to respond to 99% of all gas emergency calls within one hour. The Company agrees to provide OCA with copies of monthly reports on gas emergency call response submitted to the Commission's Bureau of Safety and Compliance.
- **Worker/Employee Safety-OSHA Loss Work Day Cases** The Company commits, as its target, to remain in the top 10% of EEI comparable utilities (companies with 1500-4000 employees). The Company will be considered non-compliant for this index if it falls below the top 20% of the EEI comparable utilities.

25. **Customer Service Reports.** The following indices will be reported annually:

- Average call abandonment rate.
- Average number and % of residential bills not rendered once every billing period.
- Average number and % of small commercial bills not rendered once every billing period.
- Number and % of residential meters not read as required by 52 Pa. Code §56.12(4) (ii).
- Number and % of residential meters not read as required by 52 Pa. Code §56.12(4)(iii)
- Number of residential customers not read as required by 52 Pa. Code §56.12(5)(i).
- *Justified consumer complaint rate. Report only the data contained in the BCS Annual Report.*
- *PUC Infraction Rate. The Company to report only until necessary data are available.*
- *Customer satisfaction surveys.*
 - % satisfied with recent contact.
 - % appointments met.

26. The Company agrees to include overall performance under the above identified Service Plan in the annual performance appraisal and compensation for the management and supervisory employees in its Distribution Operations and the Customer and Marketing Services groups.

27. **Evaluation of Compliance.** The Company will provide a report each year to the PUC, the OCA, the OTS, the OSBA, the City of Philadelphia and other interested parties analyzing its performance in each area and its performance in achieving the targets for higher levels of service. The Company will analyze each of the performance indicators in its report.

28. **Response to Failure to Achieve the Targets in the Improvement Plan.**

a. The Company agrees that, in any year during the Service Plan, if its performance is outside of the agreed upon range for any performance area being measured pursuant to Sections 23 and 24, the Commission will open a formal proceeding to investigate the Company's performance under the Service Plan. The Company, as an initial part of this proceeding, will provide the PUC, OCA, OTS, OSBA, the City of Philadelphia and other interested parties with a report that analyzes the root cause of the failure and specifies the steps to be taken over the next 12 months to meet the required standard in the following year. The report shall include specific measurements of progress over the 12 months. A prehearing conference will be convened within 60 days of the filing of the Report. At the prehearing conference, the parties to the proceeding must indicate whether they wish to proceed to full litigation of the matter or whether the matter has been resolved among the parties.

b. In any proceeding convened to investigate the Company's non-compliance with the Service Plan, any party may request the Commission to order penalties for the service quality non-compliance. The Commission shall consider the degree of non-compliance and the number of indices in the Service Plan in which PECO failed to achieve agreed upon performance in determining whether to impose penalties and the level of penalties. The Commission can consider other methods of ensuring compliance with the Service Plan.

c. The Company agrees that the parties retain their right to petition the Commission for an on-the-record investigation or file a complaint in response to the storm management reports, storm response, other reported indices that are not directly measured in the Service Plan, individual or community complaints, or under other Commission Regulations.

d. Nothing contained herein is intended to limit the authority of the Commission, BCS, the Bureau of Safety and Compliance, or other Bureaus of the Commission from performing their duties and making recommendations, including recommendations regarding fines, for failure of PECO to perform in any of the areas contained in the Service Plan.

D. Universal Service

29. The Company agrees to provide \$1.3 million per year for 2001 and 2002 to the county fuel fund agencies in each county in PECO's electric service territory that currently administer fuel grants.⁹ These payments shall be made on or before January 15 of each year in which a payment is to be made pursuant to this Section. Payments made pursuant to this Section shall be distributed to the county fuel fund agencies in accordance with the existing allocation formula for PECO's Matching Energy Assistance Fund ("MEAF") funds to each county. If PECO has not implemented a "special needs" component to its CAP Rate program by January 1, 2003, it shall provide an additional \$400,000 to the county fuel fund agencies on or before January 15, 2003, to be allocated among such agencies in the same manner as the payments to be made pursuant to this Section in 2001 and 2002. PECO shall take all steps necessary to ensure that its CARES Program efficiently draws on the resources provided by this provision. These contributions do not limit or replace PECO's commitment to its hardship funds. The county fuel fund agencies will provide annual reports to the Company detailing how payments made pursuant to this section were spent.

30. The Company agrees to institute and maintain a customer data warehouse that will include appropriate Universal Service data. The data warehouse shall be designed to gather, to

⁹ The county fuel fund agencies are: Project Heat, c/o Bucks County Opportunity Council, Inc.; Chester County Cares, c/o Community Service Council of Chester County; Delco Shares Its Warmth, c/o Community Action Agency; Project Reach, c/o

the extent technically feasible, historic data for Universal Service customers, including data back to at least December 1, 1998. In addition, the data warehouse shall be designed to enable the Company to monitor and manage its Universal Service programs. H. Gil Peach, Ph.D. ("Dr. Peach") will be included on the distribution list for communications in defining the content of the data warehouse, and will routinely interact with the PECO representatives that are developing the data warehouse. By January 31, 2001, the data warehouse will be in place and will begin its data population. The Company agrees to provide Dr. Peach with timely and convenient on-site access to the customer data and statistical analysis tools, that will be necessary for him to effectively analyze the CAP Rate programs and the need, and structure of, if necessary, any "special needs" program. The Company agrees that the information contained in its data warehouse will be treated in accordance with the Commission's May 18, 1999 Enrollment Order at PUC Docket No. M-00991230, the Company's Electric Generation Supplier Coordination Tariff and other Commission Orders and Regulations.

31. The Joint Petitioners agree that a determination of the need for a "special needs" program and the components of such a program are more properly determined after sufficient Universal Service data are compiled. To that end, the Company agrees to review the Universal Service data contained in the data warehouse and other relevant sources to evaluate, with the LIURP Advisory Committee, whether a "special needs" component should be added to the Company's CAP Rate programs. A "special needs" component shall include, but is not limited to, program changes that address the special needs of customers with incomes at or below 50% of the federal poverty level. The determination of whether a "special needs" program is necessary,

and the formulation of the program, if necessary, shall be completed by June 30, 2002. If PECO and the LIURP Advisory Committee are unable to achieve consensus on a program by that date, PECO shall, within 60 days thereafter, make a recommendation to the Commission concerning a "special needs" component. Nothing in this Settlement shall be interpreted to preclude earlier action from being taken to implement a "special needs" component in conjunction with the LIURP Advisory Committee or as the result of any other proceeding or Commission requirement. The contributions to the county fuel funds, as described in Section 29, above, will be in lieu of the Company implementing a "safety net" or "special needs" component in years 2001 and 2002. As described in this Settlement, the Company agrees to use its best efforts to develop data, to study, and to evaluate this issue during this time frame.

32. As committed to in its Gas Restructuring Settlement at Docket No. R-00994787, the Company agrees to an updated evaluation of the CAP Rate program by Dr. Peach.¹⁰ In this evaluation, Dr. Peach will assess the need for a "special needs" component to the CAP Rate. Dr. Peach's evaluation shall be completed by January 31, 2002.

33. By June 30, 2001, the Company agrees to provide the LIURP Advisory Committee with a status report on the Company's data warehouse and a report on the contributions to the county fuel funds.

34. The initial maximum participation level of 100,000 customers in the Electric CAP program specified in Paragraph 34 of the 1998 Electric Restructuring Settlement is increased. Consistent with Paragraph 34 of the 1998 Electric Restructuring Settlement, the CAP Rate

¹⁰ Dr. Peach is the consultant who has conducted recent evaluations of PECO's CAP Rate Program. In the event that Dr. Peach declines or is unable to provide the service as set forth herein, a substitute shall be chosen who is mutually acceptable to PECO and the LIURP Advisory Committee.

remains an open enrollment program for all eligible customers with a provisional maximum participation level of 125,000 customers subject to revision and adjustment in consultation with the LIURP Advisory Committee when that level is reached.

35. In the event that Electric CAP Rate enrollment reaches 90,000 customers, the cost credit recoverable in the Universal Service Fund Cost ("USFC") Section 1307 recovery mechanism for each CAP Rate customer in excess of 90,000 will be \$383 per year in order to recover revenue shortfalls from the CAP Rate discounts. The USFC mechanism will recover only the revenue shortfalls described above, and the Company relinquishes the right to recover administration, credit and collection costs, Uncollectible Accounts expenses, LIURP expense and similar costs related to the CAP program through the USFC mechanism. The \$383 per customer per year amount will remain in effect until the Company's next base rate case, will not be challenged in Section 1307 proceedings, and will be deemed acceptable for the purpose of Section 1307 audits. The annual recoverable amount will be calculated on the basis of the \$383 cost credit multiplied by the total number of electric customers over 90,000 enrolled in the CAP Rate program (prorated for partial year participants). The Joint Petitioners further agree that the Company will be permitted to recover the annual recoverable amount beginning January 1, 2002. Accordingly, this Section modifies the cost credit recovery calculation of the Section 1307 mechanism described in Paragraphs 33 and 34 of the 1998 Electric Restructuring Settlement.

36. In the event that Gas CAP Rate enrollment reaches 17,500 customers, the cost credit recoverable in the USFC Section 1307 recovery mechanism for each Gas CAP Rate customer in excess of 17,500 will be \$200 per year in order to recover revenue shortfalls from the

Gas CAP Rate discounts. The USFC mechanism will recover only the revenue shortfalls described above, and the Company relinquishes the right to recover administration, credit and collection costs, Uncollectible Accounts expenses, LIURP expense and similar costs related to the Gas CAP program through the USFC mechanism. The \$200 per customer per year amount will remain in effect until the Company's next base rate case, will not be challenged in Section 1307 proceedings, and will be deemed acceptable for the purpose of 1307 audits. The annual recoverable amount will be calculated on the basis of the \$200 cost credit multiplied by the total number of gas customers over 17,500 enrolled in the CAP Rate program (prorated for partial year participants). Except as modified herein, the Joint Petitioners further agree that Company will be permitted to recover the annual recoverable amount beginning June 30, 2002, in accordance with the Gas Restructuring Settlement at Docket No. R-00994787.

37. Additional electric and gas program costs for any new Universal Service programs, such as a "special needs" program (other than amounts committed above for 2001, 2002, and 2003 of \$1.3 million, \$1.3 million, and \$0.4 million, respectively), will be eligible to be recovered through the USFC Section 1307 recovery mechanism.

E. Environmental Provisions

38. Wind Block Program.

a. **Funding.** PECO agrees to contribute to Community Energy, Inc. ("CEI")¹¹ the sum of three and one-half million dollars (\$3,500,000.00) for its Pennsylvania Wind Energy Program, payable to CEI in the following four installments: the first one million dollar

¹¹ CEI is a Delaware corporation with its offices in Philadelphia and Doylestown, Pennsylvania. CEI's corporate mission is to develop and market renewable and clean energy options in a customer choice environment. The principal project of CEI at this time is "Pennsylvania Wind Energy," under which new wind turbines are constructed with the generation marketed in "blocks" to retail customers. The program has developed new wind facilities near Hazleton, Pennsylvania, that commenced commercial operation in

installment to be paid on the first business day following the date of the consummation of the Merger; the second one million dollar installment to be paid within two business days after January 1, 2002; the third one million dollar installment to be paid within two business days after January 1, 2003; and the remaining \$500,000 to be paid within two business days after January 1, 2004. The funding will be used to advance the Pennsylvania Wind Energy Program to Pennsylvania electric customers in a manner that is non-exclusive to the Electric Generation Supplier a participating customer may select. Semiannually during 2001, 2002, 2003 and 2004, CEI shall submit a report to PECO, the PUC, and the OCA detailing its expenditure of the funds received from PECO. This report shall be in a form reasonably satisfactory to PECO.

b. **Co-operative Marketing.** Separate from the provisions in subsection (a) above, CEI will work in conjunction with PECO Energy and/or Exelon Energy (or its successor EGS) to develop the business relationship necessary for PECO and/or Exelon Energy to successfully offer wind blocks to their customers. PECO Energy and/or Exelon Energy (or its successor EGS) will provide resources to CEI to help CEI develop this program.

39. **Photovoltaic Project.**

a. The Company agrees to provide four million dollars (\$4,000,000.00) to fund a four-year photovoltaic project to purchase, install, finance and/or write down the cost of the minimum number of rooftop units in each year of the project, as indicated below, with at least 1/3 of each year's minimum production operational by May 15 of that year and the remainder operational by the end of the respective year.

- 2001 - 100 Units
- 2002 - 100 Units

December, 1999 with wind blocks sold to commercial customers in the PECO service territory. Brent Alderfer, a former Public Utilities Commissioner in Colorado, is President of CEI.

- 2003 - 125 Units
- 2004 - 125 Units

Each unit shall have a capacity ranging from 1.0 kW to 5 kW.

b. The payments to fund the project shall be made in four equal installments to the Sustainable Development Fund ("SDF") within two business days after January 1 of each respective project year, except that in the event the Merger has not been consummated by January 1, 2001, the first payment shall be made on the first business day following said consummation.

c. SDF shall submit a report on this project as a distinct section of each SDF semi-annual report that is required to be submitted to the Commission and the Joint Petitioners pursuant to the SDF bylaws and applicable Commission order(s). Program investments, loans, revenue and expenditures shall be reported in SDF's fiscal audits.

d. The SDF shall use its best efforts to implement the program as described herein and to maximize effective use of the funds to install photovoltaic systems, consistent with its chartered purpose and its normal operating procedures managed by its Board of Directors.

40. Tariff Issues.

a. The Company will make changes to Rate RS and Competitive Transition Charge sections of the Electric Service Tariff as reflected in the red-lined versions attached hereto as Appendix A.

b. To effectively implement Rate RS, a committee composed of representatives from PennFuture, CAC, OCA and PECO shall, in consultation with Electric Generation Suppliers ("EGSs"), establish standardized metering and billing practices for that rate.

41. **New Pennsylvania Wind Facilities.**

a. To enable the development of new wind facilities in Pennsylvania, the Company will provide the SDF three payments of four (4) million dollars each for a total amount of twelve (12) million dollars for the development of new wind powered generation projects in Pennsylvania, with the first payment to be made upon the consummation of the merger and the subsequent two payments on the following two anniversaries of that date.

b. The SDF shall submit a report on this project as a distinct section of each SDF semi-annual report that is required to be submitted to the Commission and the Joint Petitioners pursuant to the SDF bylaws and applicable Commission order(s). Program investments, loans, revenue and expenditures shall be reported in the SDF's fiscal audits.

c. The SDF shall use its best efforts to implement the program as described herein and to maximize effective use of the funds to develop new wind facilities in Pennsylvania, consistent with its chartered purpose and its normal operating procedures managed by its Board of Directors. The Company will be able to promote its funding of these facilities.

42. **Renewables Education.**

a. PECO agrees to pay the SDF the amount of five hundred thousand dollars (\$500,000.00) a year for five (5) years to help fund consumer education on electricity from renewable sources, including environmental, financial and technical considerations. Funds shall be payable within two business days after January 1 of each year, except that in the event the merger is not consummated on or before January 1, 2001, the first year's payment shall be made upon consummation of the merger.

b. The SDF shall submit a report on this project as a distinct section of each SDF semi-annual report that is required to be submitted to the Commission and the Joint Petitioners pursuant to the SDF bylaws and applicable Commission order(s). Program investments, loans, revenue and expenditures shall be reported in SDF's fiscal audits.

c. The SDF shall use its best efforts to implement the program as described herein and to maximize effective use of the funds to provide public education on renewable electricity, consistent with its chartered purpose and its normal operating procedures managed by its Board of Directors.

d. In no event may the SDF use the funds provided by PECO to promote the generation product of any particular company.

43. **Sustainable Development Fund.** The Company agrees to accelerate the annual payments otherwise due to the SDF by paying into said fund a lump sum payment of \$9.98 Million before the later of consummation of the merger or January 1, 2001, representing estimated collections during the period January 1, 2001 to December 31, 2006. Such payment shall be in complete satisfaction of all existing obligations of the Company to make payment to the fund and will not be subject to reconciliation.

44. **Interconnection Issues.**

a. **Facilities under 40 kW.** PECO agrees to modify the provisions of its "Requirements for Parallel Operation of Generation," including Appendix II thereto, such that all standards and procedures for certification and interconnection of facilities not exceeding 40 kW are stated within Appendix II. Proposed changes shall be submitted for review and discussion with other parties, as more fully delineated in Subsection B, below, prior to adoption by PECO.

b. **Facilities over 40 kW.** Additionally, in order to facilitate the interconnection of distributed and renewable energy sources, while maintaining system safety and reliability, PECO agrees to review, and adopt, where appropriate, new technical standards, procedural requirements and expense requirements for interconnection. PECO will do so based upon discussions with CAC, PennFuture, the SDF, and other interested parties regarding modifications to the "Requirements for Parallel Operation of Generation," including Appendix II thereto. The revisions to be considered shall provide for: (1) pre-certification of various categories of such facilities to minimize individualized review; (2) standardization of engineering and other pre-interconnection study costs; (3) inclusion of the system benefits of distributed generation in determining distribution system costs charged to the customer and those borne by the system; and (4) incorporation of relevant standards of the Institute of Electronic and Electrical Engineers ("IEEE") and National Fire Protection Association ("NFPA"). Facilitating interconnection by maximizing time, procedural, technical and expense certainty while maintaining system safety and reliability shall be of primary importance in considering any modifications (as discussed above) to the current procedures. After consultation with the interested parties, as described herein, PECO shall make the final determination as to what changes are incorporated. PECO shall not impose any distribution or transmission charges on the interconnecting generator unless such charges are imposed on all similarly situated generators regardless of owner or purchaser, do not duplicate charges to retail customers, and have been approved by the appropriate regulatory agency.

F. Promoting Competition

45. **Access to Installed Capacity ("ICAP").** The Joint Petitioners expressly

acknowledge that specified quantities of ICAP will be provided to EGSs pursuant to PECO's FERC Electric Market-Based Rate Tariff or the GenCo successor thereto as described in Appendix C. The Joint Petitioners do not request the Commission to specifically approve the terms of this Appendix C as part of the Joint Petition for Settlement, and the Joint Petitioners acknowledge that Appendix C is referred to here for informational purposes only. The Joint Petitioners further acknowledge that, by referencing and attaching Appendix C, the Joint Petitioners do not intend to confer jurisdiction on the PUC that does not otherwise exist under applicable law.

46. **a. Release of Customer Historical Billing Data.** Via posting on the Success website, or its successor thereto, for all customers who, pursuant to applicable Commission orders, secretarial letters, rules or regulations, have authorized release of their information, PECO shall provide, without charge, to both licensed EGSs and licensed natural gas suppliers ("NGSS") serving PECO customers, twelve individual months of historical monthly electric usage and billed demand and/or gas billing data, as applicable, and as provided to PECO customers. Said data shall be provided per customer account. The website customer lists containing such data shall be maintained until January 1, 2004, unless the Commission shall make a generic determination (whether by order, secretarial letter, rule or regulation) that such program shall continue and, if so, under what terms. Nothing in this Section releases PECO from complying with such a generic determination by the Commission before the effective date of the Merger. The Success website customer lists shall be updated quarterly and shall include individual monthly electric usage and billed demand and/or gas billing data for the most recent twelve month period preceding the respective quarter, for which data is available. However, the lag time shall not exceed 2 billing

cycles. The relevant Supplier Coordination Tariff language shall be attached hereto as Appendix D.

b. Individual Customer Inquires. PECO shall make all reasonable efforts to respond within four (4) business days to customer-authorized EGS or NGS requests for individual 12 month historical customer usage and measured and billed demand information as historically provided to customers.

47. **Advance Notice of Process Changes.** PECO Energy agrees to provide EGSs thirty (30) days advance notice of all discretionary, material Electric Choice process changes, such as, for example, load forecasting and reconciliation, and a reasonable opportunity for comment prior to making such changes.

48. **Customer Load Profile Revisions.** If an EGS demonstrates to the Company that a specific customer or customers experienced significant over or under deliveries relative to their load profile(s) for a period of six continuous months, then the Company agrees to have a representative of its Supplier Administration Group meet with the EGS to evaluate whether to assign such customer(s) different prospective load profile(s) and, if such reassignment is justified, to mutually agree to a prospective change in the load profile(s) of such customer(s).

49. **EDI.** PECO and all EGSs shall comply with all electronic data interchange ("EDI") standards and protocols as developed and defined by the Electronic Data Exchange Working Group ("EDEWG") and as approved by the PUC. PECO and all EGSs shall provide an individual point of contact skilled in EDI processes and systems for discussion and remediation of any process failure or information transfer failure. All process or information transfer failures caused by PECO or an EGS shall be remediated by the responsible party as soon as reasonably

possible but not to exceed four (4) business days. In the event of frequent and repetitive process or information transfer failures, the responsible party will provide additional resources, including EDI consultants, to meet promptly with the other party's point of contact to identify causal factors and develop a remediation plan for such failures. The responsible party shall inform the other party of the progress of all corrective actions taken. Nothing contained herein shall prevent the party alleging harm from filing a complaint with the PUC or pursuing other available remedies.

50. **Dispute Resolution.** PECO Energy agrees to apply and adhere to the Abbreviated Dispute Resolution Process set forth in Appendix E hereto to resolve disputes involving alleged violations of the Retail Access Code of Conduct, the GenCo Code of Conduct, alleged violations of its Electric Generation Supplier Coordination Tariff or a dispute allegedly affecting or threatening the ability of an entity to provide electric generation or related services to a customer or customers.

51. **PLR Marketing.** Until January 1, 2004, PECO agrees not to market, advertise and promote its Provider of Last Resort ("PLR") service. This agreement, however, shall not preclude PECO from providing objective information to customers of the availability and terms of PLR service as part of a Commission-approved consumer education program or in response to a specific consumer inquiries nor shall it prohibit PECO from continuing to conduct general corporate image advertising concerning, for example, PECO's role as a corporate citizen in the community or the reliability of PECO's distribution system, such as the current "Be Prepared" advertising campaign.

