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Phila
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

DOCUMENT
FOLDER

DIRECT TESTIMONY

OF

RICHARD LA CAPRA

REGARDING MERGER POLICY AND BENEFITS

ON BEHALF OF THE

PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE

NON-PROPRIETARY VERSION

JUNE 2005

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

1 **I. INTRODUCTION**

2

3 **Q. Please identify yourself for the record.**

4

5 A. My name is Richard La Capra. My business address is La Capra Associates, 20 Winthrop
6 Square, Boston, MA 02110. La Capra Associates is a Boston-based firm providing
7 consulting services to utilities.

8

9 **Q. Please summarize your experience and qualifications.**

10

11 A. I have 30 years experience as an advisor in electricity and energy planning, and have
12 provided expert testimony in over 28 states and federal jurisdictions covering the areas of
13 industry restructuring, pricing policy, load and customer research, financial analysis, and
14 power supply planning. Additionally, I have created and presented professional
15 development programs for the Electric Council of New England, the Center for
16 Professional Advancement, the New England Rate Forum, the Electric Power Research
17 Institute, and the American Gas Association. My educational credentials include a
18 Bachelor of Engineering: Electric and Mechanical Engineering, a Masters of Business
19 Administration: Economics, and a Certificate in Advanced Finance. I have testified in the
20 prior merger cases of First Energy – GPU and PECO – Unicom.

21

22 **Q. What is the purpose of your testimony in this proceeding?**

23

24 A. Exelon and Public Service Enterprise Group have proposed to merge. An application for
25 approval for this merger has been filed with the Pennsylvania Public Utility Commission
26 (the “Commission”). A similar application has also been filed with the New Jersey
27 Board of Public Utilities. La Capra Associates has been retained by the Pennsylvania
28 Office of Consumer Advocate (“PA OCA”) to assist in the review of this merger
29 application.

1 My testimony in this proceeding presents the analysis, results, and conclusions of La
2 Capra Associates' review of this merger and its impact on ratepayers and the
3 Commonwealth. My testimony will also present a number of modifications or conditions
4 that are necessary to address the numerous concerns that I have identified with the
5 merger.

6
7 In conducting my analysis, I have reviewed the Applicants' filed testimony and exhibits
8 and their responses to discovery propounded by the PA OCA and others. I have also
9 reviewed publicly available documents, such as annual reports and SEC filings.

10
11 **Q. Have you also reviewed the testimony of other PA OCA witnesses in this**
12 **proceeding?**

13
14 A. Yes. I have reviewed the testimony being presented by Pa OCA witnesses Barbara
15 Alexander and Jerome Mierzwa. I have also reviewed the testimony of OCA witnesses
16 Smith and Hahn on market power issues. I will reference their testimony and conclusions
17 as necessary.

18
19 **Q. Please summarize your testimony and conclusions.**

20
21 A. My testimony establishes that the proposed filing does not meet the standard that would
22 support Commission approval of the merger, as it does not provide substantial affirmative
23 benefits to, and could actually be detrimental to, Pennsylvania ratepayers and the
24 Commonwealth. As proposed by the Applicants, I do not recommend that the merger be
25 approved by this Commission. The conclusions that I reach regarding the merger are as
26 set forth below:

- 27
28
- Even as proposed by the Applicants, the merger may not provide any benefits to
29 Pennsylvania ratepayers and will not provide substantial, affirmative benefits.
 - The merger was initiated in order to combine ownership and operation of
30 generation resources and not as a means to primarily benefit utility operations.
31

- 1 • The merger may result in an increase in the cost of electricity to Pennsylvania
- 2 ratepayers.
- 3 • The merger may result in increased, rather than decreased, cost of distribution
- 4 service in Pennsylvania.
- 5 • The merger as proposed may result in degraded electric service in Pennsylvania.
- 6 • The merger could negatively affect PECO's gas procurement, and could result in
- 7 increased natural gas costs.
- 8 • The merger will impose economic costs on Pennsylvania as a result of job losses.
- 9

10 **Q. Are there conditions under which this merger could be approved?**

11

12 A. In order for the Commission to approve this merger, the terms of the merger must reflect

13 merger benefits to ratepayers and Pennsylvania that are substantial, and must also

14 eliminate or mitigate various potential risks and harms that could result from the merger

15 as originally proposed. These terms, at a minimum, include the following conditions:

16

- 17 • Continuation of transmission and distribution rate caps until 2010 at current level
- 18 of rates, which reflect a \$40 million annual distribution rate reduction that was
- 19 approved in the prior merger.
- 20 • Appropriate plans to mitigate market power, as recommended by OCA witnesses
- 21 Smith and Hahn.
- 22 • Safeguards and improvements for service reliability and universal service
- 23 programs as recommended by OCA witness Alexander.
- 24 • Commitment to community and corporate presence as recommended by me and
- 25 OCA witness Alexander.
- 26 • Safeguards to protect against job loss in Pennsylvania.
- 27 • Safeguards to protect against unreasonable changes in the gas procurement
- 28 function as recommended by OCA witness Mierzwa.
- 29 • Safeguards against negative financial consequences to PECO as a result of
- 30 corporate activity.
- 31 • Amortization of all costs to achieve by 2010.

1 These conditions should be in addition to, not in lieu of, other conditions that the
2 Commission finds to be appropriate based on the testimony of other parties to this
3 proceeding. Issues such as energy efficiency, environmental protection, renewable
4 energy, employment, and low income program funding and design should be addressed.
5
6

7 **OVERVIEW OF THE MERGER**
8

9 **Q. Please provide a brief overview of the merger.**
10

11 A. Exelon is a registered holding company under the Public Utility Holding Company Act of
12 1935. Public Service Enterprise Group (“PSEG”) is an exempt holding company under
13 the Public Utility Holding Company Act of 1935. Exelon and PSEG (collectively the
14 “Applicants”) have applied for approvals required to merge their respective companies.
15 If the proposed merger is approved and consummated, each holder of PSEG common
16 stock will receive 1.225 shares of Exelon common stock. The value of this transaction is
17 estimated by the Applicants to be \$12 billion.
18

19 Commonwealth Edison (“ComEd”) and PECO Energy Company (“PECO”) are regulated
20 subsidiaries of Exelon. Public Service Electric & Gas (“PSE&G”) is a regulated
21 subsidiary of Public Service Enterprise Group. The combined operations of these
22 regulated entities have over 7 million electric customers and more than 2 million gas
23 customers. Annual electric energy sales will be approximately 170 billion KWH. Total
24 annual revenues will be over \$17 billion, and plant in service will exceed \$23 billion.
25

26 Both parent companies have significant subsidiaries, especially in the wholesale electric
27 generation business. This merger would combine two of the largest holders of electric
28 generating plants in PJM, with a combined total of over 50,000 MW of generation. In
29 PJM East, the most congested and highest priced sub-region within PJM, the combined
30 entity would have 17,300 MW of capacity, or 53% of the 32,600 MW total.
31

1 The Applicants proposed merger will also combine a significant amount of natural gas
2 facilities. PECO operates a natural gas delivery business that provides service to 460,000
3 customers with an annual volume of 88,000 MMCF through 11,600 pipeline miles.
4 PECO also operates 29 citygate stations and a natural gas storage facility with a capacity
5 of 1,200 MMCF. PSEG operates a natural gas delivery business that provides service to
6 1.7 million customers through 17,064 miles of pipelines and 12 gas distribution
7 headquarters, and storage assets with a capacity of 82,000 MMCF.
8

9 **Q. What was the basic motivation for this merger?**

10
11 A. Based upon documents reviewed for this proceeding, it appears that the motivation for
12 this merger is to create economies of scale, higher revenues, lower costs, and higher
13 profits for shareholders through the combination of the Applicants generation business.
14 The motivation does not appear to be to create savings, achieve efficiencies, or lower
15 rates for consumers.
16

17 **Q. What benefits for Pennsylvania ratepayers have the Applicants identified from this
18 merger?**

19
20 A. The filed application estimates net benefits to Pennsylvania utility operations of \$11
21 million per year. This is an estimate only, and is not guaranteed or assured. This
22 estimate is extremely small, and the Applicants have not proposed any mechanism
23 through which any benefits that do occur are flowed through to ratepayers. The
24 Applicants have also identified the concept of sharing of "best practices", but have not
25 provided any estimate or assurance of benefits from this concept. The Applicants have
26 claimed that the merger will increase the output of the Applicants' nuclear plants, but
27 have not quantified that effect. The Applicants also claim that experience from the New
28 Jersey Basic Generation Service auction process will benefit Pennsylvania ratepayers, but
29 have not estimated how large that benefit might be.
30
31