52. **Competitive Default Service.** PECO agrees to revise the currently existing Competitive Default Service ("CDS") auction process as follows:

a. As of April 1, 2000, the Company will issue a Request for Proposal ("RFP") for electric generation supply and capacity only, excluding customer care functions (such as call center, collections and billing, etc.), that requires bids to be received on or before May 1, 2000. The winning bidder will be selected by the Commission by July 1, 2000. As required by the terms of its 1998 Electric Restructuring Settlement, PECO's divisional or affiliated EGSs may not bid, and the RFP will cover 20% of all of PECO's residential customers determined randomly from both shopping and non-shopping customers. The Company will adjust downward, as appropriate, the currently required surety to reflect the reduced risk to the Company associated with bids for only the energy and capacity component of PLR service.

b. In the event no winning bidder is selected through the RFP process, the Company agrees to engage in good faith negotiations with qualified suppliers to enter into a bilateral CDS agreement or agreements between PECO and one or more suppliers for provision of electric generation supply and capacity to the twenty percent (20%) of PECO's residential customers included in the CDS auction. PECO's divisional or affiliated EGSs may not participate in this process. For the bilateral agreements, EGSs are free to propose the stranded cost buy down. Any CDS bilateral agreement(s) resulting from these negotiations shall: (1) include a schedule for implementation; (2) shall not require CDS customers to pay generation rates in excess of the otherwise applicable shopping credits; (3) unless PECO otherwise agrees, shall not impose additional costs on PECO as compared to costs PECO would have incurred if the CDS load had been awarded in accordance with the terms of the 1998 Electric Restructuring Settlement; and (4) shall be filed with the Commission on or before October 1, 2000. Unless expressly provided herein, the CDS provisions in Paragraph 38 of the 1998 Electric Restructuring

Settlement shall remain in effect.

c. In the event that PECO is unable to reach agreement with any supplier on a CDS bilateral agreement by October 1, 2000, or in the event the Commission, by November 1, 2000, modifies, rejects or fails to approve any filed bilateral CDS agreement, and if, on January 1, 2001, less than 35% of all PECO's residential and commercial customers, by class, are obtaining generation service from an alternate EGS or PECO supplier affiliate or division, then PECO shall, as provided in the Company's 1998 Electric Restructuring Settlement, randomly assign, by class, to all licensed suppliers serving residential and/or commercial customers on its system, except PECO's divisional or affiliated EGSs, the percentage of such customers required to fulfill the January 1, 2001 thirty five (35%) market share threshold. Nothing contained herein shall absolve, limit or qualify PECO's obligation to randomly assign, by class, customers sufficient to achieve the 35% target, as set forth in Paragraph M. 39.a. of the 1998 Electric Restructuring Settlement. PECO shall assign said percentage of such customers among eligible suppliers in accordance with Commission-approved procedures. Any such assignment resulting from this process shall not require the assigned customers to pay generation rates in excess of the otherwise applicable shopping credits.

d. If, for reasons beyond PECO's reasonable control, the schedules outlined in Sections 53. a. and/or b., above, are not met, such that PECO is unable to select a CDS provider thereunder by January 1, 2001, then, for purposes of the assignment required by Section 53.c., above, the twenty percent (20%) of customers otherwise covered under Sections 53. a. and b. will nonetheless be included in calculating the required thirty-five percent (35%) market share threshold. Notwithstanding the above, in the event that, by September 1, 2000, a CDS provider

has not been selected pursuant to either Sections 53. a. or b., above, the Company shall, pursuant to the process set forth in Section 53. c., above, assign the percentage of customers necessary to reach the 35% market share threshold. This assignment shall fully satisfy the Company's CDS auction requirement.

53. **Shopping Credits (CTC/ITC True -Up).** The Company will reconcile all Competitive Transition Charge ("CTC") and Intangible Transition Charge ("ITC") (collectively "Transition Charge") revenues on an annual basis in two categories: (a) Residential; and (b) Commercial/Industrial (encompassing all commercial and industrial accounts). This change will become effective for the Section 1307 reconciliation proceeding determining rates for the year 2001. This modification of the reconciliation process will minimize changes to shopping credits in commercial and industrial rate classes by expanding the reconciliation base. The Company will notify customers by bill insert of the applicable shopping credits that result from the annual CTC/ITC reconciliation. Whenever possible, the Company will attempt to provide such notice in advance of the change becoming effective.

54. **"Fresh Start" For Special Contract Customers.** Notwithstanding any contrary contract term or condition, each customer that is party to an existing contract with PECO entered into under Rule 4.6, the Economic Efficiency Rider, the Incremental Process Rider or the Large Interruptible Load Rider of PECO's Tariff Electric-Pa. PUC ("Special Contracts") shall have a unilateral, one-time option to terminate such contract with PECO for Competitive Energy Supply. The customer may exercise the option by providing written notice via certified mail, return receipt requested, to the Vice President, Customer and Marketing Services, PECO Energy Company, 2301 Market Street, Philadelphia, Pennsylvania 19101 to be received during the sixty

(60) day period commencing ninety (90) days after the date of closing on the merger of PECO and Unicom. If exercised, such termination will be effective as of the meter-read date immediately following the expiration of the sixty (60) day exercise period. Customers exercising the "Fresh Start" option will not be subject to an extra-contractual "Fresh Start" penalty or charge, but will be required to fulfill any otherwise applicable contractual obligations for the remainder of the contract term. For customers exercising this option who were parties to Special Contracts as of January 1, 1997, the charges for Electric Delivery Service, which consist of the unbundled charges for distribution services and Transition Charges, shall be those charges as unbundled effective as of January 1, 1999, subject to any applicable increases that result from the expiration of the distribution and/or generation rate caps. Where the Special Contract expressly specifies unbundled charges or methodology, the contract shall govern. For customers who were parties to Special Contracts entered into after December 31, 1996, the charges for Electric Delivery Service shall be the same as those for customers receiving service under Rate HT, unless the Special Contract otherwise specifies those charges. In such case, the Special Contract shall govern.

55. **Information Reporting.** Upon the request of an EGS, PECO will provide to the requesting party a copy of the monthly report filed with the Commission pursuant to the GenCo Code of Conduct, excluding sales by the GenCo to PECO for Provider of Last Resort Service.

56. **Distribution Of A Shopping Guide.** In cooperation with the OCA, PECO will distribute to all of its residential customers copies of the OCA's "Shopping Guide" or a similar shopping guide that shows the prices, relative to PECO's price to compare, being offered by competitive suppliers for residential generation service in PECO's service territory. PECO will

provide copies and distribute the shopping guide at its own expense at least twice per year during calendar years 2000, 2001 and 2002.

G. Corporate Structure Protections

57. **Cost of Capital of Regulated Distribution Operations.** The cost of capital used in establishing PECO's rates for retail electric and gas distribution service regulated by the Commission shall not reflect any risk adjustment associated with its corporate parent, Exelon, or any affiliate not regulated by the Commission. For purposes of this section, PECO's cost of capital shall include its cost rates for debt, preferred stock and common equity as applied to PECO's capital structure ratios.

58. **Investment Conditions.** From and after the effective date of this Settlement, PECO shall not: (1) guarantee the debt or credit instruments of Exelon or any affiliate not regulated by the Commission; (2) grant a mortgage or other lien or otherwise pledge as security for repayment of the principal or interest of any loan or credit instrument of Exelon or any affiliate not regulated by the Commission any property used and useful in providing retail utility service to the public subject to the Commission's jurisdiction; or (3) make any loan or otherwise extend credit to Exelon or any affiliate not regulated by the Commission for a term of one year or more. Upon PECO's request, as set forth in a Securities Certificate registration or other appropriate filing, the Commission may waive any one or more of these prohibitions if it finds that PECO's retail customers receiving service subject to the Commission's jurisdiction will be fully protected from bearing any increased costs as a result of granting the requested exception and that such customers will obtain some benefit from the transaction(s) made possible by the requested exception.

59. **Transactions Between PECO and Its Affiliates.** PECO will maintain reasonable accounting controls and other procedures for the allocation of overhead and other costs of jointly used assets and personnel. Such controls and procedures will be designed to provide reasonable assurance that PECO does not bear costs associated with the business activities of affiliated companies, which costs are not regulated by the Commission. PECO will also maintain reasonable pricing protocols for determining transfer prices for transactions between PECO and affiliated companies involved in business activities not regulated by the Commission. PECO will provide for appropriate ratemaking recognition, after expiration of its transmission and distribution rate cap, of all after-tax net proceeds, or other benefits, from the sale to, or use by, affiliates of used and useful utility assets that were allowed in PECO's retail distribution base rates.

60. **Limitation on Affiliate Purchased Power Rate Cap Exception.** PECO agrees that it cannot argue, in any proceeding before the PUC involving the applicability of the rate cap exception (66 Pa. C.S. §2804(4)), that increases in the price of purchased power are outside the control of PECO simply because the purchase is from Exelon Generating Company or another affiliate. PECO agrees that the Call Contract between it and Exelon GENCO, filed with the FERC on December 16, 1999, cannot form the basis of a rate cap exception and that the PUC retains authority to review the reasonableness of rates charged to PECO's retail distribution customers as a result of the Call Contract.

61. **Continuation of Jurisdiction.** The Commission's approval of the Application does not affect PECO's existing legal obligation to comply with all provisions of the Code, including Chapters 11 and 21 thereof.

62. **Access to Books, Records and Personnel.** Upon written request, PECO will provide to the Commission, the OTS, the OCA and the OSBA reasonable access to the books, records, officials and staff of PECO's affiliates not regulated by the Commission to the extent: (1) such affiliates provide goods or services to PECO; and (2) access to such books, records, officials or staff is necessary for the Commission to perform its regulatory oversight responsibility with respect to PECO's purchases of goods or services from those affiliates. PECO agrees to accept service in Philadelphia, Pennsylvania, of any requests made pursuant to these provisions and, in responding to such requests, PECO will make available within the Commonwealth of Pennsylvania the books, records and personnel responsive to those requests. However, nothing set forth herein shall constitute or be interpreted as a waiver by PECO of its right to raise traditional discovery objections to any such requests, including, but not limited to, objections on the basis of relevance and privilege. Additionally, before responding to any such requests, PECO shall be permitted to require the imposition of protections it deems necessary to prohibit disclosure of proprietary or confidential information.

63. **Annual Reports.** PECO shall provide the OCA and the OTS with a copy of its annual report filed with the Securities and Exchange Commission ("SEC") and its Annual Report to Shareholders applicable to each of the years 2001 through 2006.

H. Corporate Presence And Commitment To Local Communities

64. **PECO's Corporate Headquarters.** PECO will maintain the corporate headquarters for its distribution business in Philadelphia through at least 2005.

65. **Employment and Staffing Levels.** PECO Energy will maintain employment at 2301 Market Street at no less than 1250 employees through 2003 and will verify compliance with

this provision by filing an annual statement with the Commission. In addition, PECO commits to maintain the staffing levels required to ensure the adequate, efficient, safe, reasonable and reasonably continuous operation of its regulated distribution business.

66. **Contributions.** PECO agrees to maintain at least current levels of charitable and civic giving and economic and community development contributions in Pennsylvania through 2003.

I. Large Customer Provisions

67. **Amtrak Options for Transition Charge Buyout.** Amtrak shall have the option to execute a lump-sum buyout of its Transition Charges as set forth in Appendix F. The Commission is requested to approve this provision.

68. **City of Philadelphia Options Under Rule 4.6 Contract.** PECO shall grant the City of Philadelphia additional rights and options under its Rule 4.6 contract, as set forth in Appendix G. The Commission is requested to approve the changes reflected in Appendix G.

J. General Settlement Provisions

69. **Effectiveness of Settlement.** The Settlement will go into effect upon the Commission's issuance of a final order approving the Settlement without modification. If the Commission rejects the Settlement, the Settlement automatically will terminate and be null and void. If the Commission, in approving the Settlement, should modify any terms or conditions of the Settlement or add any conditions, any Joint Petitioner may elect to withdraw from the Settlement by filing a notice of withdrawal with the Commission's Secretary and serving a copy thereof upon all Joint Petitioners by facsimile or overnight delivery service within five business days of the entry of the Commission's Order. In addition, the consummation and closing of the

Merger and Corporate Restructuring constitute conditions precedent to the Settlement; provided, however, that Section 53 of the Settlement (dealing with Competitive Default Service), and Sections 69 and 70 of the Settlement (dealing with Commission approvals necessary to consummate the Corporate Restructuring and Merger, withdrawal of intervenors' actions at other agencies and the parties' obligations to support the Settlement), are not subject to these conditions precedent; and provided further that Sections 58 through 63 (dealing with Corporate Structure Protections) shall have as a condition precedent only the consummation of the Corporate Restructuring. Once the Merger and Corporate Restructuring have been consummated and closed, this Settlement and its terms shall be implemented and enforceable notwithstanding the pendency of a petition for reconsideration or a legal challenge to the Commission's approval of this Joint Petition and Settlement unless such implementation and enforcement of the Settlement is stayed or enjoined by the Commission, another regulatory agency, or a court having competent jurisdiction over the matter.

70. **All Issues Resolved.** The Settlement resolves with prejudice all issues related to PECO's Application for Merger and Corporate Restructuring. The approvals requested in PECO's Application are approved, as modified by the Settlement. This Settlement precludes the Joint Petitioners from asserting contrary positions in derogation of this Settlement with respect to any issue addressed herein during subsequent litigation against PECO; provided, however, that this Settlement is made without admission against or prejudice to any factual or legal positions which any of the Joint Petitioners may assert in (a) the subsequent litigation of this proceeding in the event that the Commission does not issue a final, non-appealable Order approving this Settlement without modification; or (b) in any proceeding involving another Pennsylvania utility.

This Settlement is determinative and conclusive of all of the issues addressed herein and constitutes a final adjudication as to the Joint Petitioners of the matters thereof. All Joint Petitioners shall support the Settlement and make reasonable and good faith efforts to obtain approval of the Settlement by the Commission and any Courts.

71. **Intervenors to Withdraw Other Actions.** All Joint Petitioners other than PECO ("Intervenors") shall, immediately upon entry of a final Commission order approving the Settlement, withdraw any actions, interventions or protests filed and terminate all other participation, formal or informal, direct or indirect, by such Intervenors and their affiliates in all proceedings involving or related to the Merger, the Corporate Restructuring, the comparable corporate restructuring of Unicom and Commonwealth Edison and related transfers of assets and transactions thereunder before other agencies or courts including, but not limited to, FERC, SEC, NRC, DOJ, FTC, FCC, IRS, and Illinois Commerce Commission ("Other Forum").¹² Upon execution of the Joint Petition, Intervenors and their affiliates shall not initiate any such action, protest, intervention or participation before any Other Forum; provided, however, if, before the Commission enters an order granting, denying or modifying this Joint Petition, a filing is required in a proceeding before an Other Forum which, if not made, would cause the Intervenor to waive its right to participate in such proceeding in the event this Settlement is not approved, a filing, which does not state a position adverse to PECO in such proceeding, may be filed to preserve such Intervenor's right to participate in such proceeding. Any such filing will be withdrawn immediately upon entry of a final Commission order approving the Settlement. Additionally, if

¹² However, this provision does not require any Intervenor to withdraw from the FERC proceeding at Docket No. EL00-25-000 wherein Commonwealth Edison, et al., requested a declaratory order containing, inter alia, findings that an independent transmission company subject to oversight by the Midwest Independent Transmission System Operator would have the characteristics and would fulfill the functions of a Regional Transmission Operator ("RTO") under FERC's Notice of Proposed Rulemaking at Docket No. RM99-2-000.

any court reverses, vacates or modifies the Commission's final order approving the Settlement, the Intervenors may intervene or revive a prior intervention in any then-pending proceeding in an Other Forum and, in that event, PECO shall not object to such intervention or revival on the grounds that it is untimely.

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

73. Unless expressly modified by this Settlement, all of the terms and conditions of the 1998 Electric Restructuring Settlement remain in full force and effect.

IV. PUBLIC INTEREST CONSIDERATIONS

The Joint Petitioners submit that this Settlement is in the public interest and should be approved in full for the following reasons:

74. **Rates Will Be Reduced.** The Settlement provides for \$200 million of rate reductions over a four-year period commencing January 1, 2002.

75. **Transmission And Distribution Charges Will Be Capped For An Additional Eighteen Months.** The Settlement extends the cap on PECO's transmission and distribution charges, which otherwise would expire on June 30, 2005 under the 1998 Electric Restructuring Settlement, until December 31, 2006.

76. **Post-Cap Distribution Rate Increases Will Be Mitigated.** The Merger will create the opportunity to achieve cost savings through the sharing of best practices, purchasing

economies and the elimination of duplicative functions. In addition, PECO has agreed that any future increases in nuclear decommissioning costs will be shared between shareholders and customers.

77. **Reliability And Customer Service Will Be Enhanced.** The Settlement requires PECO to develop enhanced reliability and customer service standards and to hold management and supervisory personnel accountable if those standards are not met.

78. **Competition Will Be Promoted.** The separation of electric generation and marketing functions from regulated delivery services will facilitate compliance with the Code of Conduct and Competitive Safeguards (GenCo Code of Conduct) adopted as part of the 1998 Electric Restructuring Settlement. In addition, the Settlement promotes increased retail electric competition in PECO's service area through power sale commitments under its FERC market-based tariff; grants special contract customers a sixty-day "fresh start"; facilitates the exchange of information between PECO and third party suppliers; imposes restrictions on PECO's promotion of its provider of last resort (PLR) service; implements an Abbreviated Dispute Resolution Process; and establishes transition cost reconciliation procedures designed to reduce annual swings in shopping credits.

79. **Universal Service Coverage Will Be Expanded.** The Settlement removes the 100,000 customer limit on the CAP Program, reduces the level of cost recovery of the Universal Service Program, calls for consideration of institution of a "special needs" program and provides for additional contributions by PECO to county fuel fund agencies in PECO's service territory.

80. **The Environment Will Benefit.** The Settlement promotes the use of renewable energy sources through the funding of one of the largest investments in wind generation in the

Eastern United States; educational outreach; the development and/or funding of a retail wind block program; the development of photovoltaic generation; expanded availability of Rate RS for renewable energy installations; and the acceleration of payments to the Sustainable Development Fund.

81. Customers Will Be Protected Against Unregulated Risk And Cross-Subsidization. One of PECO's objectives in adopting a holding company structure is to insulate utility customers from the risks attendant to unregulated businesses. Consistent with that objective, the Settlement provides that the determination of regulated rates shall not be affected by the success or failure of nonregulated businesses; requires PECO to adhere to reasonable accounting controls and pricing protocols in its dealings with affiliates; imposes conditions on PECO's extension of credit; and ensures reasonable access to the books, records and personnel of affiliated entities.

82. PECO Will Maintain A Strong Corporate Presence In Southeastern Pennsylvania. The Settlement ensures that PECO will maintain corporate staffing at 2301 Market Street at no less than 1250 through 2003 and maintain charitable and civic giving in Pennsylvania at no less than current levels through 2003.

83. Substantial Litigation And Associated Costs Will Be Avoided. The Settlement amicably and expeditiously resolves a number of important and contentious issues. The administrative and appellate burden and costs to litigate these matters to conclusion would be substantial.

84. The Settlement Is Consistent With Commission Policies Promoting Negotiated Settlements. The Joint Petitioners arrived at the Settlement terms after conducting

extensive discovery and engaging in in-depth discussions over many weeks. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (see 52 Pa. Code §§ 5.231, 69.391, 69.401) and Chairman Quain's admonition specific to this proceeding that the parties "work diligently, in the spirit of compromise repeatedly endorsed by this Commission, to reach an amicable resolution of this matter, if at all possible." See Separate Statement of John M. Quain, Chairman, issued March 2, 2000 in conjunction with the PUC's Order denying PECO's Petition for certification of the record under Section 335(a).

V. CONCLUSION

WHEREFORE, the Joint Petitioners, intending to be legally bound, respectfully request that the Commission: (1) approve this Joint Petition, including all terms and conditions contained herein, without modification; (2) issue Certificates of Public Convenience under Section 1102 of the Code authorizing the proposed Corporate Restructuring and Merger and the transfer of assets contemplated therein; (3) approve the agreements with affiliated interests attached as Exhibits "H-1", "H-2" and "H-3" to the Application; (4) make the findings required by Sections 2210 and 2811(e) of the Code; (5) make the findings required by Sections 32(c) and 32(k) of the Public Utility Holding Company Act regarding EWG status; (6) approve the Tariff Supplements attached as Appendix A to become effective pursuant to terms set forth therein; and (7) terminate and mark closed the proceedings at Docket No. A-110550F0147.

Respectfully submitted,



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V. CONCLUSION

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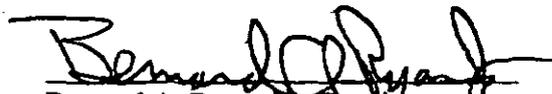
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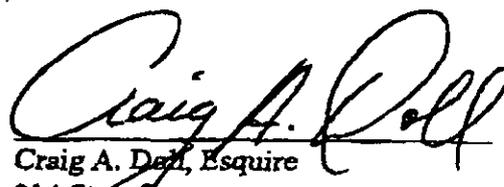

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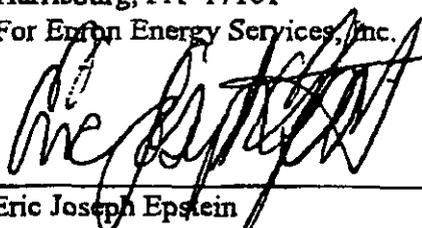

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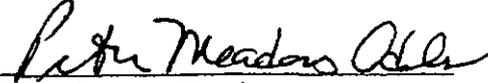
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of PECO Energy Company for :
Approval of its Restructuring Plan Under : Docket Nos. R-00973953
Section 2806 of the Public Utility Code, et al. : and P-00971265

**JOINT PETITION FOR FULL SETTLEMENT
OF PECO ENERGY COMPANY'S
RESTRUCTURING PLAN AND RELATED APPEALS
AND APPLICATION FOR A QUALIFIED RATE ORDER AND
APPLICATION FOR TRANSFER OF GENERATION ASSETS**

April 29, 1998

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OF PECO ENERGY COMPANY'S
RESTRUCTURING PLAN AND RELATED APPEALS
AND APPLICATION FOR A QUALIFIED RATE ORDER AND
APPLICATION FOR TRANSFER OF GENERATION ASSETS**

PECO Energy Company ("PECO" or the "Company"); Senator Vincent J. Fumo; the Office of Consumer Advocate ("OCA"); the Office of Small Business Advocate ("OSBA"); the Office of Trial Staff ("OTS"); the Philadelphia Area Industrial Energy Users Group ("PAIEUG"); Lance S. Haver; the Consumers Education and Protective Association, et al. ("CEPA");¹ the Environmentalists; the Delaware Valley Energy Consortium; Pennsylvania Retailers' Association; U.S. Department of the Navy; Action Alliance of Senior Citizens of Greater Philadelphia; Pennsylvania Department of Aging; Southeastern Pennsylvania Transportation Authority ("SEPTA"); Enron Power Marketing, Inc. ("Enron"); NEV East LLC ("NEV"); Conectiv Energy; Mid-Atlantic Power Supply Assoc. ("MAPSA"); Skipping Stone;

¹ As used herein, CEPA refers collectively to several intervenors represented by common counsel, including the Consumers Education and Protective Association, the Tenant Action Group, ACORN and John W. Long, Jr.

NorAm Energy Management, Inc. and Electric Clearinghouse, Inc.; Pennsylvania Petroleum Association and Pennsylvania Association of Plumbing, Heating, Cooling Contractors, Inc.; Allegheny Power System, Inc. ("APS"); GPU Energy Inc. ("GPU"); PP&L, Inc. ("PP&L"); Pennsylvania Rural Electric Assoc. ("PREA") and other parties as designated on the signature pages (all such parties collectively referred to as the "Joint Petitioners"), by their counsel, respectfully submit this Joint Petition for Full Settlement of PECO Energy Company's Proposed Restructuring Plan and Related Appeals and Application for a Qualified Rate Order and Application for Transfer of Generation Assets ("Joint Petition").