1 **Q. Are there other regulatory approvals necessary?**

2
3 A. Yes. The Applicants have indicated that they must receive regulatory approvals from the
4 New Jersey Board of Public Utilities, the Federal Energy Regulatory Commission, the
5 Securities and Exchange Commission, and the Nuclear Regulatory Commission. The
6 Applicants have indicated that the Department of Justice is also in the process of
7 reviewing the merger.
8

9 **STANDARD OF REVIEW**

10
11 **Q. What is the standard of review that the merger must meet in order to be approved**
12 **by the Pennsylvania commission?**

13
14 A. It is my understanding that Pennsylvania statute (Section 1102 of the Public Utility Code)
15 requires that the Commission issue a Certificate of Public Convenience as a legal
16 prerequisite to certain property transfers by public utilities or their affiliated interests.
17 This same statute also requires that a certificate be granted only if "necessary or proper
18 for the service, accommodation, convenience or safety of the public." I have been
19 advised by counsel that the Pennsylvania Courts and the Commission have construed this
20 as requiring a finding that a proposed merger "...will affirmatively promote the service
21 accommodation, convenience, or safety of the public in some substantial way." (City of
22 York v. Pennsylvania Public Utility Commission, 449 Pa 136, 141, 295 A.2d 825,828
23 (1973)).
24

25 It is my view that the provision of substantial benefits, as required by the City of York
26 case, cannot be limited to the mitigation of the risks that were, in effect, created or
27 enhanced by the merger itself. That would be, in effect, equivalent to a no-adverse-
28 effect standard. In other words, the risk mitigation measures are a prerequisite, but only a
29 starting point for the evaluation of substantial affirmative benefits.
30
31

1 Q. Are there other relevant standards?

2
3 A. The provisions of the Electricity Generation Customer Choice and Competition Act give
4 responsibility to the Commission for monitoring the market for the supply and
5 distribution of electricity to retail customers and to consider whether the merger is likely
6 to result in ratepayers being denied the benefits of a competitive market because of
7 anticompetitive or discriminatory conduct. 66 Pa.C.S. §2811. In regard to mergers, the
8 Commission has the responsibility to “consider whether the proposed merger . . . is likely
9 to result in anticompetitive or discriminatory conduct, including the unlawful exercise of
10 market power, which will prevent retail electricity customers in this Commonwealth from
11 obtaining the benefits of a properly functioning and workable competitive retail
12 electricity market.” 66 Pa.C.S. §2811(e)(1). The Commission may not approve such a
13 merger except upon terms and conditions it finds necessary to preserve the benefits of a
14 properly functioning and workable competitive retail electricity market 66 Pa.C.S.
15 §2811(e)(2). The Commission also has the authority to conduct investigations of the
16 impact of mergers on the proper functioning of a fully competitive retail electricity
17 market. 66 Pa.C.S. §2811(b).

18
19 The Natural Gas Choice and Competition Act also requires that the Commission
20 determine whether the proposed merger is likely to result in anticompetitive or
21 discriminatory conduct, including the unlawful exercise of market power, which will
22 prevent retail customers from obtaining the benefits of a properly functioning and
23 effectively competitive retail natural gas market. 66 Pa.C.S. §2210. The Commission
24 may not approve such a merger except upon terms and conditions it finds necessary to
25 preserve the benefits of a properly functioning and effectively competitive retail natural
26 gas market. 66 Pa.C.S. §2210(b).

27

1 ANALYSIS OF THE MERGER PROPOSAL

2
3 **Q. What is your approach to evaluating the merger application?**

4
5 A. It is my understanding that in order to gain Commission approval, this merger must
6 provide substantial benefits to Pennsylvania ratepayers. To determine if the merger, as
7 proposed, is likely to provide substantial benefits to Pennsylvania ratepayers, I have
8 *considered on one hand the amount of benefits proposed and the likelihood of ratepayers*
9 *enjoying those benefits, and on the other hand, the various potential costs and risks that*
10 *will result from this merger. I have also considered the expectations enunciated in the*
11 *Electricity Generation Customer Choice and Competitive Act that the anticipated benefits*
12 *from the industry restructuring and competition in the marketplace would inure to the*
13 *benefit of all Pennsylvania ratepayers. 66 Pa C.S. Section 2802(7). PECO was launched*
14 *on the path that has, in effect, led to this proposed merger with the assistance of*
15 *Pennsylvania ratepayers who have been committed to pay and continue to pay billions of*
16 *dollars of stranded costs for the generating assets that are at the core of this merger.*
17 *PECO ratepayers are also paying, and will continue to be responsible for payment of,*
18 *nuclear decommissioning costs associated with former PECO nuclear units well beyond*
19 *the 2010 end date for recovery of stranded costs. In agreeing to the Settlements that*
20 *resolved these issues, ratepayers could anticipate that, as the markets evolved, they would*
21 *receive appropriate benefits pursuant to Pennsylvania statutory and case law. PECO now*
22 *seeks to enhance the benefits of its restructuring bargain through this proposed merger.*
23 *The Commission should condition its approval of the merger upon an appropriate level of*
24 *merger benefits for PECO customers. In the absence of such benefits to consumers, the*
25 *proposed merger does not meet the standard for approval.*

26
27 **Q. As a general matter, what are the risks and harms that ratepayers can be exposed to**
28 **through a merger?**

29
30 A. The potential risks and harms to ratepayers from a merger can be many. They include the
31 risk that the “costs to achieve” a merger might escalate to a degree that overwhelm

1 potential cost savings, the risk that a corporate structure might be implemented that
2 introduces a bias that is adverse to Pennsylvania's interest, the risk that management
3 attention and expertise might be shifted away from core utility operations, the risk that
4 the pressure to create additional profits or savings might eliminate distribution employees
5 necessary for service quality, the risk of increased capital costs and the risk of capital
6 drain to support other operations. There could be a loss of local control, both at the
7 utility level and at the regulatory level. [REDACTED]

8 [REDACTED]
9 [REDACTED]
10
11 Ratepayers will be placed at risk for costs above, and service quality below, levels that
12 they would enjoy absent the merger.
13

14 **Q. Will Pennsylvania ratepayers be exposed to those risks and harms through this**
15 **proposed merger?**

16
17 **A. Yes. This merger will expose Pennsylvania ratepayers to numerous risks and harms.**
18 **These potential risks include:**

- 19 • Possibility that the merger will increase the cost of electricity and/or natural gas.
- 20 • Loss of jobs in Pennsylvania causing economic harm.
- 21 • Risk that reliability and the quality of service in Pennsylvania will degrade as a
22 result of the removal of local supervision and control of various activities.
- 23 • Risk that the cost to achieve the merger may be greater than projected.
- 24 • Risk that any projected net savings will not actually accrue to Pennsylvania
25 ratepayers.
- 26 • Reduction of regulatory control by Pennsylvania Public Utility Commission.
- 27 • Risk that corporate and management attention will be diverted from local
28 communities and the needs of ratepayers in these communities, such as low
29 income customers.
30

1 These potential risks are discussed in more detail below, or in the testimony of other
2 OCA witnesses.

3
4 **Q. Will Exelon and PSEG shareholders benefit from this merger?**

5
6 A. It appears very likely that this merger will create significant benefits to Exelon's and
7 PSEG's shareholders. Overall, the Applicants have estimated corporate savings and
8 synergies from this merger of approximately \$500 million per year, before costs to
9 achieve, escalating on an going forward basis. Total gross savings over ten years are
10 estimated to be **BEGIN PROPRIETARY** **END PROPRIETARY**. After
11 including costs to achieve, net corporate benefits are estimated to be almost **BEGIN**
12 **PROPRIETARY** **END PROPRIETARY**.

13
14 **Q. Have the applicants projected benefits for Pennsylvania ratepayers?**

15
16 A. Yes, but the benefits projected by the Applicants are quite small and are likely to be
17 illusory. According to the Applicants, the estimated savings that might accrue to the
18 Pennsylvania utility operations, net of estimated cost to achieve, are an average of \$11
19 million per year, including both electric and gas operations. This amount is clearly
20 negligible compared to the anticipated corporate gross savings that will run from about
21 **BEGIN PROPRIETARY** **END**
22 **PROPRIETARY**. Moreover, the Applicants have not provided any concrete assurance
23 of or even proposed a mechanism that would deliver these net savings to Pennsylvania
24 ratepayers. In fact, if there are net savings in the years before PECO's next rate case,
25 those savings will accrue entirely to shareholders. Exelon has offered up only a few
26 corporate protections, some assurances that other nuclear plant costs will not be shifted to
27 PECO, and vague promises of "best practices" being brought to Pennsylvania.

28
29 As discussed earlier, this merger was not proposed primarily as a means to benefit utility
30 operations in Pennsylvania. The minimal level of benefits identified by the Applicants
31 for Pennsylvania ratepayers demonstrates this fact.

1 THE IMPACT OF THE MERGER ON PENNSYLVANIA CONSUMERS AND THE
2 PENNSYLVANIA ECONOMY

3
4 Q. What is the purpose of this part of your testimony?

5
6 A. In this part of the testimony I address the risks to Pennsylvania consumers and the
7 Pennsylvania economy.

8
9 [REDACTED]

10
11 [REDACTED]

12 [REDACTED]

13
14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24
25 [REDACTED]

26 [REDACTED]

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28 [REDACTED]

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30 [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Pennsylvania Job Impacts

Q. You also listed a loss of jobs in Pennsylvania as a harm to Pennsylvania and customers. Please elaborate.

A. The Applicants admit there will clearly be a loss of jobs in Pennsylvania. Confidential discovery responses show significant estimated loss of **BEGIN PROPRIETARY **END PROPRIETARY** positions in Pennsylvania. This is nearly **BEGIN****

¹ This is the appropriate way to examine generation costs, since market power would raise prices throughout PJM.

1 **PROPRIETARY** **END PROPRIETARY** of PECO's workforce in Pennsylvania.
2 At approximately \$128,000 per year in salary and benefits, the total loss is **BEGIN**
3 **PROPRIETARY** **END PROPRIETARY** annually to the local economy.
4 Through the end of the decade, the merger will take at least **BEGIN PROPRIETARY**
5 **END PROPRIETARY** out of the economy of the Philadelphia region. Of
6 course, there is a multiplier effect associated with these job losses, which means that the
7 impact will be greater than just the lost salary and benefits, as reduced payroll means less
8 spending on services and goods.

9
10 I would note that this is an estimate of the job loss in Pennsylvania. Many key decisions
11 about the consolidation of the various operations have not yet been made or are not yet
12 finalized. For example, Exelon has a Transmission Operations - Control Center in
13 Philadelphia and PSEG has a center in Newark, NJ. No decision has yet been made as to
14 whether to combine these centers.² If these operations are combined and moved to New
15 Jersey, an additional 31 jobs could be lost in Pennsylvania.

16
17 It is also possible that job loss in Pennsylvania could be affected by decisions of other
18 regulatory agencies that may place conditions on the merger that require retention of jobs
19 in a particular state. In order to create the merger savings estimated, the merged entity
20 might further reduce jobs in Pennsylvania.

21
22 **Q. Is there other evidence regarding job loss that suggests this is a significant risk to**
23 **Pennsylvania?**

24
25 A. Yes. Following the last merger, PECO significantly reduced its workforce. I would note
26 that as part of the last merger settlement, however, PECO had committed to retain
27 workforce levels at its headquarters in the City of Philadelphia at a level of 1,250
28 employees through 2003. In a recent response to an interrogatory propounded by the
29 City, PECO acknowledged that by 2001, the first year after the merger, it only had 1,201

² See response to Labor II-3.

1 employees at is downtown headquarters and by 2003, only 936 employees.³ This
2 suggests that the impact on the City was greater than what was promised following the
3 last merger.

4
5 *Reliability and Service Quality*
6

7 **Q. Could reliability and service quality suffer as a result of the merger?**

8
9 A. Yes. OCA witness Barbara Alexander discusses the potential impacts on reliability and
10 service quality as a result of the proposed merger and proposes possible safeguards.
11

12 *Diversion of Management Attention*
13

14 **Q. How could management's attention be diverted from the operation of the utility
15 business?**

16
17 A. Management will have to dedicate substantial effort to integrating the companies and its
18 focus and resources may be diverted from important utility operations. Ms. Alexander
19 has identified the area of reliability, customer service and universal service, but fulfilling
20 community commitments can also be impacted. As the Company becomes larger and
21 more distant, management attention can be diverted away from the local communities
22 that the utility serves.
23

24 *Financial Impacts*
25

26 **Q. Please discuss potential financial impacts of the merger.**

27
28 A. There are several possible financial impacts from the merger. For example, the level of
29 cash dividends payable to the parent company could have an adverse impact on retail
30 ratepayers, as excessive dividends could drain cash from the regulated entity and result in

³ See response to COP-I-15.

1 a lower debt rating, which could increase debt costs. There could be other adverse
2 impacts on PECO's cost of capital, if PECO were to guarantee debt of other subsidiaries.

3
4 The Applicants have made several commitments in their testimony to address some of
5 these issues. As discussed further below, any approval of the merger should contain
6 adequate safeguards to protect PECO and its ratepayers.

7
8 *Costs to Achieve*

9
10 **Q. Please describe the costs to achieve.**

11
12 A. The Applicants project that they will incur and allocate to regulated entities⁴ a total of
13 \$358 million in "costs to achieve" the merger from 2006-2009⁵. In fact, the Applicants
14 appear to have allocated a disproportionate share of the costs to achieve to "regulated"
15 entities, that is, to ratepayers, even though the major beneficiaries of the merger will be
16 shareholders and the "unregulated" entities.

17
18 Costs to achieve consist of investment in information and communications technology,
19 regulatory and compliance costs, severance costs, the relocation and retention costs
20 associated with moving employees and retaining critical employees, systems integration,
21 facilities integration, "transition", Directors' and Officers' liability coverage, and
22 transactions costs. All of these are estimated.

23
24 **Q. What risk do these costs to achieve impose on ratepayers?**

25
26 A. If costs to achieve increase or a greater share of those costs are allocated to the
27 "regulated" operations, the minimal "regulated" savings from the merger could be
28 eliminated or even exceeded by cost increases. The filed testimony on costs to achieve
29 describes these estimates with terms such as "anticipated to be required", and

⁴ Exelon treats the three distribution and transmission utilities, PECO, ComEdison, and PSEG, as "regulated" businesses, and all of its other operations as "unregulated".

⁵ See Exhibit WDA-3.

1 “preliminarily determined”. Very few of these costs seem to have any backup in
2 contracts, raising the possibility that the actual total may be higher than projected. Of the
3 total costs to achieve, almost half of the expense is for modification and integration of
4 information and communication technology. These type systems carry a potential for
5 significant cost overruns.

6
7 In addition to the question of how many dollars are actually expended on costs to
8 achieve, the four-year cost estimate that is compared to benefits is dependent on a host of
9 assumptions the Applicants have presented regarding these costs. These include when
10 dollars will be spent, what portion of particular expenditures will be capitalized, at what
11 rate they will be capitalized, and again, most critically, how they will be allocated
12 between what the Applicants refer to as regulated and unregulated businesses. Since all
13 of these are moving parts, the estimate of cost to achieve cannot be considered a reliable
14 number.

15
16 Aside from the illogic of allocating any costs to achieve this merger to ratepayers, the
17 Applicants have assigned 60% of the costs to achieve to the distribution operations while
18 only assigning 40% of the corporate wide savings to the distribution operations for the
19 three states.⁶ Under the Applicants’ proposal, ratepayers could end up paying these costs
20 even if they exceed the savings.

21
22 *Impact on Ratepayers of Savings Net of Costs to Achieve*

23
24 **Q. Will the savings net of costs to achieve expected from the merger provide significant**
25 **benefits to ratepayers?**

26
27 **A.** No. First, as noted earlier, the projected net savings number, \$11 million annually, is
28 extremely small. Second, the projected net savings estimates identified for utility
29 operations are not particularly robust. Small changes in assumptions or between
30 assumptions and actuality (either allocations that differ from those projected, different

⁶ See Exhibits WDA-3 and WDA-5.

1 carrying costs or capitalization rates, lower gross savings or higher cost to achieve), could
2 wipe out any projected net savings, and potentially create higher costs. Third, the net
3 savings that may accrue to utility operations depend on a host of “factors” and
4 allocations. The possibility of increases in costs to achieve was discussed above. In
5 addition, a very large moveable part is corporate and shared services costs (and therefore
6 savings in corporate and shared services costs). These must all be allocated to the utility
7 operations in the future. It is unclear that the current estimate of this allocation is even
8 consistent with normal Exelon accounting practice.⁷ However, the actual savings will
9 be “...managed through the merged entity’s financial planning and performance
10 monitoring process once they’ve been designed for the new organization.”⁸ This
11 provides no assurance that the savings the Applicants now assign to utility operations will
12 actually accrue to the books of the utility, because:

- 13 • Cost reductions are only rough estimates
- 14 • Offsetting costs to achieve are estimates
- 15 • Both cost reductions and cost to achieve will be allocated to utility
16 operations in the future based on allocators that may change and are
17 currently unknown.

18 Simply put, the Commission has no assurance that even the small savings identified by
19 the Applicants for Pennsylvania operations will ever benefit ratepayers in Pennsylvania.

20
21 **Q. Are there other reasons why the promised savings may not accrue to ratepayers?**

22
23 **A.** Yes. Even if the Applicants have correctly estimated the net merger synergies on the
24 regulated entities, they have not proposed a mechanism to deliver merger synergies to
25 customers. In fact, it is clear that the Applicants do not anticipate a rate decrease at any
26 time and have not even suggested that they will refrain from seeking an increase in their
27 current rates after the merger. If PECO does file a distribution rate case, there is no
28 assurance that revenue requirement will be less than it would have been absent a merger.