The terms and conditions of the Joint Petition represent a comprehensive settlement which resolves all issues on appeal before the Commonwealth Court and all issues before the U.S. District Court arising from challenges by the Joint Petitioners to the Commission's final order, reconsideration order and compliance orders regarding PECO's Application for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code. The Joint Petitioners aver that this comprehensive settlement is in the public interest and, therefore, request that the Commission: (1) approve without modification the proposed settlement as set forth in the Joint Petition; (2) amend the Commission's final order, reconsideration order and compliance filing orders as necessary to implement the full settlement; (3) approve the tariff supplements necessary to implement the proposed settlement as appended hereto; (4) issue a Qualified Rate Order authorizing PECO to securitize up to \$4.0 billion of stranded assets and costs as agreed to herein; and (5) approve PECO's transfer of generation assets as set forth herein.²

² The Joint Petitioners recognize that pursuant to the Public Utility Code, the Commission is obligated to provide notice and an opportunity to be heard before it may amend a prior order or issue a Qualified Rate Order. The Joint Petitioners agree;

In support of their request, the Joint Petitioners state as follows:

I. SUMMARY OF SETTLEMENT

The Joint Petitioners have agreed to the proposed settlement terms and conditions set forth in this document as a means to resolve, finally and equitably, all issues arising from PECO's proposed restructuring plan and application for a qualified rate order, in lieu of further protracted and expensive litigation in state and federal courts.

In particular, the Joint Petitioners have agreed to terms and conditions that fairly balance the interests of all parties affected by PECO's restructuring plan and that foster the creation of a vibrant competitive market. All PECO customers will receive a guaranteed 8% rate reduction effective January 1, 1999, the start date for retail electric generation competition in PECO's service territory, through December 31, 1999, and a 6% rate reduction from January 1 to December 31, 2000. In addition to the guaranteed rate decreases of 8 and 6%, customers shall receive a system-average shopping credit of 4.46 cents per KWH on January 1, 1999.

Customers that elect to shop for generation shall receive total rate reductions in 1999 equal to an 8% rate decrease and in 2000 equal to a 6% rate decrease, plus savings produced by the difference between their generation purchase price and their shopping credit. Moreover, given the system average shopping credit of 4.46 cents per KWH for the years 1999 and 2000 called for in the proposed settlement as well as other specific components agreed to herein, the Joint

(1) that PECO will provide written notice by letter to its customers; (2) that PECO will post notice in its office and on its Internet web page; and (3) that PECO will provide notice by news release.

Petitioners expect the development of a vibrant competitive market with many alternative electric generation suppliers.

In addition, PECO shall (1) recover a substantially smaller amount of stranded cost recovery than it claimed before the Commission; (2) transfer its generation assets and liabilities and wholesale power contracts subject to competitive safeguards to insure fair dealing; (3) expand its current universal service programs; (4) accelerate the phase-in to customer choice for all customer classes; (5) educate consumers about restructuring; (6) facilitate funding of sustainable energy and economic development; (7) encourage small renewable energy technologies; and (8) withdraw all of its appeals before Commonwealth Court and its civil complaint before the U.S. District Court challenging the Commission's restructuring orders at Docket Nos. R-00973953 and P-00971265.

The other Joint Petitioners, in turn, agree to resolve all objections to PECO's Restructuring Plan, as set forth herein, and to withdraw (1) all cases pending before the Commonwealth Court which challenge the constitutionality of the Electric Competition Act and the Commission's May 22, 1997 Order at Docket No. R-00973877 in PECO's securitization proceeding and (2) all appeals pending before Commonwealth Court which challenge the Commission's restructuring orders at Docket Nos. R-00973953 and P-00971265, as set forth in Part S herein.

II. BACKGROUND

1. On December 3, 1996, Governor Ridge signed into law the Electricity Generation Customer Choice and Competition Act (66 Pa. C.S. §§ 2801 et seq.) (the "Electric Competition Act"). The Electric Competition Act fundamentally restructures the provision of retail electric service in Pennsylvania by mandating the introduction of customer choice of generation supplier commencing January 1, 1999.
2. On April 1, 1997, PECO submitted a comprehensive Restructuring Plan in which it requested the Commission to approve (1) the imposition of unbundled rates, Competitive Transition Charges ("CTCs") and specific tariff provisions to ensure customers direct access to all licensed electric generation suppliers; (2) the recovery of \$6.8 billion³ of transition and stranded costs; (3) the implementation of a plan to meet its universal service obligations, including a mechanism to recover the costs of those obligations; and (4) the implementation of a proposed Consumer Education Program.
3. PECO provided notice of its Restructuring Plan filing to all customers by bill insert. In addition, notice of the filing was published in newspapers of general circulation in PECO's service territory. Copies of the filing were served on all parties to PECO's securitization proceeding at Docket No. R-00973877 and on all active participants in PECO's last general base rate investigation at Docket No. R-891364.
4. PECO's filing was assigned to Administrative Law Judges Marlane R. Chestnut and Charles E. Rainey, Jr. (the "ALJs"). Thereafter, over thirty parties intervened in the

proceeding and, on June 20, 1997, thirteen parties filed extensive testimony challenging various aspects of PECO's Restructuring Plan. In response, PECO, on July 18, 1997, submitted the rebuttal testimony and supporting exhibits of twenty-two witnesses.

5. On July 30, 1997, PECO and a number of other parties submitted a Motion for Continuance of Hearings in which they advised the ALJs that settlement negotiations were underway. As a consequence, by Orders issued July 31, 1997 and August 14, 1997, the ALJs suspended the due date for the filing of surrebuttal testimony and continued the hearing schedule to allow the settlement discussions to proceed.

6. On August 27, 1997, PECO and other parties filed with the ALJs and the Commission a Joint Petition for Partial Settlement of PECO Energy Company's Proposed Restructuring Plan And Application For A Qualified Rate Order (the "August Partial Settlement").

7. Several parties opposed the August Partial Settlement. As a result, the ALJs established a schedule for the filing of direct and responsive testimony by both those supporting the August Partial Settlement and those opposing it. Public input hearings on the August Partial Settlement were convened on October 9 and 10, 1997 and technical, evidentiary hearings were held on October 14-16, 1997. In addition, by Order entered October 2, 1997, the Commission directed that the evidentiary record be certified and the case briefed directly to the Commission without issuance by the ALJs of a Recommended Decision.

³ In its April 1, 1997 Restructuring Filing, PECO claimed stranded assets and costs totaling \$6.8 billion. That figure increased to \$7.5 billion in PECO's rebuttal case submission on July 18, 1997.

8. On October 7, 1997, Enron Energy Services Power, Inc. ("Enron") filed a Petition with the Commission at P-00971265 requesting that it: (1) approve an alternative restructuring proposal (the "Choice Plan") in lieu of the August Partial Settlement; (2) designate Enron the provider of last resort in PECO's service territory; and (3) direct PECO to issue to Enron transition bonds totaling \$5.461 billion (the "Enron Petition"). Enron also filed a Motion to Consolidate its Petition and the August Partial Settlement.

9. At its public meeting two days later, on October 9, 1997, the Commission set the Enron Petition for hearings and consolidated its consideration with the ongoing proceedings involving the August Partial Settlement. Thereafter, in accordance with a schedule established by the ALJs, extensive direct and responsive testimony was submitted by both Enron and by those opposing the Choice Plan. Technical evidentiary hearings on the Choice Plan were held on November 17-19, 1997.

10. On November 6, 1997, the Commission issued an Order, clarifying and reinforcing an earlier directive that the parties concurrently present for the record and brief to the Commission their positions regarding (1) the August Partial Settlement, (2) the Choice Plan and (3) PECO's original Restructuring Plan. The Commission established December 2, 1997 as the due date for all parties' Initial Briefs and directed that Reply Briefs would not be entertained.

11. On December 2, 1997, Initial Briefs (or letter comments in lieu of briefs) and proposed Findings of Fact and Conclusions of Law were filed by 21 different parties. That same day, the ALJs issued an Order certifying the evidentiary record to the Commission.

12. At its public meeting on December 11, 1997, the Commission, by a vote of 3-2, adopted an 88-page motion which rejected the August Partial Settlement and the Choice Plan and substantially modified PECO's proposed Restructuring Plan. Thereafter, the Commission, on December 23, 1997, issued a 164-page Opinion and Order (the "Restructuring Order") which, among other things, determined that PECO's proven net stranded costs were \$5.024 billion and that unbundling of PECO's rates resulted in a customer shopping credit of 4.46 cents per KWH.

13. On January 7, 1998, PECO and five other parties filed petitions requesting that the Commission rehear, reconsider, clarify and amend certain aspects of its Restructuring Order. By Secretarial letter dated January 8, 1998, the Commission directed that Answers to the foregoing Petitions, if any, be submitted on or before January 13, 1998. Answers were filed by PECO and eight other parties.

14. At its public meeting on January 15, 1998, the Commission, by a vote of 3-2, adopted a 14-page motion which denied many of the changes requested by the parties but adjusted PECO's stranded cost allowance to \$4.935 billion. The following day, the Commission issued a 27-page Opinion and Order (the "Reconsideration Order"). In its January 16, 1998 Reconsideration Order, the Commission directed PECO to make a compliance filing on or before January 20, 1998 and indicated that interested parties could file comments to the compliance filing on or before January 27, 1998.

15. PECO submitted its compliance filing on January 20, 1998. On January 27, 1998, nine parties submitted over 150 pages of comments to PECO's compliance tariff. Three days later, on January 30, 1998, PECO responded to the opposing parties' comments.

16. Thereafter, the Commission issued two additional Orders, one on February 5, 1998 in response to PECO's Proposed Compliance Filing (the "Compliance Order"), and another on February 26, 1998, in response to PECO's Revised Compliance Filing (the "Second Compliance Order"). PECO's Proposed Compliance Filing was rejected, and its Revised Compliance Filing was modified and/or accepted on all but one issue. Further, on February 26, 1998, the Commission ordered that a new proceeding be initiated at Docket No. R-00984298 (the "Supplier Tariff" docket) to investigate and approve finally a tariff setting forth all the terms and conditions associated with PECO/supplier interactions.

17. In response to the Restructuring Order entered December 23, 1997, the Reconsideration Order entered January 16, 1998, the Compliance Order entered February 5, 1998 and the Second Compliance Order entered February 26, 1998 (hereinafter referred to collectively as the "PECO Restructuring Orders"), PECO has filed appeals to Commonwealth Court, as well as a civil complaint action in the U.S. District Court. In addition, appeals to Commonwealth Court challenging various aspects of the Commission's orders have been filed by CEPA, Indianapolis Power and Light Company, Conectiv Energy, OCA, Enron and NEV.

17a. On April 14, 1998, ALJ Chestnut issued a recommended decision concerning the issues in the Supplier Tariff docket. On April 20, 1998, parties filed exceptions to ALJ Chestnut's decision and the matter is presently pending before the Commission for decision.

18. On and after March 5, 1998, the Joint Petitioners signed a "Pre-Settlement Agreement" designed to set forth the procedural ground rules for participation in settlement negotiations aimed at resolving the matter in lieu of further litigation in state and federal courts. This Joint Petition is the product of these negotiations.

III. TERMS AND CONDITIONS

The Joint Petitioners, intending to be legally bound and for due consideration given, agree as follows:

A. Rate Reductions and Rate Unbundling

19. On January 1, 1999, PECO will reduce its retail electric rates by 8% from the levels that existed as of December 31, 1996. That 8% rate decrease will continue in effect until January 1, 2000, when the rate reduction will become 6%. The 6% rate reduction will continue in effect until December 31, 2000. The January 1, 1999, and January 1, 2000, rate decreases will apply to all retail rate classifications and all customers within those rate classifications as set forth on a system-average basis in Schedule 1 (excluding the components of LILR, EER and

Rule 4.6 contract charges that do not contain discounts off of Rate Schedules HT, EP, GS, and PD tariffed component charges).

20. On January 1, 1999, PECO will unbundle its retail electric rates and special contracts into the following components: (1) distribution charges, (2) transmission charges, (3) a Competitive Transition Charge ("CTC") and, if applicable, an Intangible Transition Charge ("TTC") and (4) a shopping credit. The system-wide average values for these components for the years indicated are set forth in the following Schedule 1. Attached as Appendix A and incorporated as part of this settlement are tariff sheets setting forth for each rate class the rates, subject to reconciliation as set forth in Part E, that will be effective from January 1, 1999 to December 31, 2010. The tariffs set forth in Appendix A are the tariffs that implement this settlement except as specifically set forth herein.

Schedule 1

SCHEDULE OF SYSTEM-WIDE AVERAGE RATES (a)

<u>Effective Date</u>	<u>Transmission</u> (b) (1)	<u>Distribution</u> (2)	<u>T&D Rate Cap</u> (3) = (1) + (2)	<u>CTC or ITC</u> (4)	<u>Shopping Credit</u> (5)	<u>Generation Rate Cap</u> (6) = (4) + (5)
	¢/kWh	¢/kWh	¢/kWh	¢/kWh	¢/kWh	¢/kWh
January 1, 1999	0.45¢	2.53¢	2.98¢	1.72¢	4.46¢	6.18¢
January 1, 2000	0.45¢	2.53¢	2.98¢	1.92¢	4.46¢	6.38¢
January 1, 2001	0.45¢	2.53¢	2.98¢	2.51¢	4.47¢	6.98¢
January 1, 2002	0.45¢	2.53¢	2.98¢	2.51¢	4.47¢	6.98¢
January 1, 2003	0.45¢	2.53¢	2.98¢	2.47¢	4.51¢	6.98¢
January 1, 2004	0.45¢	2.53¢	2.98¢	2.43¢	4.55¢	6.98¢
January 1, 2005	0.45¢(d)	2.53¢(d)	2.98¢(d)	2.40¢	4.58¢	6.98¢
January 1, 2006	(c)	(c)	N/A	2.66¢	4.85¢	7.51¢
January 1, 2007	(c)	(c)	N/A	2.66¢	5.35¢	8.01¢
January 1, 2008	(c)	(c)	N/A	2.66¢	5.35¢	8.01¢
January 1, 2009	(c)	(c)	N/A	2.66¢	5.35¢	8.01¢
January 1, 2010	(c)	(c)	N/A	2.66¢	5.35¢	8.01¢

- (a) All prices reflect average retail billing for all classes of service (including gross receipts tax). Detail of actual individual rates for each class of service is provided in Appendix A. The average prices as presented in this Schedule 1 reflect the profile of service contained in PECO's proof of revenue set forth in Appendix A.
- (b) The Transmission prices listed are for unbundling only. The Pennsylvania Public Utility Commission does not regulate the rates for transmission service.
- (c) The cap on PECO's transmission and distribution rates under Section 2804(4) of the Electric Competition Act will be extended until June 30, 2005
- (d) Effective until June 30, 2005.

Schedule 1, Column 3 sets forth the cap on system-wide average transmission and distribution charges that will be in effect from January 1, 1999 through June 30, 2005, provided, however, PECO may if necessary request recovery of additional nuclear decommissioning expense after January 1, 2004, and such expense recovery will not be subject to any rate cap. The tariffed rates in Appendix A underlying the system-wide average figures for CTC/TTC from 1999 through 2010 set forth in Schedule 1, Column 4, and the shopping credits set forth in Schedule 1, Column 5 are fixed for each year, except as provided for in paragraph 24 pertaining to periodic reconciliation of the CTC/TTC. The generation rate caps shown on a system-wide average basis for each year are set forth in Schedule 1, column 6 above from 1999 through 2010.

B. Rate Caps and Transmission and Distribution Charges

21. The Joint Petitioners agree that the rate cap exceptions set forth in Section 2804(4) of the Electric Competition Act shall apply to the rates set forth in this settlement, except as otherwise specifically set forth herein. If at any time during the CTC Recovery Period, PECO requests and is granted a rate increase pursuant to Section 2804(4) of the Act (Rate Cap Exceptions) such increase shall not reduce the shopping credits listed in Schedule 1 and such increases shall be allocated to the appropriate unbundled rate category in accordance with determinations of the Commission. As set forth in Schedule 1, the generation rate cap is extended from 2005 to 2010, five years beyond the statutory rate cap period provided in the Electric Competition Act. Customer savings may be greater if, for example, customers obtain lower prices from a competitive

supplier or if PECO's provider of last resort residential generation rates, as provided in Part L, result in a lower rate.

The cap on PECO's transmission and distribution charges, which otherwise would expire on June 30, 2001 under Section 2804(4) of the Electric Competition Act (66 Pa. C.S. §2804(4)), will be extended until June 30, 2005, provided, however, that PECO may, if necessary, request recovery of additional nuclear decommissioning expense after January 1, 2004 and such expense recovery will not be subject to any rate cap and will be treated as an exception to the rate cap under Section 2804(4) and such increases shall not reduce the shopping credits listed in Schedule 1 and such increases shall be allocated to the appropriate unbundled rate category in accordance with determinations of the Commission. The Joint Petitioners shall not file a complaint with the Commission or otherwise challenge PECO's current transmission or distribution rate structure, or the current level of PECO's transmission rates or the current level of PECO's distribution rates as set forth in Appendix A hereto until the expiration of the transmission and distribution cap on June 30, 2005, provided, however, that any Joint Petitioner may participate as a complainant or otherwise in any future transmission rate proceeding in which an increase in PECO's current transmission rates or change in rate structure is proposed and, further, may file a complaint or otherwise participate in any proceeding before the Commission to adjust PECO's distribution rates as a result of any increase in PECO's transmission rates or change in rate structure in effect as of April 29, 1998. The transmission and distribution rate cap of 2.98 cents per KWH includes 2.97 cents for all

existing costs and services and .01 cents for the sustainable development fund during the transmission and distribution rate cap period. No new fees shall be proposed or charged during the transmission and distribution rate cap period for a cost or service that is included in the bundled transmission and distribution rate.

Pursuant to this Settlement, PECO agrees to cap the sum of its transmission and distribution charges, as described above. If, during the period that this rate cap is in effect PECO's transmission charges or rates (including but not limited to ancillary charges) are increased, then PECO's distribution rates will be reduced in a non-discriminatory manner sufficiently to avoid exceeding the transmission and distribution rate cap.

C. Competitive Metering and Billing

22. On January 1, 1999, PECO will unbundle its retail electric rates for its metering, meter reading, and billing and collection services to provide credits for those customers that elect to have their alternative suppliers perform these services. The credits for metering, meter reading and billing for each customer class are set forth in Appendix B.

Effective January 1, 1999, subject to the ability of an Electric Generation Supplier ("EGS") to comply with the terms and conditions of "Competitive Billing and Collection Service" as set forth in Appendix C to this Joint Petition, a Commission-licensed EGS may (in addition to any other rights to act as agent for the customer set forth in PECO's

tariffs) act as agent to provide a single bill and provide associated billing and collection services to its retail customers located in PECO service territory. Effective January 1, 1999, subject to the ability of an Electric Generation Supplier ("EGS") to comply with the terms and conditions of "Competitive Metering Service" as set forth in Appendix C to this Joint Petition, a Commission-licensed EGS may provide, finance, install, own, maintain, calibrate and remotely read advanced meters for service to its retail customers located in PECO service territory.

By June 1, 1998, the Joint Petitioners agree to develop standards related to "Competitive Billing and Collection Service" and "Competitive Metering Service" consistent with Appendix C.

By July 1, 1998, the Commission shall establish metering and billing standards for the PECO service territory, including the specific applicability of provisions contained within 52 Pa. Code Ch. 56 (relating to standards and billing practices for residential services) to EGSs performing consolidated billing. These Commission standards shall also include, at a minimum, data exchange and billing format standards to facilitate the efficient, speedy and non-discriminatory exchange of information between PECO and EGSs necessary to a properly functioning competitive market for retail electric generation services.

An EGS that bills on behalf of an EDC must comply with all billing and disclosure requirements applicable to an EDC, absent waiver by the Commission, including the unbundling of transmission and distribution rates.

Only PECO EDC can physically disconnect or reconnect a customer's distribution service. Physical termination of service may only be permitted for failure to pay for EDC or PLR service.

D. Securitization

23. The rates and rate reductions described in paragraphs 19 and 20 and Schedule 1 above include, but are not contingent upon, the anticipated benefits of securitization of \$4.0 billion of stranded costs. The savings from securitization are incorporated to fund the rates and rate reductions provided for in paragraphs 19 and 20 Schedule 1, and no further rate adjustment upon sale of transition bonds is required other than establishment of an ITC to replace an equal amount of CTC. The effectiveness of this settlement is contingent upon the issuance by the Commission simultaneous with approval of this settlement of an irrevocable Qualified Rate Order as set forth in Appendix D under Section 2812 of the Electric Competition Act (66 Pa. C.S. §2812) authorizing the issuance of up to \$4.0 billion of Transition Bonds at any time after the issuance of such Qualified Rate Order, provided that the ITC charges to customers terminate no later than December 31, 2010. PECO hereby applies for the issuance of a Qualified Rate Order as set forth in Appendix D which is incorporated as a part of this settlement. The Joint Petitioners agree not to oppose PECO's application for a Qualified Rate Order and PECO's securitization of its stranded assets and costs in accordance with this agreement. The Joint Petitioners agree that, to the extent necessary, the testimony, exhibits, applications and other documents submitted by the parties and the record from

the hearings in this proceeding and in PECO Energy's securitization proceeding at Docket No. R-00973877 form the basis for this settlement and PECO's Application for a Qualified Rate Order. PECO assumes the risk that securitization may not be accomplished and such fact shall not be grounds for adjustment of the rates or CTC set forth in Schedule 1.

E. Reconciliation and Projected Sales

24. The CTC/ITC rates set forth in Appendix A are designed to recover \$5.26 billion of PECO's stranded assets and costs. The CTC recovery period begins on January 1, 1999 and continues until December 31, 2010 at which point the CTC will terminate. To insure recovery of no more or no less than \$5.26 billion over this 12 year recovery period, the CTC/ITC shall be subject to an annual reconciliation within each customer class in accordance with the procedures adopted in the PECO Restructuring Orders. The shopping credits shall be adjusted to reflect the CTC/ITC reconciliation. *The reconciliation during calendar year 2010 will be done quarterly or, if necessary, monthly in order to insure full CTC/ITC recovery and termination by* December 31, 2010. As required by the Electric Competition Act, the ITC will be subject to periodic adjustment to provide adequate debt service of the transition bonds. Any increase in the ITC pursuant to such a periodic adjustment will result in a corresponding reduction in the CTC set forth in Appendix A or the Company's other regulated revenues.

For purposes of determining the annual revenue that should be recovered each year by the system-average CTCs contained in Schedule 1, a sales level of 33,569,358 Mwh will be used for the 12 months ending December 31, 1999, which will be increased each year during the CTC recovery period after 1999 by 0.8% over the projected sales level of the preceding year in accordance with the CTC reconciliation provisions in Appendix A. The sales levels to be used for reconciliation of the annual revenues for each major rate class (residential, commercial and large industrial) are set forth on Appendix E attached. For calendar year 2000 only, reconciliation will be as follows: If and to the extent sales growth exceeds 0.8% in 1999 (as set forth by class in Appendix E), the CTC/ITC figures for 2000 will be decreased accordingly, the generation rate caps for 2000 will be reduced by a commensurate amount, and the shopping credits for 2000 will remain unchanged. This will have the effect of increasing the guaranteed rate reductions for customers in 2000 from 6% to a higher percentage, depending on the level of sales growth and corresponding CTC/ITC overcollection in 1999. Appendix E also sets forth the annual amortization of stranded costs and the return allowed. Other than for reconciliation, the CTC/ITC and shopping credit figures will not be changed.

F. LILR and EER and Rule 4.6 Contracts

25. The Joint Petitioners agree that the Large Interruptible Load Rider ("LILR") will continue to be available through at least December 31, 2010 to current LILR customers. All LILR customers' unbundled charges will be: (i) for on-peak usage,

0.5¢kWh for distribution plus Gross Receipts Tax ("GRT"), and 0.5¢kWh for transmission plus GRT⁴; and (ii) for off-peak usage, the Rate HT CTC/ITC, transmission, and distribution charges calculated using the customers' billing demand. PECO will assess no CTC/ITC charges with respect to the on-peak portion of an LILR customer's interruptible load. PECO will also not impose any additional CTC/ITC charge on an LILR customer that obtains supply from a competitive supplier. For LILR customers that after January 1, 1999 choose to remain with PECO in its role as PLR/default supplier for their energy supply, the energy charges will be the individual customer's Locational Marginal Price, as calculated by PJM, or its replacement, for all on-peak energy associated with the customer's interruptible load, and applicable unbundled Rate HT charges for all other energy usage.

The Joint Petitioners agree that the Economic Efficiency Rider ("EER") and Rule 4.6 contracts will continue to be available to prospective and current EER and Rule 4.6 customers in accordance with the terms and conditions of the EER, Rule 4.6 and the customer's contract. If the customer's contract is silent with respect to the customer's right to access competitive generation supply, then the customer may obtain competitive supply. For those customers with EER or Rule 4.6 contracts that contain discounts to the Rate HT capacity charge and the first two price blocks of Rate HT, the unbundled charges will be, starting January 1, 1999: (i) the Rate HT unbundled distribution and

⁴ This transmission charge is not subject to the Commission's jurisdiction; shall it increase or decrease, the distribution charge will be adjusted accordingly.

transmission charges, and (ii) the Rate HT CTC/ITC charges discounted by the negotiated percentage discount presently reflected in the customer's contract.

With respect to those EER contracts and Rule 4.6 contracts that contain language regarding access rights and unbundling, the customers' right to access competitive generation supply and the unbundling of the customer's contract will be governed by the terms and conditions of the customers' contracts.

All Rate HT industrial customers, LILR customers, and Rule 4.6 and EER customers shall have the right to pay all applicable CTC/ITC charges in one lump sum. For customers exercising this option, PECO and the customers will negotiate a mutually acceptable lump sum using the customer's most recent 12 months of demand and energy usage as billing determinants, unless such demand and energy usage will not be representative of the customer's likely demand and energy consumption during the CTC/ITC recovery period (in which case representative values will be used), applied to the CTC/ITC charges for the entire CTC/ITC recovery period, discounted using PECO's after-tax cost of capital. Exercise of the rights in this paragraph and paragraph 26 below shall impose no additional burdens on any other customer classes. Prior to agreeing to such lump sum payment, PECO shall submit for Commission approval a proposal for determining how the lump sum payment of CTC/ITC will affect reconciliation.

26. Recovery of CTC/ITC from industrial and commercial customers that significantly reduce their purchases through installation of on-site generation will be as fully set forth in Appendix F hereto, which is incorporated as a part of this settlement,

provided, however, that existing industrial and commercial customers whose peak load during 1996 was at least four (4) megawatts, and who can document that they were actively self generating or considering self-generation as of December 31, 1996 or earlier, will pay CTC/ITC charges following full start-up of any self-generation facility they install before December 31, 2010 as follows:

- (a) PECO will calculate the customer's average billing demand and energy usage for calendar year 1996;
- (b) Using those billing determinants PECO will determine the dollar amount that would be charged were the customer billed for CTC/ITC using the prevailing Rate HT CTC/ITC charges;
- (c) PECO will bill the customer one-third of the dollar amount determined in accordance with step b.

G. Phase-In

27. Direct access to electric generation suppliers will be phased in for all customers located in PECO's service territory in accordance with the PECO Restructuring Orders, in three steps -- one-third of the non-coincident peak load of each customer class of service will have access on January 1, 1999, two-thirds of the non-coincident peak load of each customer class on January 2, 1999, and the remainder on January 2, 2000. With respect to Rate HT, PD, and EP customers and Rate GS customers above 40kW only, if the individual customer peak load subscriptions exceed

the class peak load limitation for one or more of these first two steps, then each customer's subscription will be reduced pro rata to meet the class peak load limitation, provided that customers with multiple locations in the PECO service territory shall be permitted to allocate their allotted share of their load to their multiple locations at their discretion. For purposes of this section, a customer shall be defined to include those customers which are affiliated with each other including, but not limited to, divisions, separate business units, etc. The entity which nominates for customers as defined herein with multiple locations shall designate the pro rata load for each multiple location. The Rate GS class will be divided into two classes of service for phase-in purpose only - a large customer class and a small customer class. All Rate GS customers with an average monthly demand for 1996 of 40kW or less will be in the small customer class, and all others will be in the large customer class.

H. Transfer Of Generation Assets

28. PECO and its subsidiaries are permitted to transfer or assign all of their generating assets and liabilities, as those assets and liabilities are delineated in its Restructuring Plan filing and included at the date of transfer in the accounts set for in Appendix I hereto, and any other assets necessary for the operation of the generating plants, and their wholesale power contracts to a separate corporate entity or entities. The entity or entities may, at PECO's discretion, be an affiliate or subsidiary of PECO or a non-affiliate. The wholesale power contracts transferred will exclude those wholesale

power contracts that PECO utilizes to satisfy its provider of last resort obligations and those wholesale power contracts that PECO-affiliated or divisional EGSs enter into; provided, however, that if the generation sold under such contracts is provided by PECO's generating assets, then the sales obligations under those contracts will be transferred or assigned and the purchase obligations will remain with PECO or its affiliated or divisional EGSs. The generating assets and liabilities shall be transferred at their net book value at the date of transfer. Once the transfer is completed, the generation entity, if an affiliate of PECO, will be regulated by the Commission only if it makes retail sales, and then only as an EGS.

PECO hereby requests, and the effectiveness of this Settlement is conditioned upon, the Commission's approval, without addition, condition or modification, of all aspects of PECO's transfer of its generation assets and liabilities and wholesale power contracts under this settlement and the Commission's issuance of such orders and certificates of public convenience as are necessary to implement those transfers. The Commission approval includes, but is not limited to, approval under Chapters 5, 11, 19, 21, and 28 of the Public Utility Code (66 Pa.C.S.).

The Joint Petitioners expressly acknowledge that such transfers may require various regulatory approvals or waivers, including, without limitation, the FERC, the Nuclear Regulatory Commission ("NRC") and perhaps other agencies and third parties not subject to PECO's control, and therefore the Joint Petitioners will neither oppose, nor support any opposition to, PECO's requests to obtain such approvals. If such

authorizations or waivers (other than approval by this Commission) are not obtained in a manner acceptable to PECO, then PECO will not transfer the generation assets or liabilities or contracts affected, provided, however that if a generating asset, liability or contract is not transferred, PECO will separate that asset, liability or contract and its operation from its regulated transmission and distribution functions by organizing generation assets, liabilities or contracts into a functionally separate business unit or units. Failure to obtain such authorization or waiver will not affect any other aspects of this settlement.

PECO and its affiliates and subsidiaries agree to be bound by the competitive safeguard provisions set forth in Appendix G. Upon request of a Joint Petitioner the information referenced in paragraph 6 of Appendix G shall be provided directly to the Joint Petitioner, who shall not disclose or use the information in a manner that violates the Commission's standard rules governing proprietary information. Complaints under these provisions shall be filed with the Commission and finally adjudicated by the Commission within sixty days of filing.

I. Recovery Of Stranded

29. PECO shall be permitted to recover from its retail electric customers \$5.26 billion of stranded assets and costs through either a CTC (to remain in effect from January 1, 1999 to December 31, 2010) and/or, at the Company's discretion, an ITC (to be put in place any time after the effective date of this settlement and the issuance of

transition bonds and to remain in effect up to December 31, 2010). PECO requests the Commission to declare that good cause has been shown under Section 2808 of the Electric Competition Act to permit PECO to recover the stranded assets and costs set forth below through a CTC or ITC extending to December 31, 2010. PECO also requests that the Commission expressly find that the transition and stranded cost recovery and level of CTC/ITC charges provided herein is just and reasonable and that securitization of up to \$4.0 billion of stranded costs is just and reasonable and in the public interest. The other Joint Petitioners do not object to these findings. The total authorized recovery of \$5.26 billion includes all amounts previously approved for recovery by the Commission in its May 22, 1997 Order at Docket No. R-00973877.

Under the terms of this settlement, PECO shall be permitted to recover \$5.26 billion for transition and stranded costs through a CTC and/or, at PECO's discretion, an ITC as set forth in Schedule 1, Appendix A and paragraphs 19, 20, 21, 23, 24, 25 and 26. This total authorized recovery of \$5.26 billion constitutes full and final satisfaction of all transition and stranded costs that PECO has claimed or could have claimed before the Commission pursuant to Section 2808 of the Electric Competition Act.

J. Universal Service

30. PECO will transfer all customers currently enrolled in its Customer Assistance Program ("CAP") to its pilot CAP Rate by December 31, 1998. The prepayment metering option provided to customers under the CAP Rate pilot will not

apply, unless regulatory or legislative provisions are adopted to provide a prepayment metering option. When all such customers have been successfully transferred, the CAP will be discontinued and the CAP Rate will become the vehicle by which PECO ensures that its customers receive universal service. CAP Rate will remain in effect through December 31, 2010. This settlement does not address, and the Joint Petitioners make no commitment regarding, any other issues regarding CAP Rate after December 31, 2010 including the existence or closure of CAP Rate. The Joint Petitioners, in consultation with other interested parties, agree to review and consider any recommendations for changes in the CAP Rate program identified in the current evaluation of the CAP Rate program being conducted for PECO. This settlement does not abrogate the joint stipulation reached by the parties in PECO's current CAP Rate pilot proceeding. If that joint stipulation and this settlement are inconsistent, this settlement shall control.

31. In order to be eligible for CAP Rate, customers must demonstrate that their annual household gross incomes are at or below 150% of Federal poverty income guidelines and that they have an inability to pay their electric bills, as evidenced by failure to make at least two payments of their electric bill or having met other criteria. These other criteria shall be determined by mutual agreement of the Joint Petitioners in consultation with other interested parties and shall become effective upon Commission approval. Within six months after this settlement becomes effective, the Joint Petitioners will determine what these criteria should be. For purposes of this settlement, failure to make a payment shall include partial or late payment. Applicants whose income records

cannot be found in tax or public assistance databases will be provided a personal interview to establish eligibility. Individual customer eligibility for CAP Rate will be reviewed annually. The percentage rate discounts provided to current CAP Rate customers, as set forth in PECO's existing tariff (i.e., either nominal 25.0% or 50.0% depending on income status) will be deducted from the residential rates then in effect and will remain in place, unless the Joint Petitioners in consultation with other interested parties mutually agree to modifications to the discounts, including additional discount tiers.

32. All CAP rate generation discounts shall be portable and customers' access to the benefits of universal service programs shall not be affected by whom the customer selects as its generation supplier or by whom the Commission directs shall be the customers' provider of last resort-default supplier.

33. The Joint Petitioners agree that the current annual level of universal service costs reflected in residential distribution rates is \$50.0 million. PECO will recover its universal service costs in excess of \$50.0 million, as set forth below, through a separate Section 1307 mechanism established by the Commission that will adjust distribution rates applicable to customers. Such increases in PECO's universal service costs shall be deferred for recovery until after January 1, 2002. On or after January 1, 2002, recovery of any increases shall not be subject to the rate cap under this settlement or the Electric Competition Act nor shall it impact the shopping credit. This settlement does not address or resolve the manner in which universal service costs will be allocated to customer

classes if and when PECO incurs, and seeks recovery of, universal service costs in excess of \$50.0 million. PECO will recover from its customers the universal service costs for those customers served by the CDS supplier and credit the CDS supplier for its provision of customer care services as set forth in Part L, paragraph 38c, and Appendix J.

34. Participation in the CAP Rate henceforth will be on an open enrollment basis for all eligible customers, with an initial maximum participation level of 100,000 customers subject to revision and adjustment as set forth below. If and when CAP Rate enrollment reaches the 80,000 customer mark, the Joint Petitioners agree to review and, as necessary, to propose adjustments to program parameters with the dual intent of (1) maintaining total CAP Rate program costs at or below the \$50.0 million level and (2) ensuring that all eligible customers are able to participate in the program. In the event that such adjustments are not made to program parameters such that program costs are maintained at or below the \$50.0 million level and in the event that CAP rate enrollment exceeds 90,000 customers, the costs recovered under the universal service mechanism will be increased to ensure the recovery by PECO of total annual CAP Rate costs in excess of \$50.0 million. To determine the recoverable amount, prior to January 1, 2002, PECO will be entitled to a \$650 cost credit for each CAP Rate customer, with proportional credit being given for a partial year's participation. The \$650 cost credit covers administration, credit and collection costs, CAP Rate revenue shortfalls and LIURP costs. If the CAP Rate costs are reduced to \$50.0 million or less, as a result of program adjustments, the \$650 annual cost credit will be adjusted to reflect actual costs

incurred. Absent earlier adjustment, on January 1, 2002, the costs recovered under the universal service cost recovery mechanism will be increased to ensure the recovery by PECO of total annual CAP Rate costs in excess of \$50.0 million, including administration, credit and collection costs, CAP Rate revenue shortfalls and LIURP costs. PECO will direct \$5.6 million of the annual Universal Service budget of up to \$50 million to LIURP funding, and will make LIURP program changes consistent with the PECO Restructuring Orders.

35. The Joint Petitioners agree to establish a LIURP Advisory Committee made up of representatives of Joint Petitioners and other interested consumer and public representatives. The Committee will periodically review PECO's LIURP program design and delivery, and PECO will consider all Committee recommendations. The Committee shall meet as needed, but not less than twice a year, and PECO will prepare written minutes of each meeting and shall distribute those minutes to all Committee members within thirty days following each meeting.

PECO, with the help of the LIURP Advisory Committee, shall design and implement the following LIURP program changes:

- (a) Eligibility for LIURP services will be expanded to those customers with usage over 110% of class average. PECO and the LIURP Advisor Committee will determine what services and the priority of such services to be delivered to customers with usage below 800kWh per month.

- (b) the program should audit for all electric energy usage in a dwelling that could be reduced cost-effectively.
- (c) the list of eligible measures will be expanded to include, when cost-effective, refrigerator replacement and air conditioner replacement, and to include energy education.
- (d) a renewable energy pilot consisting of a solar hot water heater program in 1999 and 2000, a photovoltaic program involving 50 installations in 1999 and 100 installations in 2000. The total 1999 budget would be \$525,000 and the total 2000 budget would be \$787,500.
- (e) The cause of high customer non-participation levels in the "Could Not Contact Customer" category should be determined and steps taken to reduce this loss of participation.

PECO shall contract out the delivery of LIURP services to qualified organizations including community based organizations experienced in low-income energy conservation and other services. Such organizations will be selected by means of an open, competitive process. Any Advisory Committee member whose organization has a potential direct interest in providing any LIURP service must (1) disclose that interest at the time the member joins the Committee, and at any time the Committee addresses the LIURP service and (2) refrain from any Committee vote on such LIURP service. PECO, its subsidiaries and/or its affiliates shall not be eligible to deliver LIURP services.

36. The Joint Petitioners agree to review and, as appropriate, to recommend changes to Commission regulations and procedures in order to facilitate the efficient and full recovery of revenues from customers, while at the same time protecting customers. Specific items that may be addressed include those regarding the payments of outstanding balances, winter termination procedures, medical certification, termination of service pending the resolution of a dispute, and payment arrangements.

K. Consumer Education and Information

37. In accordance with the PECO Restructuring Orders, the Joint Petitioners will cooperate with one another and share control in developing and proposing, for Commission approval, the local component of the Consumer Education Program for PECO. Moreover, PECO specifically agrees, as part of the settlement, to fully comply and cooperate with all Commission-directed Consumer Education efforts and orders, including the PECO Restructuring Order and the Commission's March 30, 1998 Secretarial Letter. The total costs of PECO's Consumer Education Program, including its participation in the Statewide Program, shall not exceed \$24.0 million, which amount represents \$4,183,365 as allowed expenses incurred during 1997 and up to \$19,816,635 in customer education expenses for 1998-2000.

L. Provider of Last Resort and Generation Supply Obligations And Opportunities

38. PECO agrees that, for the duration of the CTC/ITC recovery period, it will serve as the provider of last resort for all retail electric customers in its service territory that do not choose or cannot choose to purchase power from alternative suppliers, subject to the following terms, conditions and qualifications:

a. On January 1, 2001, 20% of all of PECO's residential customers -- determined by random selection, including low-income and inability-to-pay customers, and without regard to whether such customers are obtaining generation service from an EGS -- shall be assigned to a provider of last resort-default supplier other than PECO that will be selected on the basis of a Commission-approved energy and capacity market price bidding process. This service shall be referred to as Competitive Default Service ("CDS").

b. For purposes of this bidding process, all of the customers selected shall constitute a single bidding block. To qualify for the CDS bidding process an EGS must, among other Commission-approved requirements, agree to provide in 2001 at least 2.0% of its offered energy supply for CDS service from renewable resources of solar, wind, sustainable biomass (including landfill gas but excluding incineration of Municipal Solid Waste), geothermal or ocean power. The renewable energy increment shall increase by annual increments of 0.5% thereafter. The requirement to include these levels of renewable energy in the resource mix may be lowered by the Commission if the cost of the power from the renewable energy sources increases the cost of the entire block by more than 2% over what the cost would be without the renewable energy sources.

c. Terms and conditions of CDS shall be established, maintained, and modified by the Commission. Competitive Default Service bids will require a term that will be established by the Commission. Bids will provide a fixed rate for the term, unless an alternative rate structure is approved by the Commission. Any bid that exceeds the generation rate cap will be rejected. PECO EDC or divisions or PECO divisional or affiliated EGSs may not bid (either directly or as a partner or participant in any business combination with a bidder) on CDS service. Any non-affiliated EGS or consortium of EGSs that are licensed by the Commission and that meet applicable terms and conditions and standards for CDS service could bid to provide CDS service. A customer assigned to CDS retains the right to elect a competitive EGS or return to PECO default provider of last resort service at any time at no charge. If a consumer returns to CDS for any reason, the consumer will receive service from its CDS on the same terms and conditions and at the same rate available to other CDS customers. The CDS provider will, at the customer's option, provide a single bill, subject to the same standards for EGS consolidated billing as provided in Appendix C and as established by the Commission. The CDS will include all customer care functions, including processing customer accounts in accordance with all applicable regulations (Chapter 56). Chapter 56 billing and collection costs, uncollectible expense, and universal service costs shall be unbundled by PECO as set forth in Appendix J. Revenues equal to the amount of these unbundled costs shall be portable with customers randomly assigned to the CDS and shall be provided to the CDS provider to the extent it is providing services funded by these

unbundled costs. The CDS will be rebid annually, unless an alternative bidding term is approved by the Commission. If, 30 days prior to the annual bid the number of residential customers served by the CDS has fallen below 17%, a further random selection of customers shall be assigned to CDS service to restore the number of customers for the 20% level. The further random selection shall be chosen from the customers (not already assigned to CDS service) served by EGSs other than PECO. The Commission will develop qualifications for an EGS to bid on CDS, including credit worthiness and increased bond amount.

d. The EGS selected as the CDS provider will assume all responsibilities and obligations associated with provider of last resort service that are specified by the Commission. By January 1, 1999, the Commission will issue final standards for PECO governing the responsibilities and obligations of the competitively determined provider of last resort in PECO service territory.

e. PECO's distribution company shall satisfy its obligation as provider of last resort by purchasing required amounts of energy and capacity at wholesale from other generation suppliers including, in its sole discretion, its affiliated generation entity, and reselling that energy and capacity. On and after January 1, 2001 PECO as provider of last resort-default supplier will price its service to residential customers at its sole discretion with the following limitations. PECO will establish a single rate established for each rate schedule. The rate will be:

- (i) no less than (1) the price charged by the CDS selected to be the alternative provider of last resort-default supplier in the 20% bid; and
- (ii) no higher than (2) 111% of the market price of energy and capacity (determined by rate class) calculated as follows: energy will be at the average PECO-PJM market clearing price as posted on the PJM website for the prior 12 months (adjusted for line losses, on/off peak usage and GRT); capacity shall be at the average PJM penalty price for capacity for the prior 12 months (adjusted for line losses, reserve margin, load factor and GRT).
Such annualized rates will be computed monthly.

If (i) is higher than (ii) above, PECO will price its service at (i) above (the competitive PLR winning bid). In no event will the price exceed the shopping credit. Residential customers that remain with PECO provider of last resort default service will pay the annualized rate as set by PECO during January of each year. Residential customers returning to PECO provider of last resort service who agree to take such service for a minimum of 12 months will pay the annualized rate as set by PECO during the month they return. Returning residential customers shall also have the option of receiving service on a monthly published generation market rate basis without the benefit of the generation rate cap, but such rate may not be less than the prices charged by the CDS.

PECO as provider of last resort-default supplier will price its service to industrial and commercial customers at tariffed rates or at special contract rates as set forth in Appendix A.

f. The Joint Petitioners agree that through December 31, 2010, customers may choose to purchase power from alternative suppliers and later return to take generation service from PECO's EDC distribution company, or to their assigned provider of last resort default supplier.

g. This Settlement does not address, and the Joint Petitioners make no commitment regarding, PECO's obligation to serve after December 31, 2010, or the continuance or discontinuance of the right to choose an alternative supplier and later return after December 31, 2010.

M. Market Share Thresholds

39. The following are the market share thresholds for random assignment of non-shopping customers to alternative EGSs and PECO-affiliated or divisional EGSs:

a. If, on January 1, 2001, less than 35% of all PECO's residential and commercial customers by class are obtaining generation service from an alternate EGS or PECO-Supplier affiliate or division (including those customers assigned to the CDS pursuant to the competitive bid under Part L above), then the number of remaining customers, necessary to reach the 35% target, determined by random selection, by class, shall be assigned an EGS on the basis of a one-time, Commission-approved process in

which PECO-affiliated EGSs may participate. No such assignment shall be made until after all customers have been notified in advance of this process and have been given the option to remain with PECO default service or select an EGS of their choice. The 35% will be determined for residential and small commercial customers on the basis of the number of customers and large commercial customer classes on the basis of peak load. For purposes of applying this provision, the customers assigned to a provider of last resort other than PECO pursuant to Part L above shall be counted as customers receiving service from an EGS.

b. If, on January 1, 2003, less than 50% of all PECO's residential and commercial customers are obtaining generation service from an alternate EGS or PECO-supplier affiliate or division (including those customers assigned to the CDS pursuant to the competitive bid under Part L above and those customers assigned to an EGS under paragraph 39(a) above pertaining to market share thresholds), then the number of remaining customers necessary to reach the 50% target, determined by random selection, by class, shall be assigned to an EGS on the basis of a one-time, Commission-approved process in which PECO-affiliated EGSs may participate. No such assignment shall be made until after all customers have been notified in advance of this process and have been given the option to remain with PECO default service or select an EGS of their choice. The 50% will be determined for residential and small commercial customers on the basis of the number of customers and large commercial customer classes on the basis of peak load. For purposes of applying this provision, the customers assigned to a

provider of last resort or EGS other than PECO pursuant to Part L above shall be counted as customers receiving service from an EGS.