⁷ The Applicants’ testimony allocates 60% of corporate and shared services costs to “regulated” entities (see exhibit WDA-5), so that savings would be passed on in the same percentage. However, based upon discussions at the April 19, 2005 technical session, 50% of these corporate and shared services costs are allocated to “regulated” entities for internal accounting purposes.

⁸ See response to OCA-IV-8.

1 Cost savings that would otherwise benefit ratepayers could be wiped out by tax cost
2 controls, or by greater allocation of corporate costs. Thus there is no assurance that the
3 merger will provide any benefit to ratepayers.
4

5 While the Applicants imply that they expect to file a rate case soon after the distribution
6 rate cap ends on December 31, 2006, PECO's earnings have been healthy. Moreover the
7 current rate reduction resulting from the prior merger will expire at the end of this year,
8 further increasing the revenue available to PECO. Even at reduced rates from the first
9 merger, PECO reports a return on equity of 9.8%.⁹ This does not account for any savings
10 from the new merger or the increase in rates that might occur in 2006. It is quite possible
11 that any PECO cost reduction resulting from the merger will simply take the form of
12 higher profits to shareholders for many years.
13

14 **Q. Are there other problems with the Applicants' approach?**
15

16 A. Costs will be incurred and reported in a different manner than in the last PECO rate case.
17 It might not be possible to observe the distinct impact of the merger. For instance, many
18 administrative and general costs that used to be PECO direct costs will now result from
19 an allocation of shared services. It will be extremely difficult, if not impossible, for the
20 Commission to ascertain whether there have been any real cost benefits to regulated
21 ratepayers from the merger.
22

23 *Conclusion*
24

25 **Q. If all of the risks you describe above could be mitigated, would you then recommend**
26 **approval of the merger as proposed?**
27

28 A. No. The OCA witnesses, including myself, will provide recommendations regarding
29 mitigation and protections that are necessary to address these various risks and potential
30 harms, but that does not eliminate all potential for risks and costs. Moreover, mitigating

⁹ See Company's filing per 52 Pa Code Section 71.

1 these risks only reduces the risk of harm to customers, it does not provide substantial
2 affirmative benefits. To meet the standard for approval in Pennsylvania, there must be
3 substantial, affirmative benefit secured for Pennsylvania ratepayers and Pennsylvania
4 from the merger.
5

6 **SUBSTANTIAL AFFIRMATIVE BENEFITS FOR RATEPAYERS AND**
7 **PENNSYLVANIA**
8

9 **Q. Do the applicants claim that the merger will produce net benefits for Pennsylvania**
10 **ratepayers?**
11

12 A. The Applicants' witness on merger synergies, Mr. Arndt, testifies that he believes that the
13 merger will result in costs below those that would have existed without the merger. He
14 does not state that the merger will result in significant benefits to ratepayers.
15

16 **Q. Will the merger as proposed result in any net benefit to Pennsylvania ratepayers or**
17 **Pennsylvania?**
18

19 A. No. As proposed, the merger is a net negative to Pennsylvania. [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 [REDACTED] the estimated dollar savings identified for Pennsylvania are
24 only \$11 million annually, which is not even adequate to offset expected job losses.
25

26 **Q. Do you believe that there will be sufficient overall savings as a result of this merger**
27 **that could provide substantial affirmative benefits to Pennsylvania ratepayers and**
28 **Pennsylvania?**
29

30 A. Yes. The Applicants have identified approximately \$500 million per year in corporate
31 wide savings before costs to achieve that they expect to result from this merger. This

1 \$500 million estimate of overall merger savings was deemed to be “reasonable and
2 conservative” by investment analysts. Over the first ten years after the merger, savings
3 are estimated to be **BEGIN PROPRIETARY** **END PROPRIETARY**
4 before costs to achieve.
5

6 This level of corporate savings is clearly adequate to support substantial affirmative
7 benefits for Pennsylvania ratepayers and Pennsylvania. The Applicants, however, have
8 proposed to only allocate about \$11 million per year of the total annual savings, net of the
9 cost to achieve, to PECO. The Applicants have not even proposed to directly share any
10 of those possible savings with Pennsylvania ratepayers.
11

12 **Q. Why have the Applicants not provided more of the corporate savings to**
13 **Pennsylvania operations?**
14

15 A. The Applicants’ proposal achieves this result because it mechanistically allocates
16 corporate synergies and costs to achieve the merger into categories that the Applicants
17 have defined as “regulated” and “unregulated.” Under the Applicants’ proposal, the only
18 benefit that ratepayers might receive comes after 2007 when the distribution rate cap
19 ends.
20

21 **Q. Do you agree with the Applicants’ position that only the portion that the Applicants**
22 **characterize as regulated savings should be considered in this proceeding?**
23

24 A. No. Under the Applicants’ approach, Pennsylvania ratepayers bear a substantial portion
25 of the risk and cost of the merger, while receiving little or no benefit. Pennsylvania as a
26 whole will be negatively impacted by job losses, and possibly by service reductions, loss
27 of regulatory control, and other negative factors. Moreover, the distinction that the
28 Applicants try to draw between regulated and unregulated savings resulting from this
29 merger is an artificial one. The specific way in which savings may (or may not) be
30 reflected in future rates is simply the result of various formulae that mechanistically
31 divide savings and costs into categories that the Applicants have defined. These are

1 overall corporate savings and the corporation has determined to limit the amount of
2 savings for Pennsylvania ratepayers.

3
4 **Q. Why is the Applicants' distinction between regulated and unregulated savings an**
5 **inappropriate way to view the savings that will result from this merger?**

6
7 A. This merger is driven by the potential for additional corporate profits to be made
8 from the combination of large generating entities, particularly nuclear units. Such a
9 combination and the possibility for large profits from generation would not have existed
10 were it not for restructuring. As I mentioned earlier, the Pennsylvania restructuring law
11 anticipated that the benefits from competitive generation markets would flow to
12 ratepayers who would, after all, pay the stranded costs associated with that restructuring.
13 Moreover, Pennsylvania ratepayers' commitment to continue supporting and to accept
14 risks associated with decommissioning costs for the lives of the nuclear units that had
15 been owned by PECO has contributed to first PECO's and now Exelon's ability to create
16 a larger corporate entity. In fact, PECO customers will continue to pay nuclear
17 decommissioning costs for the lives of PECO's nuclear units – Limerick 1 & 2, and the
18 PECO shares of Peach Bottom 2 & 3 and Salem 1 & 2.

19
20 In any event, it is my view that all parties – ratepayers and others – have known that any
21 proposed merger would require the provision of substantial, affirmative benefits in order
22 to be approved. And, in my opinion, what is substantial in any given instance would
23 depend upon the totality of the circumstances. The Applicants' distinction between
24 regulated and unregulated businesses recognizes none of these factors, but instead relies
25 on various accounting protocols to classify costs to achieve and savings as regulated or
26 unregulated.

1 **Q. How do you recommend that the Commission consider the question of savings and**
2 **synergies from this merger?**

3
4 A. The Commission should examine the entirety of the projected corporate-wide savings
5 from this merger. As I noted, these are corporate benefits and it is the corporation that
6 has decided that such a small amount of the benefits will be directed to Pennsylvania
7 operations. The Commission must first determine what protections are necessary so that
8 customers are not harmed, and then determine the level of substantial affirmative benefits
9 that are needed to satisfy the standards for approval. The Commission should condition
10 any approval of the merger on the allocation of an adequate portion of the corporate
11 benefits to Pennsylvania consumers and Pennsylvania. An adequate portion would be
12 one that provides substantial affirmative benefits to customers and to Pennsylvania.

13
14 **Q. Have you assessed the level of merger savings that should directly benefit**
15 **Pennsylvania ratepayers?**

16
17 A. Yes. I have looked at a number of factors. First, the amount must be substantial to meet
18 the standard for approval and to recognize the risks to Pennsylvania ratepayers and all
19 citizens. In assessing the appropriate level of direct benefit, I have considered the level
20 of rate reductions from the prior merger, the range of benefits that comparable mergers
21 generally produce for ratepayers, and the fact that this merger affects multiple states and
22 their ratepayers.

23
24 **Q. After considering these factors, what do you propose?**

25
26 A. With respect to direct, substantial affirmative benefits for ratepayers, I first recommend
27 that certain benefits resulting from the PECO and Unicom merger that gave rise to the
28 present Exelon be continued. Specifically, in that merger proceeding, some of the merger
29 savings were flowed through to PECO customers in the form of a four-year distribution
30 rate reduction. For the first two years, the amount was \$60 million and for the next two
31 years, the amount was \$40 million. Those rate reductions are scheduled to conclude at

1 the end of this year, but PECO also agreed not to seek any further distribution rate
2 increase until at least the end of 2006.