N. Code of Conduct

39a. PECO further agrees that it will be subject to and governed by the Code of Conduct set forth in Appendix H to this Joint Petition. The Code of Conduct set forth in Appendix H shall remain applicable to PECO until the later of January 1, 2001, or the date when the statewide generic code of conduct established by the Commission in its rulemaking becomes effective.

O. Renewable Energy Development

40. PECO hereby files for Commission approval Rate RS Tariff sheet attached in Appendix A to allow all customers to install and operate renewable energy generation, including appropriate provisions for self-generation and net metering. Renewable energy installations include solar, wind, biomass, and methane field generation.

The interconnection requirements for the inverter portion of photovoltaic systems, as presently set forth in the document entitled "Requirements for Parallel Operation of Non-Utility Generation" (the "Grey Book"), shall be expanded to incorporate, as appropriate, IEEE Standard 929-1988 and UL Publication 1741 ("Power Conditioning Units for Use in Residential Photovoltaic Power Systems"). PECO further agrees to

continue good faith technical discussions with the Environmentalists' members to determine what changes, if any, should be made to the interconnection requirements and process under Rate R-S and to promptly seek Commission approval to implement any changes mutually agreed upon.

The Joint Petitioners also agree that the current "engineering" review of the inverters in new photovoltaic systems will be replaced with a simplified inspection designed to confirm that the systems meet IEEE and UL standards. PECO will continue to review the other auxiliary equipment associated with photovoltaic installations to ensure compliance with the Grey Book requirements.

PECO will agree to reduce its processing fee for Rate R-S applications to \$300 for non-photovoltaic installations and to \$100 for photovoltaic installations. For multiple installations of the same photovoltaic equipment covering contiguous properties, and inspected in the same time frame, the application and processing fee will be reduced to \$50 per installation for the second and subsequent installations. PECO further agrees that it will not charge for the additional distribution expenses incurred, up to a maximum of \$1,000, to accept a new Rate R-S installation. Customers will bear the responsibility of any cost in excess of \$1,000.

P. Sustainable Development Fund

40a. PECO will also establish a sustainable energy and economic development fund which shall be funded from the 2.98 cents per kWh transmission and distribution

rate at .01 cents per kWh (less applicable gross receipts tax) on all power sold for all customers beginning on January 1, 1999 ending on June 30, 2005 or until the Commission establishes new distribution rates, whichever is later. The .01 cent per kWh shall not automatically be considered a cost of service element upon expiration of the transmission and distribution rate cap on June 30, 2005.

50% of these funds shall be administered by the Delaware Valley Community Reinvestment Fund overseen by a seven-member board of directors to be nominated by the Joint Petitioners and approved by the Commission. This portion of the funds shall be used to promote the development and use of renewable energy and clean energy technologies, energy conservation and efficiency, and economic developments projects which promote clean energy.

The remaining 50% of these funds shall be allocated to the Delaware Valley Regional Economic Development Corporation. This portion of the funds shall be used for economic development projects which have a job impact.

PECO agrees to include bill inserts twice a year describing the activities of these funds. PECO will have final review and approval of the content of the messages and will be reimbursed from the funds for its incremental costs related to the bill inserts.

Q. Resolution of Other Issues

41. Any issue not specifically addressed in this settlement shall be treated and resolved in accordance with the resolution of that issue adopted by the Commission at

this docket in the Restructuring Order entered December 23, 1997, the Reconsideration Order entered January 16, 1998, the Compliance Order entered February 5, 1998 and the Second Compliance Order entered February 26, 1998.

R. Promotion of Settlement

The Joint Petitioners agree that they shall make all reasonable and good faith efforts necessary (a) to obtain final approval of this settlement by the Commission and (b) to insure full implementation and enforcement of all of the terms and conditions set forth in this settlement, including those providing for an orderly transition from the current regulated structure to a structure under which retail customers will have direct access to a competitive market for the generation of electricity and a fair and reasonable recovery of PECO's transition and stranded costs created by this transition to a competitive market.

S. Withdrawal Of Pending State And Federal Court Cases

42. Within ten days of the execution of this Joint Petition by all of the Joint Petitioners, the Petitioners in the following cases with the concurrence and support of the Commission and other parties and intervenors that are Joint Petitioners hereto, shall petition the Commonwealth Court to continue generally further consideration of their respective appellate actions:

No. 269 M.D. 1997	CEPA Original Jurisdiction Action
No. 1600 C.D. 1997	CEPA Securitization Appeal
No. 1613 C.D. 1997	Sen Fumo Securitization Appeal

No. 1622 C.D. 1997	Environmentalists Securitization Appeal
No. 1633 C.D. 1997	OCA Securitization Appeal
No. 264 C.D. 1998	CEPA Restructuring Order and Reconsideration Order Appeal
No. 382 C.D. 1998	Conectiv Restructuring Order and Reconsideration Order Appeal
No. 398 C.D. 1998	Enron Restructuring Order and Reconsideration Order Appeal
No. 445 C.D. 1998	NEV Restructuring Order and Reconsideration Order Appeal
No. 394 C.D. 1998	OCA Reconsideration Order Appeal
No. 395 C.D. 1998	OCA Restructuring Order Appeal
No. 245 C.D. 1998	PECO Restructuring Order Appeal
No. 246 C.D. 1998	PECO Reconsideration Order Appeal
No. 706 C.D. 1998	PECO Compliance Filing Order Appeal
No. 898 C.D. 1998	PECO Second Compliance Filing Order Appeal

(The foregoing are hereafter referred to collectively as the "Commonwealth Court Actions.")

Within ten days of the execution of this Joint Petition by all of the Joint Petitioners, PECO shall petition the United States District Court to continue generally its action filed at Civil Docket No. 98-CV-335.

In addition, within ten days after the Commission's approval of this Joint Petition becomes final and no longer subject to administrative or judicial challenge, PECO shall withdraw with prejudice (a) all of its pending appeals before Commonwealth Court and (b) its pending civil action before the US. District Court, and the other Joint Petitioners shall similarly withdraw with prejudice all of their Commonwealth Court Actions. The Joint Petitioners agree that they shall not initiate or join in any court challenge to the

constitutionality or legality of the Electric Competition Act such that would prevent or preclude implementation of this settlement or any of its terms, PECO's securitization of stranded costs, this Joint Petition for Settlement or any order approving this Joint Petition, except as provided in paragraph 44 provided that nothing in this Joint Petition shall prevent any Joint Petitioner that is a party to the restructuring proceedings of another utility from initiating any court challenge, including a challenge to the constitutionality or legality of the Electric Competition Act, arising from such proceedings.

T. Effectiveness, Duration And Enforcement Of Settlement

43. The settlement proposed herein will go into effect upon the Commission's issuance of a final order approving this Joint Petition and all the settlement terms and conditions without modification. The terms of this settlement shall be implemented and enforceable notwithstanding the pendency of a legal challenge to the Commission's approval of this Joint Petition or to actions taken by another regulatory agency or Court, unless such implementation and enforcement is stayed or enjoined by the Commission, another regulatory agency, or a Court having jurisdiction over the matter.

The obligations under this settlement that apply for a specific term set forth herein shall expire automatically in accordance with the term specified, and shall require no further action for their expiration. This settlement, including all of the terms and conditions set forth above, shall expire on December 31, 2010.

The Joint Petitioners may enforce this Joint Petition through any appropriate action before the Commission or through any other available remedy. Joint Petitioners shall consider any final Commission order related to the enforcement or interpretation of this Joint Petition as an appealable order to Commonwealth Court. This shall be in addition to any other available remedy at law and equity.

If a court grants a legal challenge to the Commission's approval of this Joint Petition and settlement and issues a final non-appealable order which prevents or precludes implementation of any material term of the settlement, or if some other legal bar has the same effect, then this settlement is voidable, upon written notice by any Joint Petitioner.

U. Complete Agreement; No Alterations Or Modifications

44. This settlement resolves, with prejudice, all of the issues specifically addressed herein and precludes the Joint Petitioners from asserting contrary positions with respect to any such issue during subsequent litigation provided, however, that this settlement is made without admission against or prejudice to any factual or legal positions which any of the Joint Petitioners may assert (i) in the event that the Commission does not issue a final, non-appealable Order approving this settlement without modification; or (ii) in other Pennsylvania utilities' Restructuring proceedings before the Commission under Section 2806(D) of the Electric Competition Act and related appeals; or (iii) other proceedings before the Commission or other forums as long as such positions are not in

derogation of this settlement. The Joint Petitioners agree that this Settlement shall not constitute or be cited as controlling precedent in any other proceedings, including Pennsylvania utilities' restructuring proceedings before the Commission under Section 2806(D). This settlement is determinative and conclusive of all of the issues addressed herein and constitutes a final adjudication as to the Joint Petitioners of the matters thereof.

In addition, this settlement is expressly conditioned upon the Commission's approval of all of the specific terms and conditions contained herein without modification. If the Commission should fail to grant such approval, or should modify any of the terms and conditions herein, this settlement will terminate and be of no force and effect. The Joint Petitioners will make best efforts to support this settlement and to secure its approval by the Commission.

It is expressly understood and agreed that this settlement constitutes a negotiated resolution solely of PECO's restructuring proceedings at Docket Nos. R-00973877, R-00973953 and P-00971265 and the related court appeals and other actions listed in Part S herein.

IV. PUBLIC INTEREST CONSIDERATIONS

The Joint Petitioners submit that this settlement is in the public interest and should be approved in full for the following reasons:

45. **Customers Will Receive Rate Reductions.** The settlement enables all customers to receive significant guaranteed rate reductions.

45a. **Competition will be promoted.** Customers will receive substantial shopping credits that will allow shopping customers to achieve significant bill savings in addition to the guaranteed rate cut and that will promote competition. Moreover, the size of the shopping credit and other provisions of this settlement will insure that a fully competitive market for electricity will be created and functioning by January 1, 1999.

46. **Transmission And Distribution Charges Will Be Capped For An Additional Four Years.** The settlement provides that the cap on PECO's transmission and distribution charges, which otherwise would expire on June 30, 2001, will be extended until June 30, 2005.

47. **Generation Rates Will Be Capped For An Additional Five Years.** The settlement provides that a cap on PECO's generation rates, which otherwise would expire on December 31, 2005, will be in place, at somewhat higher levels than provided in the Electric Competition Act (66 Pa. C.S. §2804(4)), until December 31, 2010. In addition to the guaranteed rate cuts, non-shopping customers shall be served by providers of last resort or default service that will offer electric service at market-determined prices on January 1, 2001.

48. **Universal Service Coverage Will Be Expanded.** The settlement builds upon PECO's CAP Rate pilot and provides for open enrollment for eligible customers in that program, subject to an initial maximum participation level of 100,000 customers which

will be reviewed when it is reached. As such, PECO's existing customer assistance programs could more than double their enrollment in the next several years. In addition, the budget for the Low-Income Usage Reduction Program is doubled which will promote energy conservation and affordable service.

49. **Economic Development and the Environment Will Benefit.** Vigorous competition unleashed by the shopping credits and the guaranteed rate reductions will be of benefit to business and industry as well as to residential consumers. The settlement also provides for a sustainable development fund, an expanded Rate RS, and a renewable pilot program.

50. **The Securitization Of Stranded Assets Will Be Facilitated.** The settlement provides for the Commission to issue a Qualified Rate Order authorizing PECO to securitize up to \$4.0 billion of its recoverable stranded assets and costs.

51. **Substantial Litigation And Associated Costs Will Be Avoided.** The settlement amicably resolves a number of important and contentious issues raised in the proceeding and, at the same time, provides for the withdrawal of various actions currently pending before state and federal courts. The administrative and appellate burden and costs to litigate these matters, including likely future appeals, to conclusion would be substantial.

52. **The Settlement Is Consistent With Commission Policies Promoting Negotiated Settlements.** The Joint Petitioners arrived at the settlement terms after conducting extensive discovery, submitting comprehensive testimony and engaging in in-

depth discussions. The settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, this settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (see 52 Pa. Code §§5.231, 69.391, 69.401).

V. CONCLUSION

WHEREFORE, the Joint Petitioners, intending to be legally bound, respectfully request that the Commission: (1) approve the settlement terms and conditions set forth in the Joint Petition without modification; (2) amend the Commission's Restructuring Order, Reconsideration Order, Compliance Order and Second Compliance Order as necessary to implement the proposed settlement; (3) approve the Tariff Supplements attached as Appendix A to become effective pursuant to the terms set forth therein; (4) issue the Qualified Rate Order set forth in Appendix D hereto; and (5) approve PECO's transfer of generating assets as set forth herein.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PECO Energy Company's Submission of :
Universal Service and Energy Conservation : DOCKET NO. M-00001418
Plan in Compliance with Section 54.74 : R-_____**

**PETITION FOR EXPEDITED APPROVAL OF
CONSENSUS MODIFICATIONS
TO PECO ENERGY COMPANY'S
UNIVERSAL SERVICE PROGRAM
AND ASSOCIATED TARIFF CHANGES**

October 1, 2002

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PECO Energy Company's Submission of :
Universal Service and Energy Conservation : DOCKET NO. M-00001418
Plan in Compliance with Section 54.74 :
: :
: R- _____
:

PETITION FOR EXPEDITED APPROVAL OF
CONSENSUS MODIFICATIONS
TO PECO ENERGY COMPANY'S
UNIVERSAL SERVICE PROGRAM
AND ASSOCIATED TARIFF CHANGES

In accordance with the Commission's September 29, 2000 Order in this proceeding and paragraphs 30-33 of the "Joint Petition for Settlement" in Docket No. A-110550F0147, PECO Energy Company ("PECO" or "the Company") hereby submits this Petition for Expedited Approval of Consensus Modifications to PECO Energy Company's Universal Service Program and Associated Tariff Changes ("PECO Universal Services Petition"). See, PECO's Submission of Universal Service and Energy Conservation Plan in Compliance with Section 54.74, Docket No. M-00001418 (Order entered September 29, 2002) ("September 29 Order"); PECO Energy Company, Docket No. A-110550F0147, "Joint Petition For Settlement," dated March 24, 2000 ("Merger Settlement"). This petition addresses and resolves all issues identified by the Commission in the September 29 Order, fulfills certain of PECO's obligations from the Merger Settlement pertaining to a "special needs" plan, and resolves other specified issues identified

with respect to the Company's Universal Services program.

The terms and conditions of the PECO Universal Services Petition represent a consensus proposal resulting from the collaborative efforts of PECO Energy and the PECO LIURP Advisory Committee to resolve issues involving the welfare of the low-income "special needs" residential population served under PECO's Electric Service Tariff. The LIURP Advisory Committee members that participated in developing this consensus proposal and support these modifications include the Pennsylvania Office of Consumer Advocate ("OCA"), the Consumer Education and Protective Association ("CEPA"), the Association of Community Organizations and Reform Now ("ACORN"), the Tenants Action Group ("TAG"), the Action Alliance of Senior Citizens ("Action Alliance"), the Pennsylvania Utility Law Project ("PULP"), the Utility Emergency Service Fund ("UESF"), and the Pennsylvania Department of Public Welfare ("PaDPW"). The Philadelphia Area Industrial Energy Users Group participated in the collaborative effort and does not oppose the modifications.

PECO avers that the provisions set forth in this petition are in the public interest and that the rates, terms and conditions of service for the proposed CAP Rate "Special Needs" program applicable to PECO's "special needs" low-income customers are just and reasonable, and otherwise in the public interest. Therefore, PECO requests that the Commission: (1) approve without modification the proposed PECO Universal Services Petition as set forth herein; and (2) approve the proposed tariff changes, appended hereto, that are necessary to implement the new CAP "Special Needs" program, rules and regulations. See Appendix A. Due to the substantial economic and service-related benefits that will be provided PECO's low-income community, PECO requests that the Commission approve the petition and accompanying tariff supplement on

an expedited basis, by no later than December 1, 2002.

In support of its request, PECO states as follows:

I. SUMMARY OF PETITION

The consensus terms and conditions set forth in this document constitute a means to resolve, fairly and equitably, the universal services issues arising from PECO's Universal Service and Consensus Plan, submitted April 14, 2000 and the Merger Settlement as well as some additional issues addressed herein. Approval of this Petition and implementation of the program modifications and associated tariff changes will create significant benefits for PECO's low-income customer population and avoid protracted litigation. These benefits come in the form of enhanced universal services resources being made available to special needs customers, identified as those customers at the lowest level of poverty with incomes between 0-50% of federal poverty level, through substantial rate discounts under the modified CAP program. The modified CAP program also includes a component to provide additional affordability assistance to those customers whose income is between 0-25% of the federal poverty level and have experienced an extenuating circumstance that affects their continued ability to pay. As such, each of the proposed modifications achieves the goals of the Commission's regulations and policies concerning universal service programs.

Specifically, in response to the September 29 Order, the consensus modifications provide substantial CAP Rate discounts that will benefit "special needs" customers with household incomes of less than 50 percent of federal government poverty level guidelines ("FPL"). As described in detail below at Section III.A, these tariff changes provide three additional tiered rate discounts under the Company's CAP schedule ("CAP Rider A, B, and C") that will now

supplement the two existing CAP Rate tiers I and II ("to be renamed as Cap D and Cap E, respectively"). Eligibility for each tiered rate discount will depend on the relative level of the customer's household income, whether the customer takes service under Rate R or Rate RH, and whether the customer has "extenuating circumstances" that render it eligible for the steepest discounts. These tariff discounts, for specified usage, range as high as 85% below the otherwise applicable non-CAP Rate for customers with incomes between 0-25% of FPL and, for those customers with incomes between 0-25% of FPL and an identified extenuating circumstance, provide a total bundled fixed monthly charge that lies at the low end of the range identified in the Commission's CAP Policy Statement, 69 Pa. Code § 69.265(3)

In addition to these rate discounts, the benefits to be provided pursuant to this Petition include:

- (1) Additional staffing resources to be devoted to PECO's in-house CARES program,
- (2) Enhanced, targeted LIURP measures for customers that fall in the 0-50% of FPL income group;
- (3) Assurances concerning PECO's Information Technology commitment to its Universal Service Program data warehouse;
- (4) The development of a written and detailed communication, education and outreach program plan that will be developed in cooperation with the PECO LIURP Advisory Board;
- (5) Continued support of local MEAF agencies efforts to obtain hardship contributions from ratepayers;
- (6) New rules concerning eligibility verification for PECO's CAP program;

- (7) Changes to the medical certification procedures to address medically necessary electric usage and to reduce the burden of certification for those who are chronically or terminally ill; and
- (8) A commitment by PECO to hire an independent evaluator to measure and report on the impact that the program modifications set forth above have on the three groups for which CAP A, B, and C will be created.

Each of these program enhancements respond directly to concerns expressed by the Commission in the September 29 order, the Merger Settlement, or those expressed by members of the LIURP Advisory Committee.

In turn, PECO requests that the Commission find that PECO Energy has complied with the requirements of the September 29, 2000 order in all respects and mark this proceeding closed.

II. BACKGROUND

This matter has its genesis in PECO's April 14, 2000 filing in compliance with the Commission's *Reporting Requirements for Universal Service and Energy Conservation Programs* at 52 Pa. Code S 54.4 and the Merger Settlement. After several exchanges of information requests from the Commission's Bureau of Consumer Services ("BCS") and PECO, the Commission issued the September 29 Order. That order found the Company's *Universal Service and Energy Conservation Programs*, in large part, to be in compliance with pertinent provisions of the Electricity Generation Customer Choice and Competition Act ("Electric Restructuring Act"), 66 Pa.C.S. SS 2801-2812. See, PECO's Submission of Universal Service

and Energy Conservation Plan in compliance with Section 54.74, Docket No. M-00001418

(Order entered September 29, 2002)("September 29 Order").

Specifically, in the September 29 Order, the Commission made the following findings relative to PECO's universal service and conservation plans:

The Commission finds that PECO's universal service plan complies with sections 2803 and 2804(9) of the Act, the reporting requirements at 52 Pa. Code S 54.74, and the Commission's Final Order approving PECO's restructuring settlement agreement at Docket No. R-00973953. We also find that PECO's plan may not adequately comply with Section 2802(10) of the Act and the CAP Policy Statement at 52 Pa.Code § 69.265(2);

September 29 Order at 28.

The Commission ordered PECO to undertake specific steps towards analyzing and possibly enhancing the CAP Rate discounts for certain "special needs" or "safety net" customers:

1. PECO is directed to analyze the cost of extending the CAP rate discount to the entire bill of CAP Rate R base load customers served from January 1, 1998 to December 31, 1998 whose incomes are below 50% of the poverty guidelines and whose usage exceeds 500 kWh per month. This analysis should compare the costs of expanding the discount to the costs of pursuing current collection efforts for this group of customers. This analysis is to be submitted to the Commission's BCS by November 30, 2000 to ascertain whether a discount applied to the entire bill for this group of customers may significantly decrease the number of customers who might need a "safety net" or "special needs" component to the CAP Rate.

Id.

In addition, in the September 29 Order, the Commission directed PECO to 1) schedule a meeting within 90 days of the date of this order to discuss the status of the CAP Rate R analysis with the Bureau of Consumer Services; 2) to explain the benefits of and to offer budget billing to

its CAP Customers and 3) to provide BCS with a copy of the text to be used regarding their explanation of these offerings and budget billing. Finally, the Commission encouraged the Company to make the determination regarding a "safety net" or "special needs" component to the CAP Rate, if possible, prior to the June 30, 2002 deadline outlined in the Merger Settlement. Merger Settlement, para. 31.

The Merger Settlement also launched a cooperative analysis by the Company and the LIURP Advisory Subcommittee into other aspects of the Company's Universal Service Program.

These terms and conditions include the following:

- **Data Warehouse.** PECO agreed to institute and maintain a customer data warehouse that will include appropriate Universal Service data. Merger Settlement, para. 29.
- **Special Needs CAP Program Evaluation.** The Company agreed to determine the need for a "special needs" program and components of such a program after sufficient Universal Service data was compiled and that, after such information is compiled, evaluate, with the LIURP Advisory Committee, whether a "special needs" component should be added to the Company's CAP Rate programs. Such a "special needs" program should include, but was not limited to, program changes that address the special needs of customers with incomes at or below 50 percent of the federal poverty guidelines. June 30, 2002 was identified as the target date for determining the necessity for and formulation for such a program. If the parties were unable to achieve a consensus on a program by that date, PECO was obligated, within 60 days thereafter, to make a recommendation to the Commission concerning a "special needs" component. Merger Settlement, para. 31.

- **Independent Evaluation.** The Company agreed to permit H. Gil Peach, PhD to perform an independent evaluation of whether a special needs component of the Company CAP Rate would be necessary. Such independent evaluation was scheduled for completion by January 31, 2002. *Merger Settlement, para. 32.* PECO also agreed to provide Dr. Peach access to information stored in the data warehouse. *Merger Settlement, para. 30.*
- **CAP Participation Levels.** The initial maximum participation level of 100,000 customers in the Electric CAP program specified in Paragraph 34 of the 1998 Electric Restructuring Settlement was increased to a provisional maximum participation level of 125,000 customers subject to revision and adjustment in consultation with the LIURP Advisory Committee when that level is reached. *Merger Settlement, para. 34.*
- **Universal Service Fund Cost Recovery.** *In the event that Electric CAP Rate enrollment reached 90,000 customers, the cost credit recoverable in the Universal Service Fund Cost ("USFC") Section 1307 recovery mechanisms for each CAP Rate customer in excess of 90,000 customers will be \$383 per year in order to recover revenue shortfalls from the CAP Rate discounts. Merger Settlement, para. 35.*

In compliance with the September 29 Order and the Merger Settlement, PECO and the PECO LIURP Advisory convened a number of meetings to discuss the various low-income issues set forth for discussion in the Merger Settlement and the September 29 Order. At these meetings, the status of the analysis and recommendations of H. Gil Peach & Associates were discussed along with analysis developed by the Company. On June 10, 2002, Dr. Peach submitted his analysis and recommendations for the Company and LIURP Advisory Committee

to consider. As a result of these meetings and thoughtful consideration of the evaluation by Dr. Peach, the various participants in the collaborative process reached a consensus agreement concerning the modifications needed to be made to PECO's Universal Services Program. This petition documents the terms and conditions of that consensus.

III. TERMS AND CONDITIONS

The terms and conditions of the PECO Universal Services Petition are as follows:

A. CAP Rate Modifications

PECO Energy's existing CAP Rate Program is comprised of CAP Rate I and CAP Rate II. CAP Rate I eligibility is open to customers with annual household gross income at or below 100 percent of the Federal poverty income guidelines and provides a nominal 51.9 percent discount on the pricing of the first 500 kWh of usage. CAP Rate II eligibility is open to customers with annual household gross income from 101 percent up to and including 150 percent of the Federal poverty income guidelines and provides a nominal 26 percent discount on the pricing of the first 500 kWh of usage. Among other criteria, CAP Rate I and II customers also must comply with other terms and conditions applicable to energy assistance grants and energy education and conservation programs facilitated by PECO Energy.

The Consensus modifications proposed herein expand the breadth of PECO's CAP Rate services to customers with incomes between 0-50% of FPL with three additional CAP Rate offerings. See Appendix A, pro forma tariff pages. These offerings shall be identified in the PECO Electric Service Tariff as CAP A, B, and C, with the two existing CAP Rate programs, CAP Rate I and II, being renamed as CAP D and E, respectively. CAP A, B and C shall be an

open enrollment program for all eligible customers with a provisional maximum participation level of 40,000 customers. That 40,000-customer enrollment target may be increased by PECO after consultation with the LIURP Advisory Committee when that level is reached.¹ Renamed CAP D and E shall be subject to the same terms and conditions that apply to the existing CAP Rates I and II, respectively.

1) CAP A. CAP A will be established for customers with annual household gross income that is equal to or less than 25 percent of FPL and have an identified extenuating circumstance. CAP Rate A is structured as follows:

- CAP A customers that take service under Rate R will be required to pay a total monthly bill of \$12 for all usage up to 1000 kWh. Usage in excess of 1000 kWh per month would be billed the CAP D rate (now CAP Rate I) rate.
- CAP A customers that take service under Rate RH will be required to pay a total monthly bill of \$30 for all usage up to 2000 kWh billed in the winter months of October through May in addition to the month of June and 1000 kWh in the summer months of July, August and September. Usage in excess of those usage thresholds kWh per month will be billed at the CAP D rate.
- "Extenuating Circumstances" customers shall be limited to CAP Rate customers who otherwise demonstrate an inability to pay their bills as a result of unique circumstances such as those related to health (injury, illness, disability, high medical bills, medically related electric usage, death in the family), sudden loss of employment, the presence of high risk household members (children below 8 years of age, disabled individuals, or infirm elderly), an inability to comply with at least 2 non CAP A payment arrangements, or high non-discretionary electric usage related to shelter conditions not susceptible to mitigation through LIURP measures.
- CAP A enrollment will be limited to no more than 7,500 "extenuating

¹ For clarity purposes, the Company notes that the total number of customers enrolled in CAP Rates A, B, C, D and E. will count towards the 90,000 CAP Rate customer threshold identified in Paragraph 35 to the Merger Settlement, for the purpose of the Company's recovery of the per customer CAP Rate discount revenue shortfall of \$383. Moreover, while the per customer revenue shortfall may increase as a result of the steeper discounts provided for CAP Rates A, B and C, the Company has agreed not to seek recovery of the incremental rate through the Paragraph 35 USFC rate mechanism.

circumstances" customers.

- Additionally, CAP A customers and PECO CARES representatives shall work in a cooperative effort to maximize the amount of government or private financial assistance available to the customer.
- CAP A customers subject to Rate R will also receive assistance from PECO Energy to restore service by other vendors of heating energy so as to reduce usage of electric space heating.
- CAP A customers will not be eligible to shop for generation service provided by a competitive electric generation supplier.
- Finally, CAP A customers will be required to re-certify their eligibility for service under CAP Rate A on an annual basis. In this respect, PECO Energy will evaluate whether a customer's receipt of a LIHEAP grant would constitute adequate proof of income.

2) CAP B. CAP B will be established for customers with annual household gross income that is equal to or less than 25 percent of Federal poverty income guidelines. For service billed in the summer months of July, August and September, eligible customers will be provided a nominal 85 percent rate discount on the first 500 kWh, and a nominal 30 percent discount on the next 100 kWh, of their Rate R or Rate RH service; during the months of October through June, the same customers will receive a nominal 85 percent discount on the first 500 kWh of their bill. All other usage will be assessed the otherwise applicable tariff rate R and RH charges. CAP B customers will not be eligible to shop for generation service provided by a competitive electric generation supplier.

3) CAP C. CAP C will be established for customers with annual household gross income that is greater than 25 percent up to and including 50 percent of Federal poverty income guidelines. For service billed in the summer months of July, August and September, eligible customers will be provided a nominal 75 percent rate discount on the first 500 kWh, and a

nominal 30 percent discount on the next 100 kWh, of their Rate R or Rate RH service; for the months of October through June, the same customers will receive a nominal 75 percent discount on the first 500 kWh of their bill. All other usage will be assessed the otherwise applicable tariff rate R and RH charges. CAP C customers will not be eligible to shop for generation service provided by a competitive electric generation supplier.

4) *Miscellaneous CAP Program Changes.* In addition to the three additional CAP Rate tiers, PECO has agreed to make other changes to the CAP Rate program rules regarding medical certification and income verification. As noted above, CAP A customers will be required to re-verify their eligibility for that rate annually. If the customer's circumstances have changed so that they are able to move off of the CAP A program, PECO will place the customer in the most advantageous CAP Rate tier or on the appropriate rate. As for the other CAP Rates (B, C, D, and E), PECO will develop procedures designed to require all CAP customers to re-verify their eligibility every two years. Again, at re-verification, PECO will insure that the customer is in the most advantageous CAP Rate tier or on the most appropriate rate.

As far as the medical certification requirement for CAP Rate customers is concerned, PECO will replace the monthly medical certification requirement for the chronic or terminally ill with a requirement that the customers re-certify every six months; and will enact a health usage and medical certification policy that a) requires that all medically necessary usage will be charged the individual's discounted CAP Rate even where such usage may exceed the kWh discount threshold otherwise stated in the rate and b) provides information, education, and outreach resources which explain the medical certification and CAP rate medical usage policies and procedures to health care providers such as home health care aides, visiting nurses,

physicians, clinics, hospitals, hospital social workers and respite care centers.

The Company's arrearage forgiveness component to the CAP Rate will continue.

Customers who qualify and are placed on the CAP Rider will have their pre-program arrearage forgiven if they remain current on their CAP bill for six consecutive months. The development of any new arrearage during this period will delay forgiveness. Customers that develop any new arrearage will be offered a payment agreement.

B. Targeted LIURP Measures

PECO has agreed to place customers with annual household gross income that is less than or equal to 50 percent of Federal poverty income guidelines and whose average monthly electric usage exceeds 1,000 kWh per month in the highest priority population eligible for LIURP measures. LIURP treatments, including air conditioner and refrigerator replacements, where within LIURP economic guidelines, will be utilized for this population, along with other LIURP treatments as a means to reduce electric usage of this customer population. Such expenditures will be treated as expenditures from the Company's annual LIURP budget.

C. PECO CARES

PECO has agreed to commit additional resources to the CARES component of its Universal Services program. Specifically, PECO has agreed to 1) establish an in-house CARES program of at least 3 CARES case managers; and 2) develop and implement a detailed work plan stating the goals, activities, minimum qualifications and responsibilities of its CARES staff. Such detailed work plan shall be finalized no later than May 30, 2003.

D. Low-income Customer Outreach

PECO has agreed to develop a written and detailed communication, education, and outreach program for its low-income customer population. This program will address, at a minimum, the following factors: 1) how to read and understand bills and written notices; 2) an explanation of budget billing; 3) education materials and other information concerning energy conservation; 4) materials explaining CAP Rate program eligibility, terms and conditions, including the arrearage forgiveness component; 5) materials explaining the Company's Universal Services program and how to contact and work with PECO's Universal Services staff; 6) materials explaining the Company's CARES program. Development of program plan and materials will be performed in cooperation with the PECO LIURP Advisory Board.

E. Commitment to MEAF Agencies.

As part of the consensus modifications to its Universal Services program, PECO has agreed to specific measures designed to support local MEAF agencies that are designed to improve hardship contributions by ratepayers. These measures shall include the following: 1) PECO will include in its Energy News bill insert four times per year the opportunity for a customer to sign and return a pledge form to make a MEAF contribution; and 2) Donor Lists -- PECO will collect and maintain donor list information. PECO also agrees to meet with the MEAF agencies to develop measures to improve contributions to the hardship funds, which may include a Public Service Announcement.

In accordance with Paragraph 29 of the Merger Settlement, since the "special needs" CAP

Rate program provided in III.A above will not be in place by January 1, 2003, PECO Energy will make a \$400,000 contribution to the county fuel fund agencies on or before January 15, 2003.

This payment will be allocated in accordance with PECO's existing allocation formula for PECO's MEAF funds to each county.

F. IT Resources

To address concerns expressed concerning the quality and accessibility of customer data relevant to PECO's low-income customers, PECO has agreed to certain measures designed to enhance the information technology (IT) resources available to the Universal Service program. These enhancements include: 1) assurances that IT staff will be available to fulfill the priority information requirements of the Universal Service program; 2) completion of a data warehouse that is capable of providing customer information needed by PECO's Universal Service staff to manage and monitor the program, including materials needed to comply with Commission filing requirements; and 3) status reports on the functionality of the data warehouse to the PECO LIURP Advisory Committee that provides updated information on the type of information that will be incorporated into the data warehouse, the staff members that have access to the information in the data warehouse, and a history of how requests for IT assistance are processed and satisfied.

G. Program Evaluation

PECO has agreed that an independent evaluator will measure and report on the Universal Service Program modifications provided under sub-paragraphs III.A through III.F. This independent evaluation shall be performed in conjunction with the program evaluation required

under the Commission's Universal Service Regulations. For the purpose of PECO's program, the first such evaluation shall begin no later than October 31, 2005 and be completed no later than May 1, 2006.

H. Universal Services Flow Chart.

Attached hereto as Appendix B is a flow chart showing the various components of its Universal Service Program, functional responsibilities of key PECO personnel responsible for components of the PECO Universal Service program, and the corporate officers who are responsible for implementation and oversight of the Company's Universal Services programs.

I. LIURP Advisory Committee Updates

PECO Energy has also agreed that it will provide written monthly progress reports to the PECO LIURP Advisory Committee during the implementation of the consensus modifications as well as convene quarterly status meeting with the LIURP Advisory Committee. The purpose of these reports and meetings will be to provide the LIURP Advisory Committee a status update on the implementation of the Universal Service program modifications, to develop and review educational and outreach materials, and to discuss other issues that may arise from time to time relative to the Universal Service program of the Company.

J. Implementation Deadline

As an integral part of its agreement with the LIURP Advisory Committee membership, PECO Energy has agreed to take all reasonable steps necessary to ensure that its Universal

Service program modifications, as described above, fully function no later than the end of the 9th calendar month following a final Commission order approving the Petition.

K. Waiver of 52 Pa. Code § 54.74 Filing Requirement.

52 Pa. Code § 54.74 requires the Company to make a filing every three years in which it describes its universal services and energy conservation plan. Under these regulations, PECO's next plan submission in compliance with Section 54.74 of the Commission's regulations is due no later than February 28, 2003. Such update is required to provide the Commission with the status of the Company's Universal Service Plan including but not limited to program changes that have been implemented. However, other than the program changes proposed in this Petition, PECO's Universal Services and Energy Conservation program remains unchanged from that approved by the Commission in the September 29 Order. Accordingly, PECO requests waiver of 52 Pa. Code S 54.74 filing requirement to the extent that such regulation would require PECO to make a Universal Service Plan filing in compliance that includes the modifications in this Petition prior to February 28, 2006. Waiver of such requirement would allow PECO to focus its energy on implementing the program changes called for in this Petition so that affected customers can derive the benefits of the program changes as soon as possible.

IV. THE PROPOSED CONSENSUS MODIFICATIONS SHOULD BE APPROVED.

A. Introduction

The consensus Universal Services program modifications proposed herein should be approved. The proposed CAP Rate program tariff changes are just and reasonable, and consistent with applicable universal service policies, in that the three additional tiered rate discounts provide additional assistance for a substantial number of PECO's "special needs" low-income customers with annual household incomes that are less than 50 percent of federal-poverty income guidelines to enable them to better afford service. This expansion of PECO's program to address these special needs will be subject to the existing rate and other parameters established under the PECO Electric Restructuring and Merger Settlements.

Additionally, the tariff changes and the other Universal program changes to which the Company has agreed, such as the targeted LIURP measures, will assist these special needs customers in addressing the energy efficiency of their homes so that these customers can better manage their energy usage. Other changes will further outreach to customers and better educate customers as to all aspects of the program. The changes to the medical certification procedures will also ensure that medically necessary energy usage is billed at a discounted rate, and it will relieve certification burdens for those who are chronically or terminally ill. Finally, the improvements and commitments to information technology, as well as the schedule for further evaluations should allow the Company and other interested parties such as the LIURP Advisory Committee to evaluate the Company's Universal Service program on an ongoing basis.

When reviewed as a comprehensive plan, these modifications significantly advance

PECO's programs designed to meet the Commission's universal service and energy conservation plan requirements. This significant advancement shall be subject to the rate parameters of the PECO Electric Restructuring and Merger Settlement. Finally, as with consensus agreements generally, acceptance of the proposed changes without modification would be consistent with the Commission's policy favoring consensus solutions. While not technically a settlement, the results of the collaborative effort reflect an end result that is reasonable and are the product of parties with specialized expertise in resolving low-income "special needs" customer issues in the PECO Energy electric service territory.

For these reasons, and the reasons set forth in more detail below, approval of these program modifications would be just and reasonable and otherwise in the public interest.

B. The Consensus Modifications Comport With the Commission's CAP Rate Policies and Applicable Regulations and Are Otherwise Just and Reasonable.

In the September 29 Order, the Commission expressed concern that the Company's CAP Rate program "may not may not adequately comply with Section 2802(10) of the Act for a (sic) approximately twenty percent of CAP Rate Customers who have low-incomes and high usage." September 29 Order at 14-15. The proposed CAP A, B, and C tiers address these concerns expressed in the September 29 Order with respect to Section 2802(10) and the Commission's CAP regulations. CAP B, and C provide discounts of 75% and 85% rather than the existing discount of 51.9%. Thus, as the customer's income declines, the customer is eligible for additional rate discounts on the first 500 kWh of usage. Additionally, to address usage over 500 kWh during the summer months, a 30% discount is provided on an additional 100 kWh of usage. For customers at the very lowest level of poverty (incomes between 0-25% of FPL) who

have an "extenuating circumstance" a fixed payment is set at the minimum end of the range established in the CAP Policy statement, \$12 per month for non-heating electric customers and \$30 per month for an electric heating customers. See 52 Pa.Code § 69.265(B) and (C).

The proposed plan will also seek to address customers with high usage through targeted LIURP measures. When effective, these measures will include air conditioner and refrigerator replacement, two appliances that are known to be a significant source of energy usage. Through other LIURP measures targeted to these customers, the customers should be able to gain some control over their electric usage and improve their living condition.

Other universal service program changes that are presented should provide PECO low-income customer population with a balanced universal service program. The addition of three PECO's CARES case managers should enhance the ability of payment-troubled customers to obtain timely assistance in resolving their utility related issues as well as their financial and social circumstances. See I.L.C., supra. The additional CARES case managers should assist the Company in dealing with its low-income customers in a proactive manner. Modifications to the medical certification procedures should ensure that chronically or terminally ill customers are not unduly burdened, and will ensure that medically necessary electric usage is billed at a discounted rate.

The benefits of the enhanced low-income customer outreach and commitment to MEAF agencies should improve communication with the low-income customer population and should improve the customer's understanding of the program, its terms and conditions. The commitment to work further with the MEAF agencies could potentially increase energy hardship contributions from customers, thus making even more assistance available to low-income

customers. See, I.D and II.E., supra. The consensus modifications also provide for timely program evaluation, and other reporting requirements that should allow the Commission and the LIURP Advisory Committee to evaluate and monitor PECO's universal service program.

PECO submits, for additional reasons, that the Commission should deem the CAP Rates proposed herein, along with the other universal service modification, to be just and reasonable and in the public interest. The discounted rate aspect of the program should allow the Company to more effectively manage the overall cost of its universal service programs, in part due to the fact that the resources currently put into negotiating and administering payment arrangements with payment troubled customers or dealing with complaints before the Commission should now be focused, as provided by other features of the consensus modifications, on other, more productive efforts through the CARES and other Universal Services programs such as assisting customers to obtain energy assistance payments under LIHEAP and MEAF, and gaining control over their electric usage with LIURP measures. These attributes could potentially mitigate the ratemaking burden of uncollectible accounts expense and the cost of dealing with payment-troubled customers that are borne by PECO's customers.

Finally, PECO has committed to improve the quality of its universal service data warehouse. Placing a higher priority on the IT resources dedicated to this project should improve the features of the existing data warehouse and allow the universal services staff to evaluate performance of their program on a better informed basis. This enhancement will also improve the reliability of information provided to the Commission, independent evaluators and LIURP Advisory members with an interest in the performance of PECO's universal service program

Accordingly, along with the other modifications proposed for the CAP Rate program concerning income verification and medical certification policy, the Company's CAP Rate program is consistent with the Commission's regulations and should address the concerns expressed by the Commission with respect to the affordability of the CAP Rate program for all CAP eligible customers, including those with the lowest incomes.

C. The Consensus Modifications are Consistent With Commission Policies Promoting Negotiated Solutions.

PECO and the LIURP Advisory Committee arrived at the consensus modifications after conducting extensive analysis, through the efforts of Dr. Peach, the Company and other Committee members, and after engaging in in-depth technical discussions over many months. As a result, the consensus terms and conditions that developed through those efforts constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the PECO Universal Service Petition is consistent with the Commission's rules and practices encouraging negotiated settlements (see 52 Pa. Code §§ 5.231, 69.391, 69.401). While not the result of settlement discussions in a litigated proceeding, advocates from each of the interested parties cooperated to produce these consensus modifications.

D. Expedited Approval is Needed So That the Benefits of The Consensus Modification May Be Provided As Soon As Possible.

PECO Energy requests that the Commission expedite its approval of the consensus modifications so that the Company may implement the necessary changes as soon as possible. In this respect, all of the tariff changes will be implemented no later than the end of the ninth month

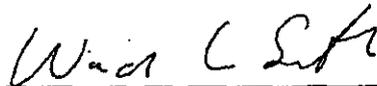
after the Commission enters an order approving the modifications. This lag is necessary to ensure that the necessary information system changes, education literature and other program changes needed to support the CAP Rates A, B and C are developed and implemented.

V. CONCLUSION

WHEREFORE, the PECO Energy Company respectfully requests that the Commission:

(1) approve this Petition, including all terms and conditions contained herein, without modification; and (2) approve the Tariff Supplements attached as Appendix A to become effective pursuant to terms set forth therein; and (3) determine that the Company's Universal Service Program, as modified by the terms and conditions of this Petition and accompanying tariff supplement comply with all legal requirements, including the requirement that PECO's tariff rates, terms and conditions must be just and reasonable.

Respectfully submitted,



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Counsel for: PECO Energy Company

DATED: October 1, 2002

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1 plans?

2 A. I am not objecting to the

3 notion of including the notion of

4 service compensation plans, yes, they

5 did. I don't want to subscribe to them,

6 only my proposals.

7 Q. Was there any self-

8 executing compensation in the First

9 Energy resolution, to your knowledge?

10 A. The decision of the

11 commission on that merger with the

12 service qualities plan, no, there was

13 not.

14 Q. Did you propose it?

15 A. Yes, I did.

16 Q. It was rejected there again

17 in the context of a merger; is that

18 correct?

19 A. Yes, it was.

20 Q. Do you believe the

21 commission was wrong?

22 A. I think that they should

23 reconsider their prior decisions on that

24 matter in light of the experiences that

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1 occurred subsequent to the GPU, First

2 Energy merger and the promises that have

3 been made in this proceeding.

4 Q. Have you reviewed the

5 merger settlement regarding PECO's CAP,

6 C-A-P, participation program?

7 A. The 2000 merger

8 settlements?

9 Q. Yes.

10 A. Yes, I summarized the key

11 provisions in my testimony.

12 Q. Your testimony notes that

13 PECO has enrolled approximately 99,600

14 people in CAP; is that correct?

15 A. Yes.

16 MR. CHESKIS: Can you show

17 us what you are talking about?

18 THE WITNESS: That number

19 sounds correct. It's around

20 100,000.

21 BY MR. DOMINGUEZ:

22 Q. I will let you read through

23 your testimony.

24 A. I gave you information that

Page 96

1 would be responsive. I think I had a

2 chart in here. Page 33.

3 Q. 99,600; is that correct?

4 A. That's correct.

5 Q. I am showing you what's

6 marked PECO Exhibit Number 11?