3
4 I propose that the distribution rate reduction agreed to by the Applicants in the last
5 merger for PECO ratepayers be continued at the current \$40 million level. This existing
6 distribution rate level should be capped through 2010. In other words, I propose that the
7 Applicants utilize a portion of any savings from the current merger to keep distribution
8 rates for PECO customers where they are today at least through 2010. PECO should also
9 cap its current retail transmission rates through 2010. If PECO wishes to change rates at
10 the end of 2010, they should file a base rate case. Otherwise, the rates set in this
11 proceeding should remain in effect.

12
13 **Q. What about the costs to achieve the merger?**

14
15 A. The Applicants must also be required to amortize all costs to achieve during the period
16 between now and 2010, so that the costs that would be reflected in rates after that period
17 do not include unamortized costs to achieve. As I discussed, ratepayers are at substantial
18 risk for cost overruns as the Applicants seek to integrate these companies and achieve
19 these synergies from this merger.

20
21 **Q. Why do you think this amount of rate relief is justified?**

22
23 A. I believe that when the rate relief that I have proposed is compared to various other
24 values, it is reasonable. This reduction compares well with the results of other recent
25 mergers, and given PECO's size and financial health, should not endanger the utility. For
26 instance:

- 27 • The \$200 million in continued rate relief (\$40 million per year for 5 years) is
28 approximately the same level of rate relief (in absolute dollars) which was
29 provided from the 2000 Unicom – PECO merger settlement, which occurred five
30 years ago.

- 1 • The continued \$40 million per year is approximately 1.3% of PECO's projected
- 2 average annual total electric revenues less purchased power through the end of the
- 3 decade¹⁰ (\$2,991 million in 2004 escalated at 2.2%).
- 4 • The continued \$40 million per year is approximately 7% of PECO's projected
- 5 2006 O&M expenses excluding purchased power costs (\$580 million in 2004,
- 6 escalated at 5.1% per year), which is within the range of results expected as a
- 7 result of a merger.
- 8 • The continued \$40 million annually is less than 10% of the \$500 million annual
- 9 total savings that Exelon expects to enjoy.¹¹ This \$500 million estimate of
- 10 overall merger savings was deemed to be "reasonable and conservative" by
- 11 investment analysts.
- 12 • The continued \$40 million per year is approximately **BEGIN PROPRIETARY**
- 13 **END PROPRIETARY** of the average annual net savings for all Exelon
- 14 corporate entities over the first four years **BEGIN PROPRIETARY**
- 15 **END PROPRIETARY** and only **BEGIN**
- 16 **PROPRIETARY** **END PROPRIETARY** of the ten-year total net
- 17 corporate synergies of **BEGIN PROPRIETARY** **END**
- 18 **PROPRIETARY** (net of costs to achieve). In other words, after this rate relief,
- 19 the projected net impact on Exelon will still be an improvement in total earnings
- 20 **BEGIN PROPRIETARY** **END PROPRIETARY** over 10
- 21 years. The benefits from this new corporate entity will continue well beyond this
- 22 time period.
- 23 • The \$40 million per year of continued rate relief equals roughly 10% of PECO's
- 24 annual net income (\$455 million in 2004 escalated at 2.2% per year). Total
- 25 corporate savings will more than offset this reduction.
- 26 • The \$40 million will assist the Pennsylvania economy in adjusting to any job loss
- 27 that will result from this merger.
- 28
- 29

¹⁰ This comparison makes the simplifying assumption that purchased power costs would decrease in proportion to sales variation.

¹¹ According to Exelon's December 2004 press release.

1 **Q. Does your recommended rate cap extension represent all of the savings that should**
2 **be used to provide substantial affirmative benefits to customers?**

3
4 A. No. The amount identified is intended to provide one direct benefit to all ratepayers
5 using a small portion of the identified corporate savings. There are many other benefits
6 that should be brought to Pennsylvania and to ratepayers, some that must be supported
7 with a share of the merger savings. It is my understanding that other witnesses in this
8 proceeding will focus on issues such as environmental concerns, energy efficiency,
9 renewable energy, employment, and additional needs of low-income customers. Other
10 OCA witnesses will detail the need to deliver the promised benefits in reliability,
11 customer service, and low income program operation to Pennsylvania, as well as the
12 promise of continued community focus. There is a vast gap between the level of benefits
13 projected to accrue to the Applicants from this merger and the level of ratepayer benefits
14 that would accrue to PECO consumers through the continuation of capped distribution
15 rates at their current levels that I have proposed. The corporate wide benefits are
16 significant, and an appropriate level of these benefits should be delivered to Pennsylvania
17 ratepayers and to Pennsylvania.

18
19 *Other Protections And Benefits*

20
21 **Q. You have addressed rate relief for customers, are there other recommendations that**
22 **you are making to provide protections or bring substantial, affirmative benefits to**
23 **Pennsylvania ratepayers and Pennsylvania?**

24
25 A. Yes, there are a number of protections or other benefits that I or other OCA witnesses
26 have identified that should be delivered to Pennsylvania ratepayers or to Pennsylvania. If
27 the Commission approves this merger, such approval should be conditioned upon the
28 implementation of these protections and provisions. I will list these conditions below.

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Jobs

Q. What are your recommended conditions related to the issues of jobs in Pennsylvania?

A. As I discussed, there are significant job losses in Pennsylvania that will result from this merger. If the Commission finds the proposal on merging the entities acceptable, then there should be no further job cuts beyond those set forth in the benefits estimate without Commission approval. A guiding principle should be that the economic impact of lost jobs should be significantly less than the savings actually delivered to ratepayers.

Reliability and Customer Service

Q. What are your recommended conditions related to the issues of reliability and service quality?

A. Based upon the testimony of OCA Witness Alexander, I recommend that the Commission should adopt, as a condition for approving this merger, the Service Quality Improvement Plan that has been developed in detail by Ms. Alexander. This plan will

1 provide strong incentives to the Applicants to deliver on their promises that there will be
2 improvements in customer service and reliability from adoption of best practices.

3
4 Universal Service

5
6 **Q. What are your recommended conditions related to the issues of universal service?**

7
8 A. Based upon the testimony of OCA witness Alexander, I recommend that the Commission
9 should adopt, as a condition for approving the merger, the recommendations regarding
10 universal service programs.

11
12 Community Focus

13
14 **Q. What are your recommended conditions related to the issues of community focus?**

15
16 A. As both Ms. Alexander and I have testified, large mergers can divert management
17 attention from local communities. Ms. Alexander's recommendation for PECO to
18 maintain its historic level of community giving and support should also be a condition for
19 approval of this merger.

20
21 Gas Operations

22
23 **Q. What are your recommended conditions related to the issues of gas procurement?**

24
25 A. Mr. Mierzwa has recommended that before any changes are made to the structure of
26 PECO's gas procurement function or the management of PECO's capacity and supply
27 contracts are implemented, those changes should be reviewed and pre-approved by the
28 Commission.

1 Nuclear Operations

2

3 **Q. What are your recommended conditions related to nuclear operations?**

4

5 A. The Applicants have agreed to extend the commitment made in the PECO – Unicom
6 Settlement Agreement that they would ensure that Pennsylvania would not be charged
7 certain costs, including nuclear decommissioning expense, associated with the ownership
8 or operation of any nuclear generating plants (or fractional ownership thereof) that they
9 did not own as of December 31, 1999. The Commission should include a continuance of
10 that commitment in this merger.

11

12 Corporate Protections

13

14 **Q. What are your recommended conditions related to the issues of corporate
15 protections?**

16

17 A. In the Settlement Agreement for the PECO - Unicom merger, there were several
18 commitments under the category of Corporate Structure protections. The Applicants
19 have pledged to implement the same protective measures in this merger. These included
20 cost of capital, investment conditions, and affiliate transactions. The Commission should
21 accept the Applicants' commitment to provide similar protections in this merger
22 application. Specifically, PECO's cost of capital used in establishing rates shall be based
23 upon its own cost rates for debt and preferred stock, and a return on common equity as
24 approved by the Commission. Further, PECO shall not (a) guarantee the debt or credit
25 instrument of Exelon or any affiliate, (b) grant a mortgage or other lien or otherwise
26 pledge property to any entity not regulated by the Commission, and (c) shall not make
27 any loan to any entity not regulated by the Commission. I also recommend that the
28 Commission establish limitations on changes in PECO dividend policy to guard against
29 excessive cash being withdrawn from the utility operations.