7 A. Yes.

8 Q. A moment ago I asked you if

9 you review the merger settlement

10 regarding PECO CAP merger program. Did

11 you review it from this agreement?

12 A. Yes.

13 Q. Look at paragraph 34 on

14 page 20.

15 A. Yes.

16 Q. Could you read that

17 paragraph into the record, please?

18 A. "The initial maximum

19 participation level of 100,000 customers

20 in the Electric CAP program specified in

21 paragraph 34 of the 1998 Electric

22 Restructuring Settlement is increased

23 consistent with paragraph 34 of the 1998

24 Electric Restructuring Settlement, the

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1 CAP Rate remains an open enrollment

2 program for all eligible customers with

3 a provisional maximum participation

4 level of 125,000 customers subject to

5 revision and adjustment in consultation

6 with the capitalized LIURP advisory

7 committee when that level is reached."

8 Q. LIURP is commonly referred

9 to as LIURP; is that correct?

10 A. That's my understanding.

11 Q. Based on the language of

12 this settlement, do you understand that

13 the maximum number of customers to

14 participate in the CAP Rate program is

15 designed to be 125,000?

16 A. It is a level of 125,000

17 customers.

18 Q. What do you understand that

19 language to mean?

20 A. I have no more

21 understanding other than what it says.

22 Q. Is PECO required under this

23 language in your review to have 125,000

24 customers in it or is that the maximum

1 for the program?

2 A. The language here does not
3 say PECO is required to enroll 125,000
4 customers, but I certainly interpreted
5 this to indicate the parties assumed
6 that 125,000 would be the next level of
7 activity that was authorized to occur
8 here.

9 Q. It was authorized to occur,
10 but PECO was not required to meet it; is
11 that correct?

12 A. Based on this paragraph I
13 can't tell you that I would see that is
14 the case.

15 Q. I didn't understand your
16 response. That you didn't see that what
17 is the case?

18 A. I said based on this
19 paragraph I can't see that that was the
20 case.

21 Q. All right.
22 I am asking you to complete
23 the thought. That was the case is going
24 to be lost in the transcript. That what

1 A. I will read what I said in
2 my testimony. Do you have any questions
3 about what I said pursuant to the 2000
4 merger settlement PECO was allowed to
5 seek rate recovery for Electric CAP Rate
6 costs as a USFC cost of \$383 per CAP
7 customer for enrollment in excess of
8 90,000 customers.

9 Q. That's referring to
10 paragraph 35 of the merger agreement,
11 that is where you got that; is that
12 correct?

13 A. That's correct.

14 Q. And, then, it says if you
15 follow me down to the middle of the
16 paragraph?

17 A. You are back to the
18 settlement.

19 Q. Back to the settlement?

20 A. Very good.

21 Q. "383 per customer per year
22 amount will remain in effect until the
23 company's next base rate case"; is that
24 correct?

1 was the case, provide a complete answer?

2 A. I was responding to your
3 question which I believe we could ask
4 him to read it back to me or ask me to
5 interpret this paragraph to require
6 PECO, I believe was your word, to enroll
7 and I said based on this paragraph I do
8 not see that that requirement is here.

9 Q. I direct your attention to
10 paragraph 35 that pertains to the
11 universal fund cost; is that correct?

12 A. Yes.

13 Q. That is the \$383 per
14 customer?

15 A. Yes.

16 Q. That's a cost recovery
17 mechanism for PECO; is that correct?

18 A. Yes.

19 Q. Explain your understanding
20 how it works?

21 A. I did in my testimony pages
22 33 to 34.

23 Q. Could you restate it
24 previously here?

1 A. That's correct.

2 Q. One of your recommendations
3 in this case is that the company's
4 ability to recover those amounts is be
5 limited; is that correct?

6 A. Well, the company's next
7 base rate case at the time this
8 settlement was reached was 2006, I
9 believe. As a result of this new
10 proceeding the OCA's other witnesses are
11 proposing that next base rate case be
12 deferred until 2010 or 2011 and my
13 recommendation with regard to cost
14 recovery needs to be understood in that
15 context.

16 Q. Explain what your
17 recommendation is?

18 A. My recommendation is that
19 beyond the current amount already
20 reflected in rates that no further USF
21 cost recovery occur during this next
22 five-year merger period.

23 Q. All right. So what you are
24 saying essentially is that what the

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1 conflict since Tiny McClusky, the senior
 2 legal person at the OCA, is a member of
 3 the LIURP advisory committee meeting and
 4 the meetings you are discussing and
 5 obviously I have communicated with her
 6 on an ongoing basis.
 7 Q. This is going to get into
 8 an area that I'll admit is privileged,
 9 but if you want to tell me about your
 10 conversations with Tiny McClusky we
 11 could talk about that.
 12 MR. CHESKIS: I will object.
 13 BY MR. DOMINGUEZ:
 14 Q. Or are you going to
 15 withdraw your answer? Do you have any
 16 personal knowledge, Ms. Alexander, of
 17 whether or not the recommendations you
 18 made conflict with the consensus
 19 modifications?
 20 A. My personal knowledge is
 21 that I am sure that they do not as a
 22 result of the OCA's ongoing involvement
 23 in that and their review and
 24 consultation with me about my testimony.

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1 So there would be no basis for assuming
 2 there is any.
 3 Q. You haven't reviewed the
 4 consensus modifications and compared
 5 those to the conditions you have set
 6 forth in your testimony?
 7 A. I have not.
 8 Q. You are assuming if they
 9 were in conflict someone from the OCA
 10 would have told you that; is that
 11 correct?
 12 A. That's correct.
 13 Q. That is the sole basis of
 14 your personal knowledge?
 15 A. About that particular
 16 matter, yes.
 17 Q. Ms. Alexander, you propose
 18 an increase for CAP Rate B through CAP
 19 E, customers from 500 kilowatt to 800
 20 kilowatt; is that correct?
 21 A. Proposing an increase in
 22 the usage level so the customer has a
 23 larger discount on a more significant
 24 part of the bill, that's correct.

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1 Q. It's your testimony that
 2 you assume that that increase is
 3 consistent with the consensus
 4 modifications?
 5 A. I assume that that is not
 6 -- let's put it this way.
 7 My recommendation was not
 8 intended here to complement the
 9 consensus modifications. My proposal
 10 was to expand the USF program beyond
 11 that currently in effect and agreed to
 12 and, again, we are talking about a
 13 merger benefits proposal here and not
 14 intending to suggest that the prior
 15 merger will deal with this matter in any
 16 definitive way.
 17 - - -
 18 (Recess taken.)
 19 - - -
 20 MR. DOMINGUEZ: All right.
 21 We are ready.
 22 BY MR. DOMINGUEZ:
 23 Q. The increase in the level
 24 from 800 to 500 kilowatts comes at a

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1 cost of 10.3 million dollars?
 2 A. That is the estimate that
 3 PECO has given us in response to that
 4 matter.
 5 Q. Who ought to pay for that
 6 in your estimation. Is this to be born
 7 by shareholder, shareholders and
 8 ratepayers in combination or just
 9 ratepayers?
 10 A. In the context of this case
 11 the theory is one thing, but the context
 12 this is proposed as a merger related
 13 benefit. When the future base rate
 14 happens with whether it's 2006 or 2010
 15 or 2011 or whatever the date is there
 16 will be a reckoning with regard to the
 17 actual cost of the program, the benefits
 18 of the program and the net cost will and
 19 should be paid for by other customers.
 20 Q. So as a matter of theory
 21 you agree customers ought to pay for
 22 this type of program the CAP program; is
 23 that correct?
 24 A. Sure, of course.

BARBARA ALEXANDER

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1 Q. But in this case you
2 propose to change that to the
3 shareholder to take back some of the
4 cost and revenue opportunities created
5 by the merger; is that correct?
6 A. That's correct for a period
7 of time, yes.
8 Q. How long would that be
9 until the next rate case?
10 A. That is correct.
11 Q. Are you aware of any other
12 utility in the state with a CAP program
13 at 800 kilowatts in terms of its level?
14 A. Most of the other CAP
15 programs are not designed like PECO's.
16 They are designed more like the
17 percentage of income plan, so they don't
18 have these rate discount features in
19 which some of the portion of the bill is
20 covered by subsidy and others are not.
21 The whole bill is covered.
22 Q. Is there any utilities with
23 a program similar to PECO's, so you
24 could make a comparison?

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1 A. No, I would say that all of
2 them are peculiar to the utility in
3 question, the funding level and
4 regulatory status budgets and so forth.
5 Q. In your opinion the 800
6 kilowatt level is the more appropriate
7 level than the 500 kilowatt level; is
8 that correct?
9 A. Yes. I have justified that
10 statement in two ways. First, we ask
11 for usage breakdown from the company
12 with respect to the cost of taking away
13 the CAP at various levels and the
14 response we got was that that was not
15 easy to determine quickly in an exact
16 way, but the way they had to estimate it
17 gave us breakdowns at certain usage
18 levels. So we had to use those levels
19 that were reflected in the data response
20 here that I have noted. Given that we
21 were looking at the cost involved in
22 each of these steps and attempted to
23 find one that we felt was reasonable in
24 light of the situation that we have

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1 here, which is the merger proposal and
2 so forth.
3 And that a gradual movement
4 to try to eliminate some usage CAPs was
5 appropriate.
6 I did give you the average
7 usage of residential and CAP Rate
8 customers to the extent I was able to
9 derive them from data responses and the
10 date certainly could determine that it
11 was over 600. So we wanted to move off
12 500. 800 was the next item we had
13 available from the cost factor.
14 Q. Is this a gap -- in your
15 view does the program as it exists
16 create a gap or does it have a gap in it
17 in connection with the level?
18 A. I believe that -- I'm
19 sorry.
20 Q. Let me rephrase the
21 question. Irrespective of the merger is
22 it your view that this programic
23 modification would be appropriate?
24 A. I think it's appropriate

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1 particularly in light of the commissions
2 order that I also cited in my testimony
3 that had just come out in the last
4 couple of weeks or months in which it
5 found an affordability problem with
6 respect to PECO's CAP program. I
7 believe the order suggested that
8 something needed to be done about this
9 matter.
10 So in the normal course I
11 suspect this matter will come back no
12 matter what happens in the merger, but
13 it certainly seems timely to raise it
14 here.
15 Q. The difference, of course,
16 being in the context of the merger, the
17 shareholder pay for the increase whereas
18 in the context of a rate case customers
19 pay for the increase?
20 A. They would pay to the
21 extent that we had a few analysis of the
22 net costs of the program. There are
23 some benefits for the expenditures that
24 you are doing here. So it would not be

BARBARA ALEXANDER

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1 a dollar for dollar recovery probably in
2 any case. And I don't pretend to give
3 you what I think the dollar recovery
4 would be, but doing that analysis -- it
5 has not been done.

6 Q. With regard to any of the
7 CAP levels A, B, C, D, E, are you aware
8 of an instance where a person who is
9 qualified to be in a certain cap program
10 was denied access by PECO?

11 A. I am not personally aware
12 of that, no.

13 Q. What would happen after the
14 rate case period? Under your
15 conditional analysis, would the 800
16 kilowatts still be the level after a
17 rate case was filed?

18 A. That's a good question, and
19 I don't think I made a recommendation
20 about that and I would defer to the end
21 of that period to the proceeding that
22 would be undertaken. There may be a
23 number of other changes or reforms in
24 this program that might be appropriate

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1 to consider at that time and I would not
2 want to pretend that I would know the
3 answer to that question five years from
4 now.

5 Q. I direct your attention to
6 pages 39 and 40 of your testimony?

7 A. Yes.

8 Q. In the carry-over bullet
9 that begins on page 39 and goes over to
10 page 44 you recommend changes to PECO's
11 policies regarding arrearage
12 forgiveness?

13 A. Yes.

14 Q. Are you aware of whether or
15 not that issue was dealt with in the
16 consensus modifications?

17 A. No.

18 Q. Have you analyzed the costs
19 of forgiving arrearage as you proposed
20 in the bullet that begins beginning on
21 39 and ending on 40?

22 A. No, I do not have the costs
23 for that. I would hope that the company
24 would provide any information about that

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1 in their rebuttal that would allow me to
2 react to that.

3 Q. Did you ask for it?

4 A. No. At the point in this
5 process where this was due and all the
6 responses had been asked I did not.

7 Q. As a matter of policy, who
8 ought to bear the cost associated with
9 the forgiveness of those arrearages?

10 A. They are part of the
11 universal service program and should be
12 treated as the other costs with the CAP
13 program.

14 Q. As we described earlier
15 today?

16 A. That is correct.

17 Q. Is the cost of the
18 arrearage forgiveness that you proposed
19 significant?

20 A. I don't know the answer to
21 that question. To get the answer we
22 would need to find out what the
23 arrearages is -- what the arrearages are
24 -- I'm sorry, I am blank. We need to

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1 find out the dollar amount the people
2 owe. Having failed another CAP Rate
3 upon entering into A, B and C -- I mean
4 we could make guesstimates about that
5 based on the enrollment on the A, B, C
6 CAP Rate programs which are not real
7 high, but that is the kind of analysis
8 that needs to be done to answer your
9 question.

10 Q. Let me ask you the question
11 this way. Is the ultimate cost going to
12 be a factor in your opinion as to
13 whether this is an appropriate
14 condition?

15 A. I would say the answer is
16 yes, it should be taken into account.

17 Q. How much would be too much?

18 A. That I cannot tell you.

19 Q. Before when you calculated
20 in regard to the changes from 800,
21 excuse me, 500 to 800 kilowatts what you
22 referred us back to a calculation of
23 10.3 million dollars in annual costs?

24 A. Yes.



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

IN REPLY PLEASE
REFER TO OUR FILE

G-00030996

APRIL 1, 2003

PECO ENERGY COMPANY
2301 MARKET STREET/ S23-1
PO BOX 8699
PHILADELPHIA PA 19101-8699

RECEIVED
APR 9 2003

ATTENTION: KENT D MURPHY

KENT D. MURPHY

Re: Affiliated Interest Agreement between PECO Energy Company
and Exelon Energy Corporation

Dear Mr. Murphy:

On January 24, 2003, PECO Energy Company ("PECO") and Exelon Energy Corporation ("Exelon") filed an Affiliated Interest Agreement. This agreement is filed in accordance with the requirements of Section 2102(b) of the Public Utility Code, 66 Pa. C.S. §2102(b). The Commission extended the period for consideration for this Agreement until further order of the Commission. The Agreement would allow PECO to participate in long-term and short-term gas commodity transactions and limited term natural gas asset management transactions with affiliates in the Exelon Corporation.

Upon review of the Company's filing, it does not appear that this filing is unreasonable or contrary to the public interest. Therefore, this filing is hereby approved. However, approval of this filing does not constitute a determination that such filing is consistent with the public interest, and that the associated costs or expenses are reasonable or prudent for the purposes of determining just and reasonable rates. Furthermore, the Commission's approval is contingent upon the possibility that subsequent audits, reviews, and inquiry, in any Commission proceeding, may be conducted, pursuant to 66 Pa. C.S. §§2102, et seq. In addition, this approval will apply only to the agreement(s), service(s), matters, and parties specifically and clearly defined under this instant filing as well as under any associated and previously filed filings.

Sincerely,

James J. McNulty
Secretary

cc: Kerry Klinefelter, FUS
Janet Patrick, Secretary's Bureau

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PECO Energy Company's Submission of :
Universal Service and Energy Conservation : DOCKET NO. M-00001418
Plan in Compliance with Section 54.74 : R-_____**

**PETITION FOR EXPEDITED APPROVAL OF
CONSENSUS MODIFICATIONS
TO PECO ENERGY COMPANY'S
UNIVERSAL SERVICE PROGRAM
AND ASSOCIATED TARIFF CHANGES**

October 1, 2002

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APPENDIX A Information submitted in compliance with 52 Pa. Code § 53.51 et seq. and proposed tariff pages.
APPENDIX B Universal Services Flow Chart

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PECO Energy Company's Submission of :
Universal Service and Energy Conservation : DOCKET NO. M-00001418
Plan in Compliance with Section 54.74 :
: :
: R- _____
:

PETITION FOR EXPEDITED APPROVAL OF
CONSENSUS MODIFICATIONS
TO PECO ENERGY COMPANY'S
UNIVERSAL SERVICE PROGRAM
AND ASSOCIATED TARIFF CHANGES

In accordance with the Commission's September 29, 2000 Order in this proceeding and paragraphs 30-33 of the "Joint Petition for Settlement" in Docket No. A-110550F0147, PECO Energy Company ("PECO" or "the Company") hereby submits this Petition for Expedited Approval of Consensus Modifications to PECO Energy Company's Universal Service Program and Associated Tariff Changes ("PECO Universal Services Petition"). See, PECO's Submission of Universal Service and Energy Conservation Plan in Compliance with Section 54.74, Docket No. M-00001418 (Order entered September 29, 2002) ("September 29 Order"); PECO Energy Company, Docket No. A-110550F0147, "Joint Petition For Settlement," dated March 24, 2000 ("Merger Settlement"). This petition addresses and resolves all issues identified by the Commission in the September 29 Order, fulfills certain of PECO's obligations from the Merger Settlement pertaining to a "special needs" plan, and resolves other specified issues identified

with respect to the Company's Universal Services program.

The terms and conditions of the PECO Universal Services Petition represent a consensus proposal resulting from the collaborative efforts of PECO Energy and the PECO LIURP Advisory Committee to resolve issues involving the welfare of the low-income "special needs" residential population served under PECO's Electric Service Tariff. The LIURP Advisory Committee members that participated in developing this consensus proposal and support these modifications include the Pennsylvania Office of Consumer Advocate ("OCA"), the Consumer Education and Protective Association ("CEPA"), the Association of Community Organizations and Reform Now ("ACORN"), the Tenants Action Group ("TAG"), the Action Alliance of Senior Citizens ("Action Alliance"), the Pennsylvania Utility Law Project ("PULP"), the Utility Emergency Service Fund ("UESF"), and the Pennsylvania Department of Public Welfare ("PaDPW"). The Philadelphia Area Industrial Energy Users Group participated in the collaborative effort and does not oppose the modifications.

PECO avers that the provisions set forth in this petition are in the public interest and that the rates, terms and conditions of service for the proposed CAP Rate "Special Needs" program applicable to PECO's "special needs" low-income customers are just and reasonable, and otherwise in the public interest. Therefore, PECO requests that the Commission: (1) approve without modification the proposed PECO Universal Services Petition as set forth herein; and (2) approve the proposed tariff changes, appended hereto, that are necessary to implement the new CAP "Special Needs" program, rules and regulations. See Appendix A. Due to the substantial economic and service-related benefits that will be provided PECO's low-income community, PECO requests that the Commission approve the petition and accompanying tariff supplement on

an expedited basis, by no later than December 1, 2002.

In support of its request, PECO states as follows:

I. SUMMARY OF PETITION

The consensus terms and conditions set forth in this document constitute a means to resolve, fairly and equitably, the universal services issues arising from PECO's Universal Service and Consensus Plan, submitted April 14, 2000 and the Merger Settlement as well as some additional issues addressed herein. Approval of this Petition and implementation of the program modifications and associated tariff changes will create significant benefits for PECO's low-income customer population and avoid protracted litigation. These benefits come in the form of enhanced universal services resources being made available to special needs customers, identified as those customers at the lowest level of poverty with incomes between 0-50% of federal poverty level, through substantial rate discounts under the modified CAP program. The modified CAP program also includes a component to provide additional affordability assistance to those customers whose income is between 0-25% of the federal poverty level and have experienced an extenuating circumstance that affects their continued ability to pay. As such, each of the proposed modifications achieves the goals of the Commission's regulations and policies concerning universal service programs.

Specifically, in response to the September 29 Order, the consensus modifications provide substantial CAP Rate discounts that will benefit "special needs" customers with household incomes of less than 50 percent of federal government poverty level guidelines ("FPL"). As described in detail below at Section IIIA, these tariff changes provide three additional tiered rate discounts under the Company's CAP schedule ("CAP Rider A, B, and C") that will now

supplement the two existing CAP Rate tiers I and II ("to be renamed as Cap D and Cap E, respectively"). Eligibility for each tiered rate discount will depend on the relative level of the customer's household income, whether the customer takes service under Rate R or Rate RH, and whether the customer has "extenuating circumstances" that render it eligible for the steepest discounts. These tariff discounts, for specified usage, range as high as 85% below the otherwise applicable non-CAP Rate for customers with incomes between 0-25% of FPL and, for those customers with incomes between 0-25% of FPL and an identified extenuating circumstance, provide a total bundled fixed monthly charge that lies at the low end of the range identified in the Commission's CAP Policy Statement, 69 Pa. Code § 69.265(3)

In addition to these rate discounts, the benefits to be provided pursuant to this Petition include:

- (1) Additional staffing resources to be devoted to PECO's in-house CARES program,
- (2) Enhanced, targeted LIURP measures for customers that fall in the 0-50% of FPL income group;
- (3) Assurances concerning PECO's Information Technology commitment to its Universal Service Program data warehouse;
- (4) The development of a written and detailed communication, education and outreach program plan that will be developed in cooperation with the PECO LIURP Advisory Board;
- (5) Continued support of local MEAF agencies efforts to obtain hardship contributions from ratepayers;
- (6) New rules concerning eligibility verification for PECO's CAP program;

- (7) Changes to the medical certification procedures to address medically necessary electric usage and to reduce the burden of certification for those who are chronically or terminally ill; and
- (8) A commitment by PECO to hire an independent evaluator to measure and report on the impact that the program modifications set forth above have on the three groups for which CAP A, B, and C will be created.

Each of these program enhancements respond directly to concerns expressed by the Commission in the September 29 order, the Merger Settlement, or those expressed by members of the LIURP Advisory Committee.

In turn, PECO requests that the Commission find that PECO Energy has complied with the requirements of the September 29, 2000 order in all respects and mark this proceeding closed.

II. BACKGROUND

This matter has its genesis in PECO's April 14, 2000 filing in compliance with the Commission's *Reporting Requirements for Universal Service and Energy Conservation Programs* at 52 Pa. Code S 54.4 and the Merger Settlement. After several exchanges of information requests from the Commission's Bureau of Consumer Services ("BCS") and PECO, the Commission issued the September 29 Order. That order found the Company's Universal Service and Energy Conservation Programs, in large part, to be in compliance with pertinent provisions of the Electricity Generation Customer Choice and Competition Act ("Electric Restructuring Act"), 66 Pa.C.S. SS 2801-2812. See, PECO's Submission of Universal Service

and Energy Conservation Plan in compliance with Section 54.74, Docket No. M-00001418

(Order entered September 29, 2002)("September 29 Order").

Specifically, in the September 29 Order, the Commission made the following findings relative to PECO's universal service and conservation plans:

The Commission finds that PECO's universal service plan complies with sections 2803 and 2804(9) of the Act, the reporting requirements at 52 Pa. Code § 54.74, and the Commission's Final Order approving PECO's restructuring settlement agreement at Docket No. R-00973953. We also find that PECO's plan may not adequately comply with Section 2802(10) of the Act and the CAP Policy Statement at 52 Pa. Code § 69.265(2);

September 29 Order at 28.