30

31

1 Continuation of Jurisdiction

2
3 **Q. What are your recommended conditions related to the issues of jurisdiction?**

4
5 A. As in the PECO – Unicom merger, I recommend that the Applicants agree to keep
6 PECO’s utility operations within the jurisdiction of the Commission, and that they
7 expressly comply with all provisions of the Code, including Chapters 11 and 21.
8

9 Access to Books and Records

10
11 **Q. What are your recommended conditions related to the issues of access to books and
12 records?**

13
14 A. I recommend that the Applicants agree to provide reasonable access to the books and
15 records of Exelon and PECO to help ensure compliance with the conditions of this
16 merger and proper oversight by the Commission. The Applicants should continue to
17 honor their prior commitments in this regard.
18

19 Other Recommendations

20
21 **Q. What other recommendations do you have?**

22
23 A. PECO should be required to maintain its current Pennsylvania headquarters and maintain
24 appropriate management level employees based in Pennsylvania. To the extent it is not
25 required in the above recommendations, PECO should be required to honor all
26 commitments under prior settlements. Lastly, the Commission should require the
27 Applicants to make an annual filing with the Commission, demonstrating compliance
28 with all merger conditions, commitments, and obligations.
29
30
31

1 **CONCLUSION**

2
3 **Q. If implemented as suggested, would your recommendation ensure that Pennsylvania**
4 **would recognize clear and immediate benefits from the merger?**

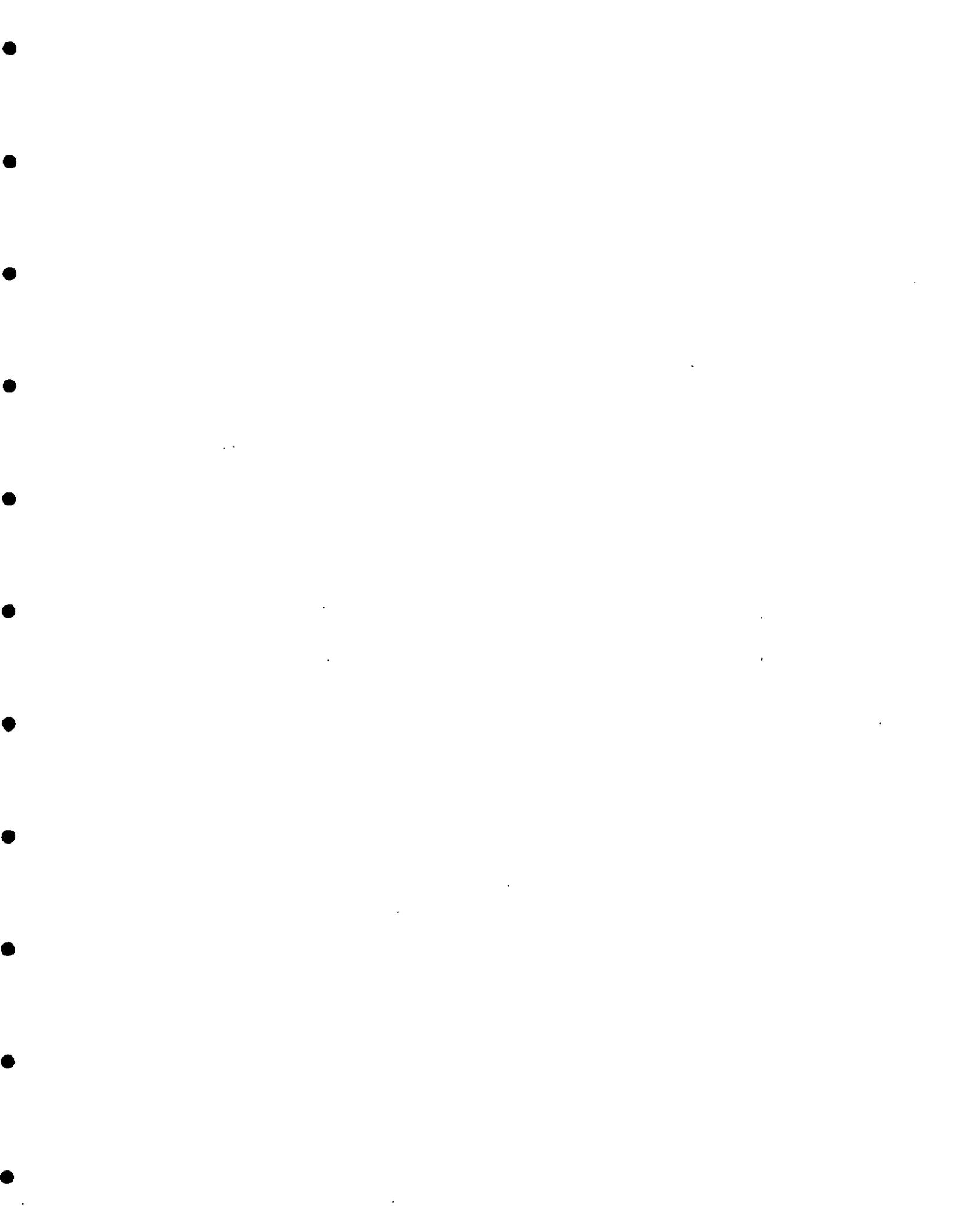
5
6 A. I believe that my recommendations are an important step to bringing benefits to
7 Pennsylvania. As I noted, other parties have interests that must also be addressed to
8 ensure that this merger results in a substantial affirmative benefit to Pennsylvania
9 ratepayers and Pennsylvania.

10
11 **Q. Are all of your modifications necessary to ensure that the merger will bring benefits**
12 **to Pennsylvania?**

13
14 A. Yes. Several of my recommendations are intended to ensure that ratepayers receive a fair
15 share of the benefits that the Applicants project to be available through this merger.
16 These provisions are necessary to ensure that the merger will “affirmatively promote the
17 service, accommodation, convenience and safety of the public in some substantial way.”
18 The remainder of the recommendations ensure that neither ratepayers nor the
19 Commonwealth suffer any adverse consequences from the merger.

20
21 **Q. Does this conclude your testimony?**

22
23 A. At this time, yes. Should additional information become available through the discovery
24 process, I will supplement this testimony as appropriate.



RICHARD LA CAPRA
LA CAPRA ASSOCIATES
Principal

Richard La Capra, La Capra Associates' founder and Principal Consultant, established the firm in 1980 with a goal of providing state-of-the art, innovative technical analysis to regulated industries. He has over thirty years of experience in consulting in the planning and pricing of services for regulated industries. His experience encompasses financial management, rate of return, competitive procurement and auction strategies, valuation and pricing. Mr. La Capra has negotiated comprehensive restructuring settlements and provided expert consulting services in merger and acquisition in regulated industries, valuation, and new venture feasibility. He has been involved in major bidding and procurement activities in both energy and transportation. His primary interest has been in the energy-related industries, but he has also presented expert testimony on telecommunications, water resources, lending and the taxicab industries. Mr. La Capra is a sought-after teacher and lecturer for industry, trade and research organizations.

ACCOMPLISHMENTS

Mr. La Capra has provided expert testimony in 30 states and federal jurisdictions in the areas of transitioning to hybrid (competitive-regulated) markets, interconnection requirements, competitive bidding, power, rate of return, regulated cost of service, and financial feasibility.

Some of his major assignments have included:

Assisting the financial reorganization of cooperative utilities, including reconfiguring their power supply assets and contracts, and restructuring \$100 million in debt;

Managing asset bids for purchasers or sellers;

Designing the auction process for distributing taxi medallions in the City of Boston;

Designing and managing the auction process for the sale of small utilities;

Designing and managing the auction process for the sale of the power supply infrastructure of several major universities.

Negotiating transmission contracts, wheeling rates, and distribution leases for a number of utilities and independent power producers.

Providing advice to numerous State jurisdictions on the developmental rules and codes of conduct for wholesale markets;

Providing advisory services to public and private utilities in the areas of pricing, power supply procurement strategies, negotiation of inter-utility contracts, and market hedging strategies;

Mr. La Capra has also served as Principal Consultant to the Electric Power Research Institute in the areas of electric utility pricing and customer research;

Managed developmental load research programs in six mid-western and eastern states;

Devised and presented professional development programs for the Electric Council of New England, the Center for Professional Advancement, the New England Rate Forum, the Electric Power Research Institute, the American Gas Association, the University of Michigan and the University of Missouri;

Directed feasibility studies assessing privatization potential for publicly owned energy facilities; and

Serves as Special Advisor to the City of Boston Police Department in the development of hackney carriage service standards and pricing, and the establishment of a market-based number of hackney medallions.

EMPLOYMENT

Charles T. Main, Inc.
Manager - Rates, Financial Services and
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American Electric Power Service Corporation
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Planning Engineer

EDUCATION

Certificate in Advanced Finance, New York University

M.B.A., Fairleigh Dickinson University
Economics

B.S., Stevens Institute of Technology

Electrical and Mechanical Engineering

Recent Testimony Provided by Richard La Capra

Client	Regulation	Issue/Docket	Subject	Docket Numbers
Arizona PUC Staff	AZ PUC	Restructuring	Development of State Transmission Company Stranded Cost Recovery	98-0471 97-0772 94-0165
Boston Edison Company	MA DTE	Rate Case	2 Cases: Cost Allocators and Load Research	92-92, 89-100
Massachusetts Division of Energy Resources	MA DTE	Mergers Restructuring BECO/ComEdison	Merger Policy; Restructuring Merger	93-167 96-100 99-19
El Paso Gas	Massachusetts Superior Court		Contract Dispute	
Hawaii Consumer Advocate	HI PUC	Restructuring/ Bidding Rates	Restructuring Comments/ IPP Evaluations	96-0493 97-0213
Hydro-Quebec Joint Owners	Arbitration panel	Contract Dispute		
Maine PUC Staff	Me PUC	Central Maine Power	Rate Design	92-345
Massachusetts Water Resources Authority	MA DTE	MWRA Rate	Unbundled transmission Rate	96-23
Nantucket Electric Company	MA DTE	Siting Merger	Least Cost Plan; Merger with Mass Electric	94-119 91-138 91-106
New Hampshire PUC Staff	NH PUC	Restructuring PSNH Settlement NU/ConEd Merger	NE market Prices, transition costs Restructuring Merger	96-150 99-099 00-009
NJ Division of the Ratepayer Advocate	NJ BPU	Atlantic City Electric; Restructuring	Stranded Cost/ NUG Mitigation	97070456
District of Columbia Office of the Peoples Counsel	DC PUC	Washington Gas DSM PEPCo Divestiture	Least Cost Gas Plan Issues in Divestiture	834-III 945
Pennsylvania Office of the Consumer Advocate	PA PUC	PECo Qualified Rate Order	Securitization	00973877
Pennsylvania Office of the Consumer Advocate	PA PUC	PP&L Restructuring UGI Restructuring PECo Restructuring PECO/Unicom Merger GPU/First Energy GPU/First Energy	All Cases- Stranded Costs, Transition Cost Recovery, affiliate Relations Merger Merger POLR supply	00973954 00973975 00973953 110550F0147 A110300F P0001860
PDC Milford	Connecticut Superior Court	Generating plant	Contract dispute	In 2003
RI Division of Public Utilities	RI PUC	Restructuring	Restructuring Plan, Stranded Cost Measurement	2320
Suffolk Legislature	FERC	LIPA-LILCo Merger	Power Management	98-11-000
Central Vermont Public	VT PSB	Restructuring	Restructuring of HQ Contracts	

Service				
Vermont Electric Cooperative	VT PSB	Debt Restructuring	Bankruptcy Reorganization	5971
	VT PSB	Merger with Citizens	Impact of merger	

9/23/05

Philly
jkr

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

REBUTTAL TESTIMONY DOCUMENT
FOLDER

OF

RICHARD LA CAPRA

REGARDING MERGER POLICY AND BENEFITS

ON BEHALF OF THE

PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE

AUGUST 2005

RECEIVED

SEP 26 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

1 **Q. How do Mr. Kalcic's recommendations for allocating merger savings to**
2 **PECO electric customers differ from yours?**

3 A. I have proposed a continuation of the \$40 million reduction to electric distribution
4 rates that is currently in effect as a result of the PECO/Unicom merger settlement
5 through 2010 and an amortization of all costs to achieve by that time. The \$40
6 million reduction to distribution rates was scheduled to expire at the beginning of
7 2006.

8
9 On the other hand, Mr. Kalcic proposes a two tier method of allocating rate
10 reduction benefits to PECO electric customers. Mr. Kalcic first utilizes \$9.7
11 million annually in savings to reduce the rates of some classes to address what he
12 refers to as "distribution rate subsidies." Mr. Kalcic allocates the \$9.7 million
13 across the board to Rate PD—Primary Distribution Power, Rate GS – General
14 Service, Rate RH –Residential Heating Service, Rate OP – Off-Peak Service and
15 Rate SLE – Street Lighting Customer Owned Facilities. Mr. Kalcic then proposes
16 to provide an additional \$58 million per year in rate relief to all customers based
17 on each customer class' competitive transition charge revenue.

18
19 My rebuttal testimony only addresses the allocation of the rate relief proposed by
20 Mr. Kalcic to PECO electric customers, not the overall level of such relief.

21
22 **Q. What is the basis of Mr. Kalcic's allocation of the \$9.7 million per year to the**
23 **six specific classes?**

24 A. Mr. Kalcic proposes to allocate these savings according to what he calls
25 "...distribution rate subsidies currently provided on PECO's electric system."
26 (p.8) He claims that 6 classes - EP, PD, GS, RH, OP, and SLE – are providing
27 "subsidies" to, presumably, all other classes. Of his 6 identified classes, RH, and
28 GS, provide the largest amount of the "subsidy" dollars.¹ RH is the residential
29 heating class, while GS is a general service class.

30

¹ Rate OP also shows a large subsidy. This is an off-peak usage rate for residential customers.

1 **Q. What is the source of the amount of the Mr. Kalcic's "distribution subsidy"**
2 **amounts?**

3 A. Mr. Kalcic refers to discovery responses from the Company which include two
4 exhibits from the 1998 Restructuring Case. The exhibit he relies upon for
5 estimating the "distribution subsidy" amounts contains detailed information from
6 the Company's revised full cost of service study ("COSS") from the 1998
7 Restructuring Case. This study included generation, transmission, and distribution
8 costs, and calculated the returns of each class on the basis of these bundled costs
9 and revenues.

10
11 From this COSS, Mr. Kalcic in Schedule BK-2 calculates a 1998 distribution
12 revenue requirement. The distribution revenue requirement he calculates is based
13 on 1998 distribution expenses and rate base from this old Company study and the
14 9.44% overall system average rate of return found in that study. He then
15 compares this revenue requirement, based on the 9.44% overall system average
16 rate of return, to his calculated 1998 distribution revenue requirement of each
17 class based on the particular rates of total return that the study showed for the
18 class. The difference between these two calculations is what he terms the
19 "distribution rate subsidy."

20
21 **Q. Does this data actually represent current distribution revenue requirements**
22 **or rates of return by class?**

23 A. No. This cost of service study is very outdated. It was performed for the 1998
24 restructuring case, using 1996 costs. If we were to perform a similar study today,
25 we can be fairly certain that the results would be quite different. We would
26 expect that class sales and probably load shape will have changed, and class
27 revenues will have changed, both absolutely and relatively. Distribution expenses
28 and rate base will have changed, as has the Company's return.

29

1 **Q. Are there other problems with the use of this study?**

2 A. Most fundamentally, the class rates of return that Mr. Kalcic uses in his
3 computation of “subsidies” were based on the fully bundled cost of service for
4 PECO in 1996. This cost of service study did not calculate any rate of return
5 based only on the distribution function. The rates of return that Mr. Kalcic uses
6 were a product of transmission, distribution and generation costs and expenses
7 and revenues. The particular rates of return that individual functions are earning
8 today cannot be determined from this study at all, even if the cost of service study
9 itself were not problematic.

10 Additionally, the allocation methodology utilized in this old cost of service study
11 was actually from the last litigated base rate case in 1989 or before. Those cost
12 allocations were not subject to challenge in the restructuring case. See, 66 Pa.C.S.
13 §2808(a). If we were to adjudicate a distribution only cost of service study
14 today, we might well select different allocators than those used in that study.

15
16 The appropriate manner to address issues regarding rate of return differentials
17 between classes is in the context of a base rate proceeding in which all rates,
18 costs, expenses and return can be reviewed as well as where the cost of service
19 study methodology and allocators can be reviewed. Also, in the context of a base
20 rate case, proper consideration of the principles of gradualism and other rate
21 structure and rate design criteria can be considered. Cost of service study results
22 only serve as a guide to Commissions and are not an absolute determination of
23 rates for customer classes.

24
25 **Q. Mr. Kalcic also proposes \$58 million in rate relief to all customers but**
26 **allocates that rate relief to the customer classes on the basis of the class share**
27 **of the CTC payments. Why do you believe that your proposal to provide**
28 **rate relief for all customer classes through a distribution rate reduction is**
29 **preferable?**

30 A. *My recommendation continues the distribution rate relief from the prior merger*
31 *without the need for disruption in rate levels or possible inequities from changes*

1 in the method of providing rate relief. Also, my proposal provides the rate relief
2 in a permanent component of PECO's rates, the distribution component. The rate
3 reduction can therefore be continued after the rate cap period until such time as
4 PECO needs to file for distribution rate relief. My recommendation provides the
5 structure for permanent, on-going benefits.

6
7 Additionally, I am concerned that Mr. Kalcic's approach could significantly
8 disadvantage some rate classes.