The Commission ordered PECO to undertake specific steps towards analyzing and possibly enhancing the CAP Rate discounts for certain "special needs" or "safety net" customers:

1. PECO is directed to analyze the cost of extending the CAP rate discount to the entire bill of CAP Rate R base load customers served from January 1, 1998 to December 31, 1998 whose incomes are below 50% of the poverty guidelines and whose usage exceeds 500 kWh per month. This analysis should compare the costs of expanding the discount to the costs of pursuing current collection efforts for this group of customers. This analysis is to be submitted to the Commission's BCS by November 30, 2000 to ascertain whether a discount applied to the entire bill for this group of customers may significantly decrease the number of customers who might need a "safety net" or "special needs" component to the CAP Rate.

Id.

In addition, in the September 29 Order, the Commission directed PECO to 1) schedule a meeting within 90 days of the date of this order to discuss the status of the CAP Rate R analysis with the Bureau of Consumer Services; 2) to explain the benefits of and to offer budget billing to

its CAP Customers and 3) to provide BCS with a copy of the text to be used regarding their explanation of these offerings and budget billing. Finally, the Commission encouraged the Company to make the determination regarding a "safety net" or "special needs" component to the CAP Rate, if possible, prior to the June 30, 2002 deadline outlined in the Merger Settlement. Merger Settlement, para. 31.

The Merger Settlement also launched a cooperative analysis by the Company and the LIURP Advisory Subcommittee into other aspects of the Company's Universal Service Program. These terms and conditions include the following:

- **Data Warehouse.** PECO agreed to institute and maintain a customer data warehouse that will include appropriate Universal Service data. Merger Settlement, para. 29.
- **Special Needs CAP Program Evaluation.** The Company agreed to determine the need for a "special needs" program and components of such a program after sufficient Universal Service data was compiled and that, after such information is compiled, evaluate, with the LIURP Advisory Committee, whether a "special needs" component should be added to the Company's CAP Rate programs. Such a "special needs" program should include, but was not limited to, program changes that address the special needs of customers with incomes at or below 50 percent of the federal poverty guidelines. June 30, 2002 was identified as the target date for determining the necessity for and formulation for such a program. If the parties were unable to achieve a consensus on a program by that date, PECO was obligated, within 60 days thereafter, to make a recommendation to the Commission concerning a "special needs" component. Merger Settlement, para. 31.

- **Independent Evaluation.** The Company agreed to permit H. Gil Peach, PhD to perform an independent evaluation of whether a special needs component of the Company CAP Rate would be necessary. Such independent evaluation was scheduled for completion by January 31, 2002. Merger Settlement, para. 32. PECO also agreed to provide Dr. Peach access to information stored in the data warehouse. Merger Settlement, para. 30.
- **CAP Participation Levels.** The initial maximum participation level of 100,000 customers in the Electric CAP program specified in Paragraph 34 of the 1998 Electric Restructuring Settlement was increased to a provisional maximum participation level of 125,000 customers subject to revision and adjustment in consultation with the LIURP Advisory Committee when that level is reached. Merger Settlement, para. 34.
- **Universal Service Fund Cost Recovery.** In the event that Electric CAP Rate enrollment reached 90,000 customers, the cost credit recoverable in the Universal Service Fund Cost ("USFC") Section 1307 recovery mechanisms for each CAP Rate customer in excess of 90,000 customers will be \$383 per year in order to recover revenue shortfalls from the CAP Rate discounts. Merger Settlement, para. 35.

In compliance with the September 29 Order and the Merger Settlement, PECO and the PECO LIURP Advisory convened a number of meetings to discuss the various low-income issues set forth for discussion in the Merger Settlement and the September 29 Order. At these meetings, the status of the analysis and recommendations of H. Gil Peach & Associates were discussed along with analysis developed by the Company. On June 10, 2002, Dr. Peach submitted his analysis and recommendations for the Company and LIURP Advisory Committee

to consider. As a result of these meetings and thoughtful consideration of the evaluation by Dr. Peach, the various participants in the collaborative process reached a consensus agreement concerning the modifications needed to be made to PECO's Universal Services Program. This petition documents the terms and conditions of that consensus.

III. TERMS AND CONDITIONS

The terms and conditions of the PECO Universal Services Petition are as follows:

A. CAP Rate Modifications

PECO Energy's existing CAP Rate Program is comprised of CAP Rate I and CAP Rate II. CAP Rate I eligibility is open to customers with annual household gross income at or below 100 percent of the Federal poverty income guidelines and provides a nominal 51.9 percent discount on the pricing of the first 500 kWh of usage. CAP Rate II eligibility is open to customers with annual household gross income from 101 percent up to and including 150 percent of the Federal poverty income guidelines and provides a nominal 26 percent discount on the pricing of the first 500 kWh of usage. Among other criteria, CAP Rate I and II customers also must comply with other terms and conditions applicable to energy assistance grants and energy education and conservation programs facilitated by PECO Energy.

The Consensus modifications proposed herein expand the breadth of PECO's CAP Rate services to customers with incomes between 0-50% of FPL with three additional CAP Rate offerings. See Appendix A, pro forma tariff pages. These offerings shall be identified in the PECO Electric Service Tariff as CAP A, B, and C, with the two existing CAP Rate programs, CAP Rate I and II, being renamed as CAP D and E, respectively. CAP A, B and C shall be an

open enrollment program for all eligible customers with a provisional maximum participation level of 40,000 customers. That 40,000-customer enrollment target may be increased by PECO after consultation with the LIURP Advisory Committee when that level is reached.¹ Renamed CAP D and E shall be subject to the same terms and conditions that apply to the existing CAP Rates I and II, respectively.

1) CAP A. CAP A will be established for customers with annual household gross income that is equal to or less than 25 percent of FPL and have an identified extenuating circumstance. CAP Rate A is structured as follows:

- CAP A customers that take service under Rate R will be required to pay a total monthly bill of \$12 for all usage up to 1000 kWh. Usage in excess of 1000 kWh per month would be billed the CAP D rate (now CAP Rate I) rate.
- CAP A customers that take service under Rate RH will be required to pay a total monthly bill of \$30 for all usage up to 2000 kWh billed in the winter months of October through May in addition to the month of June and 1000 kWh in the summer months of July, August and September. Usage in excess of those usage thresholds kWh per month will be billed at the CAP D rate.
- "Extenuating Circumstances" customers shall be limited to CAP Rate customers who otherwise demonstrate an inability to pay their bills as a result of unique circumstances such as those related to health (injury, illness, disability, high medical bills, medically related electric usage, death in the family), sudden loss of employment, the presence of high risk household members (children below 8 years of age, disabled individuals, or infirm elderly), an inability to comply with at least 2 non CAP A payment arrangements, or high non-discretionary electric usage related to shelter conditions not susceptible to mitigation through LIURP measures.
- CAP A enrollment will be limited to no more than 7,500 "extenuating

¹ For clarity purposes, the Company notes that the total number of customers enrolled in CAP Rates A, B, C, D and E will count towards the 90,000 CAP Rate customer threshold identified in Paragraph 35 to the Merger Settlement, for the purpose of the Company's recovery of the per customer CAP Rate discount revenue shortfall of \$383. Moreover, while the per customer revenue shortfall may increase as a result of the steeper discounts provided for CAP Rates A, B and C, the Company has agreed not to seek recovery of the incremental rate through the Paragraph 35 USFC rate mechanism.

circumstances" customers.

- Additionally, CAP A customers and PECO CARES representatives shall work in a cooperative effort to maximize the amount of government or private financial assistance available to the customer.
- CAP A customers subject to Rate R will also receive assistance from PECO Energy to restore service by other vendors of heating energy so as to reduce usage of electric space heating.
- CAP A customers will not be eligible to shop for generation service provided by a competitive electric generation supplier.
- Finally, CAP A customers will be required to re-certify their eligibility for service under CAP Rate A on an annual basis. In this respect, PECO Energy will evaluate whether a customer's receipt of a LIHEAP grant would constitute adequate proof of income.

2) **CAP B.** CAP B will be established for customers with annual household gross income that is equal to or less than 25 percent of Federal poverty income guidelines. For service billed in the summer months of July, August and September, eligible customers will be provided a nominal 85 percent rate discount on the first 500 kWh, and a nominal 30 percent discount on the next 100 kWh, of their Rate R or Rate RH service; during the months of October through June, the same customers will receive a nominal 85 percent discount on the first 500 kWh of their bill. All other usage will be assessed the otherwise applicable tariff rate R and RH charges. CAP B customers will not be eligible to shop for generation service provided by a competitive electric generation supplier.

3) **CAP C.** CAP C will be established for customers with annual household gross income that is greater than 25 percent up to and including 50 percent of Federal poverty income guidelines. For service billed in the summer months of July, August and September, eligible customers will be provided a nominal 75 percent rate discount on the first 500 kWh, and a

nominal 30 percent discount on the next 100 kWh, of their Rate R or Rate RH service; for the months of October through June, the same customers will receive a nominal 75 percent discount on the first 500 kWh of their bill. All other usage will be assessed the otherwise applicable tariff rate R and RH charges. CAP C customers will not be eligible to shop for generation service provided by a competitive electric generation supplier.

4) **Miscellaneous CAP Program Changes.** In addition to the three additional CAP Rate tiers, PECO has agreed to make other changes to the CAP Rate program rules regarding medical certification and income verification. As noted above, CAP A customers will be required to re-verify their eligibility for that rate annually. If the customer's circumstances have changed so that they are able to move off of the CAP A program, PECO will place the customer in the most advantageous CAP Rate tier or on the appropriate rate. As for the other CAP Rates (B, C, D, and E), PECO will develop procedures designed to require all CAP customers to re-verify their eligibility every two years. Again, at re-verification, PECO will insure that the customer is in the most advantageous CAP Rate tier or on the most appropriate rate.

As far as the medical certification requirement for CAP Rate customers is concerned, PECO will replace the monthly medical certification requirement for the chronic or terminally ill with a requirement that the customers re-certify every six months; and will enact a health usage and medical certification policy that a) requires that all medically necessary usage will be charged the individual's discounted CAP Rate even where such usage may exceed the kWh discount threshold otherwise stated in the rate and b) provides information, education, and outreach resources which explain the medical certification and CAP rate medical usage policies and procedures to health care providers such as home health care aides, visiting nurses,

physicians, clinics, hospitals, hospital social workers and respite care centers.

The Company's arrearage forgiveness component to the CAP Rate will continue.

Customers who qualify and are placed on the CAP Rider will have their pre-program arrearage forgiven if they remain current on their CAP bill for six consecutive months. The development of any new arrearage during this period will delay forgiveness. Customers that develop any new arrearage will be offered a payment agreement.

B. Targeted LIURP Measures

PECO has agreed to place customers with annual household gross income that is less than or equal to 50 percent of Federal poverty income guidelines and whose average monthly electric usage exceeds 1,000 kWh per month in the highest priority population eligible for LIURP measures. LIURP treatments, including air conditioner and refrigerator replacements, where within LIURP economic guidelines, will be utilized for this population, along with other LIURP treatments as a means to reduce electric usage of this customer population. Such expenditures will be treated as expenditures from the Company's annual LIURP budget.

C. PECO CARES

PECO has agreed to commit additional resources to the CARES component of its Universal Services program. Specifically, PECO has agreed to 1) establish an in-house CARES program of at least 3 CARES case managers; and 2) develop and implement a detailed work plan stating the goals, activities, minimum qualifications and responsibilities of its CARES staff. Such detailed work plan shall be finalized no later than May 30, 2003.

D. Low-income Customer Outreach

PECO has agreed to develop a written and detailed communication, education, and outreach program for its low-income customer population. This program will address, at a minimum, the following factors: 1) how to read and understand bills and written notices; 2) an explanation of budget billing; 3) education materials and other information concerning energy conservation; 4) materials explaining CAP Rate program eligibility, terms and conditions, including the arrearage forgiveness component; 5) materials explaining the Company's Universal Services program and how to contact and work with PECO's Universal Services staff; 6) materials explaining the Company's CARES program. Development of program plan and materials will be performed in cooperation with the PECO LIURP Advisory Board.

E. Commitment to MEAF Agencies.

As part of the consensus modifications to its Universal Services program, PECO has agreed to specific measures designed to support local MEAF agencies that are designed to improve hardship contributions by ratepayers. These measures shall include the following: 1) PECO will include in its Energy News bill insert four times per year the opportunity for a customer to sign and return a pledge form to make a MEAF contribution; and 2) Donor Lists— PECO will collect and maintain donor list information. PECO also agrees to meet with the MEAF agencies to develop measures to improve contributions to the hardship funds, which may include a Public Service Announcement.

In accordance with Paragraph 29 of the Merger Settlement, since the "special needs" CAP

Rate program provided in III.A above will not be in place by January 1, 2003, PECO Energy will make a \$400,000 contribution to the county fuel fund agencies on or before January 15, 2003.

This payment will be allocated in accordance with PECO's existing allocation formula for PECO's MEAF funds to each county.

F. IT Resources

To address concerns expressed concerning the quality and accessibility of customer data relevant to PECO's low-income customers, PECO has agreed to certain measures designed to enhance the information technology (IT) resources available to the Universal Service program. These enhancements include: 1) assurances that IT staff will be available to fulfill the priority information requirements of the Universal Service program; 2) completion of a data warehouse that is capable of providing customer information needed by PECO's Universal Service staff to manage and monitor the program, including materials needed to comply with Commission filing requirements; and 3) status reports on the functionality of the data warehouse to the PECO LIURP Advisory Committee that provides updated information on the type of information that will be incorporated into the data warehouse, the staff members that have access to the information in the data warehouse, and a history of how requests for IT assistance are processed and satisfied.

G. Program Evaluation

PECO has agreed that an independent evaluator will measure and report on the Universal Service Program modifications provided under sub-paragraphs III.A through III.F. This independent evaluation shall be performed in conjunction with the program evaluation required

under the Commission's Universal Service Regulations. For the purpose of PECO's program, the first such evaluation shall begin no later than October 31, 2005 and be completed no later than May 1, 2006.

H. Universal Services Flow Chart.

Attached hereto as Appendix B is a flow chart showing the various components of its Universal Service Program, functional responsibilities of key PECO personnel responsible for components of the PECO Universal Service program, and the corporate officers who are responsible for implementation and oversight of the Company's Universal Services programs.

I. LIURP Advisory Committee Updates

PECO Energy has also agreed that it will provide written monthly progress reports to the PECO LIURP Advisory Committee during the implementation of the consensus modifications as well as convene quarterly status meeting with the LIURP Advisory Committee. The purpose of these reports and meetings will be to provide the LIURP Advisory Committee a status update on the implementation of the Universal Service program modifications, to develop and review educational and outreach materials, and to discuss other issues that may arise from time to time relative to the Universal Service program of the Company.

J. Implementation Deadline

As an integral part of its agreement with the LIURP Advisory Committee membership, PECO Energy has agreed to take all reasonable steps necessary to ensure that its Universal

Service program modifications, as described above, fully function no later than the end of the 9th calendar month following a final Commission order approving the Petition.

K. Waiver of 52 Pa. Code § 54.74 Filing Requirement.

52 Pa. Code § 54.74 requires the Company to make a filing every three years in which it describes its universal services and energy conservation plan. Under these regulations, PECO's next plan submission in compliance with Section 54.74 of the Commission's regulations is due no later than February 28, 2003. Such update is required to provide the Commission with the status of the Company's Universal Service Plan including but not limited to program changes that have been implemented. However, other than the program changes proposed in this Petition, PECO's Universal Services and Energy Conservation program remains unchanged from that approved by the Commission in the September 29 Order. Accordingly, PECO requests waiver of 52 Pa. Code S 54.74 filing requirement to the extent that such regulation would require PECO to make a Universal Service Plan filing in compliance that includes the modifications in this Petition prior to February 28, 2006. Waiver of such requirement would allow PECO to focus its energy on implementing the program changes called for in this Petition so that affected customers can derive the benefits of the program changes as soon as possible.

IV. THE PROPOSED CONSENSUS MODIFICATIONS SHOULD BE APPROVED.

A. Introduction

The consensus Universal Services program modifications proposed herein should be approved. The proposed CAP Rate program tariff changes are just and reasonable, and consistent with applicable universal service policies, in that the three additional tiered rate discounts provide additional assistance for a substantial number of PECO's "special needs" low-income customers with annual household incomes that are less than 50 percent of federal poverty income guidelines to enable them to better afford service. This expansion of PECO's program to address these special needs will be subject to the existing rate and other parameters established under the PECO Electric Restructuring and Merger Settlements.

Additionally, the tariff changes and the other Universal program changes to which the Company has agreed, such as the targeted LIURP measures, will assist these special needs customers in addressing the energy efficiency of their homes so that these customers can better manage their energy usage. Other changes will further outreach to customers and better educate customers as to all aspects of the program. The changes to the medical certification procedures will also ensure that medically necessary energy usage is billed at a discounted rate, and it will relieve certification burdens for those who are chronically or terminally ill. Finally, the improvements and commitments to information technology, as well as the schedule for further evaluations should allow the Company and other interested parties such as the LIURP Advisory Committee to evaluate the Company's Universal Service program on an ongoing basis.

When reviewed as a comprehensive plan, these modifications significantly advance

PECO's programs designed to meet the Commission's universal service and energy conservation plan requirements. This significant advancement shall be subject to the rate parameters of the PECO Electric Restructuring and Merger Settlement. Finally, as with consensus agreements generally, acceptance of the proposed changes without modification would be consistent with the Commission's policy favoring consensus solutions. While not technically a settlement, the results of the collaborative effort reflect an end result that is reasonable and are the product of parties with specialized expertise in resolving low-income "special needs" customer issues in the PECO Energy electric service territory.

For these reasons, and the reasons set forth in more detail below, approval of these program modifications would be just and reasonable and otherwise in the public interest.

B. The Consensus Modifications Comport With the Commission's CAP Rate Policies and Applicable Regulations and Are Otherwise Just and Reasonable.

In the September 29 Order, the Commission expressed concern that the Company's CAP Rate program "may not may not adequately comply with Section 2802(10) of the Act for a (sic) approximately twenty percent of CAP Rate Customers who have low-incomes and high usage." September 29 Order at 14-15. The proposed CAP A, B, and C tiers address these concerns expressed in the September 29 Order with respect to Section 2802(10) and the Commission's CAP regulations. CAP B, and C provide discounts of 75% and 85% rather than the existing discount of 51.9%. Thus, as the customer's income declines, the customer is eligible for additional rate discounts on the first 500 kWh of usage. Additionally, to address usage over 500 kWh during the summer months, a 30% discount is provided on an additional 100 kWh of usage. For customers at the very lowest level of poverty (incomes between 0-25% of FPL) who

have an "extenuating circumstance" a fixed payment is set at the minimum end of the range established in the CAP Policy statement, \$12 per month for non-heating electric customers and \$30 per month for an electric heating customers. See 52 Pa Code § 69.265(B) and (C).

The proposed plan will also seek to address customers with high usage through targeted LIURP measures. When effective, these measures will include air conditioner and refrigerator replacement, two appliances that are known to be a significant source of energy usage. Through other LIURP measures targeted to these customers, the customers should be able to gain some control over their electric usage and improve their living condition.

Other universal service program changes that are presented should provide PECO low-income customer population with a balanced universal service program. The addition of three PECO's CARES case managers should enhance the ability of payment-troubled customers to obtain timely assistance in resolving their utility related issues as well as their financial and social circumstances. See I.C., supra. The additional CARES case managers should assist the Company in dealing with its low-income customers in a proactive manner. Modifications to the medical certification procedures should ensure that chronically or terminally ill customers are not unduly burdened, and will ensure that medically necessary electric usage is billed at a discounted rate.

The benefits of the enhanced low-income customer outreach and commitment to MEAF agencies should improve communication with the low-income customer population and should improve the customer's understanding of the program, its terms and conditions. The commitment to work further with the MEAF agencies could potentially increase energy hardship contributions from customers, thus making even more assistance available to low-income

customers. See, ILD and I.E., supra. The consensus modifications also provide for timely program evaluation, and other reporting requirements that should allow the Commission and the LIURP Advisory Committee to evaluate and monitor PECO's universal service program.

PECO submits, for additional reasons, that the Commission should deem the CAP Rates proposed herein, along with the other universal service modification, to be just and reasonable and in the public interest. The discounted-rate aspect of the program should allow the Company to more effectively manage the overall cost of its universal service programs, in part due to the fact that the resources currently put into negotiating and administering payment arrangements with payment troubled customers or dealing with complaints before the Commission should now be focused, as provided by other features of the consensus modifications, on other, more productive efforts through the CARES and other Universal Services programs such as assisting customers to obtain energy assistance payments under LIHEAP and MEAF, and gaining control over their electric usage with LIURP measures. These attributes could potentially mitigate the ratemaking burden of uncollectible accounts expense and the cost of dealing with payment-troubled customers that are borne by PECO's customers.

Finally, PECO has committed to improve the quality of its universal service data warehouse. Placing a higher priority on the IT resources dedicated to this project should improve the features of the existing data warehouse and allow the universal services staff to evaluate performance of their program on a better informed basis. This enhancement will also improve the reliability of information provided to the Commission, independent evaluators and LIURP Advisory members with an interest in the performance of PECO's universal service program

Accordingly, along with the other modifications proposed for the CAP Rate program concerning income verification and medical certification policy, the Company's CAP Rate program is consistent with the Commission's regulations and should address the concerns expressed by the Commission with respect to the affordability of the CAP Rate program for all CAP eligible customers, including those with the lowest incomes.

C. The Consensus Modifications are Consistent With Commission Policies Promoting Negotiated Solutions.

PECO and the LIURP Advisory Committee arrived at the consensus modifications after conducting extensive analysis, through the efforts of Dr. Peach, the Company and other Committee members, and after engaging in in-depth technical discussions over many months. As a result, the consensus terms and conditions that developed through those efforts constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the PECO Universal Service Petition is consistent with the Commission's rules and practices encouraging negotiated settlements (see 52 Pa. Code §§ 5.231, 69.391, 69.401). While not the result of settlement discussions in a litigated proceeding, advocates from each of the interested parties cooperated to produce these consensus modifications.

D. Expedited Approval is Needed So That the Benefits of The Consensus Modification May Be Provided As Soon As Possible.

PECO Energy requests that the Commission expedite its approval of the consensus modifications so that the Company may implement the necessary changes as soon as possible. In this respect, all of the tariff changes will be implemented no later than the end of the ninth month

after the Commission enters an order approving the modifications. This lag is necessary to ensure that the necessary information system changes, education literature and other program changes needed to support the CAP Rates A, B and C are developed and implemented.

V. CONCLUSION

WHEREFORE, the PECO Energy Company respectfully requests that the Commission: (1) approve this Petition, including all terms and conditions contained herein, without modification; and (2) approve the Tariff Supplements attached as Appendix A to become effective pursuant to terms set forth therein; and (3) determine that the Company's Universal Service Program, as modified by the terms and conditions of this Petition and accompanying tariff supplement comply with all legal requirements, including the requirement that PECO's tariff rates, terms and conditions must be just and reasonable.

Respectfully submitted,



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