9
10 **Q. Please explain how Mr. Kalcic's recommendation could disadvantage some**
11 **customer classes.**

12 A. Mr. Kalcic would effectively replace the \$40 million distribution credit that is
13 currently in effect for all customers with a credit based on CTC revenue. This
14 means that customers will not receive the same level of credit since the share of
15 distribution revenue that a class pays may be significantly different than the share
16 of CTC revenue that a class pays.

17
18 All else being equal, my recommended allocation method insures that no rate
19 class will be disadvantaged as compared to the current merger-based rate
20 reduction. Mr. Kalcic's approach will, if exchanged for the existing distribution
21 credit, reallocate costs among the various classes.

22
23 **Q. Won't rates be increasing anyway if the distribution rate reduction expires in**
24 **2006 and as the CTC and generation rate increase under the prior**
25 **Restructuring Settlement become effective?**

26 A. I am recommending that the Company not increase its distribution rates in 2006
27 but that it continue the approach from the last merger that returns \$40 million in
28 merger benefits to customers as an across the board distribution rate reduction.
29 While the CTC and generation rates will increase in 2006 and 2007 under the
30 Restructuring Settlement in any case, I have proposed that the distribution rate

1 reduction agreed upon in the last merger proceeding be continued as a permanent
2 part of PECO's rates until the next base rate filing.

3
4 **Q. Please summarize your conclusions.**

5 A. A significant amount of merger savings should be allocated to PECO's electric
6 customers, conservatively \$40 million per year from 2006 through 2010.
7 Allocating any or all of the merger savings based on a theory of "distribution
8 subsidies" is improper because the underlying data is so outdated as to be
9 unreliable and a comprehensive review of rates or consideration of rate
10 differentials between classes outside of a base rate proceeding would not be
11 appropriate. Similarly, allocating all of the merger savings on CTC is also
12 inadvisable. Allocating on distribution is preferable because it continues the level
13 of merger rate reductions as a permanent part of PECO's rates until the next base
14 rate filing.

15
16 **Q. Does this complete your testimony?**

17 A. Yes it does.

9/23/05
Phila
jk

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)

APPLICATION DOCKET
NO. A-110550F0160

DOCUMENT
FOLDER

SURREBUTTAL TESTIMONY

OF

RICHARD LA CAPRA

REGARDING MERGER POLICY AND BENEFITS

ON BEHALF OF THE

PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE

AUGUST 26, 2005

RECEIVED

SEP 26 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

1 **SURREBUTTAL TESTIMONY OF RICHARD LA CAPRA**

2
3 **Q. Please identify yourself for the record.**

4
5 A. My name is Richard La Capra. My business address is La Capra Associates, 20
6 Winthrop Square, Boston, MA 02110. La Capra Associates is a Boston-based
7 firm providing consulting services to utilities.

8
9 **Q. Have you testified previously in this docket?**

10
11 A. Yes. I submitted direct testimony on June 28, 2005, and submitted rebuttal
12 testimony on July 31, 2005. I am also submitting supplemental testimony which
13 addresses the Commission's directed questions at the same time as this surrebutal
14 testimony is being submitted.

15
16 **Q. What is the subject of this surrebuttal testimony?**

17
18 A. On July 29, 2005, the Applicants filed rebuttal testimony of twelve witnesses.
19 Four of those witnesses, Messrs. O'Brien, Arndt, Sidak, and Mitchell, provide
20 comments and criticisms of my direct testimony. The purpose of my surrebuttal
21 testimony is to respond to certain of those comments. Additionally, I address the
22 OSBA proposal put forth in the rebuttal testimony of Mr. Kalcic.

23
24 *Merger Policy*

25
26 **Q. Please summarize the rebuttal testimony of Mr. O'Brien.**

27
28 A. Mr. O'Brien's rebuttal testimony attempts to emphasize potential benefits from
29 best practices shared by the merging companies. He claims that the magnitude of
30 the concessions sought by the parties in this proceeding is excessive, and that the

1 proposed rate reductions are unwarranted. He claims that some parties have
2 attempted to re-litigate issues decided in other proceedings.

3
4 **Q. How would you summarize your disagreement with the statements presented**
5 **in the rebuttal testimony of Mr. O'Brien?**

6
7 A. Essentially, Mr. O'Brien provides an overview of the OCA proposal, among
8 others, and argues that there is no obligation on the part of the company to present
9 affirmative benefits to the utility customers of Pennsylvania. Mr. O'Brien
10 suggests that left to its own devices, PECO, in its proposed new corporate setting,
11 would be beneficial to utility customers. Mr. O'Brien discusses the potential
12 benefits due to sharing of best practices from a theoretical viewpoint, but does not
13 provide any estimates of the annual savings that will actually accrue to
14 Pennsylvania, either through rate reductions or some other means. No estimates
15 of any improvement in operations has been made or quantified, and no
16 mechanism has been proposed to ensure that any benefits are actually delivered.

17
18 Other than this vague outline of future possibilities, Mr. O'Brien says nothing that
19 demonstrates any affirmative benefit for PECO customers or the Commonwealth
20 from this merger. In fact, Mr. O'Brien's generalizations about benefits to
21 customers are regressive, in that he offers a *possible* sharing of "regulated"
22 savings. He does not offer an actual sharing of any savings, only the undefined
23 possibility of a portion or share of the ultimate cost reduction in the "regulated"
24 business. Mr. O'Brien essentially relies on a continuation of the status quo and
25 not a demonstration of affirmative benefit.

26
27 **Q. Mr. O'Brien comments that he has "struggled to understand the concern" of**
28 **the intervening parties and the benefits that are sought for ratepayers and**
29 **the Commonwealth. Can you explain your difference with Mr. O'Brien?**

1 A. Mr. O'Brien has established some internal standard of level of "transformation"
2 of PECO on which benefits should be benchmarked. I do not see any reasonable
3 interpretation of the affirmative benefit standard in which it depends on degree of
4 corporate transformation.

5
6 More to the point, despite Mr. O'Brien's reliance on a degree of corporate
7 transformation, the fact is that this merger is significantly transformational for the
8 Commonwealth in a number of ways. Following this merger, Exelon will be the
9 largest utility holding company in the United States and the largest power
10 generation owner in PJM. [REDACTED]

11 [REDACTED]
12 [REDACTED]
13 The merger will result in a loss of jobs in Pennsylvania. It will expose electric
14 and gas customers to potential risks from higher prices and deteriorating customer
15 service. Given the scope of this merger, it is quite easy to understand the
16 concerns of intervening parties, and the need for substantial, affirmative benefits.

17
18 **Q. How do you respond to Mr. O'Brien's assertions that proposed benefits**
19 **sought by the parties are excessive and unwarranted, and that the company**
20 **cannot afford to do them?**

21
22 A. I cannot speak to the proposals of all parties in this case, but I will address what I
23 and other OCA witnesses have proposed in this case.

24
25 The level of rate reductions that I have proposed is the same as what was
26 contained in the approved settlement of the ComEd – PECO merger five years
27 ago. I have included no increases in the level of proposed benefits to account for
28 growth in sales or for the sheer size of the merger. This merger is valued at
29 approximately \$12 billion. My recommendation that distribution rates be
30 continued with a \$40 million per year reduction pales in comparison.

1 Additional components of my proposal beyond rate reductions are relatively
2 modest, and to a large degree a continuation of prior commitments. These
3 commitments are not really benefits, but are protections for PECO's customers
4 and the Commonwealth. Protections ensure no harm, while benefits produce
5 savings that can be counted in meeting the merger approval criteria. I have
6 suggested as an additional protection a review of dividend policy, but if the
7 Applicants are planning on being fiscally responsible, this should not present a
8 significant hardship or limit their performance in any way. I also endorse the
9 recommendations of OCA Witness Barbara Alexander regarding Service Quality,
10 Reliability of Service, Universal Service, and Charitable Giving.

11
12 I believe that taken as a whole, my recommendations and those of the other OCA
13 witnesses are reasonable. I also have stated that other parties have interests that
14 must be addressed to ensure that the merger brings substantial, affirmative
15 benefits to Pennsylvania ratepayers and Pennsylvania. However, the Applicants
16 must decide if they can operate successfully under these conditions. If not, then
17 the merger application should be withdrawn.

18
19 *Merger Savings and Substantial Affirmative Benefits*

20
21 **Q. Please summarize the rebuttal testimony of Mr. Arndt.**

22
23 A. Mr. Arndt's rebuttal testimony responds to issues raised by myself and others on
24 merger savings and the costs to achieve. His comments can be summarized as
25 follows.

- 26
27
- It is difficult, if not impossible; to track actual merger savings after the merger has been consummated.
 - He claims that I misunderstood how the estimated merger savings were determined by the Applicants.
- 28
29
30

- 1 • He criticizes my testimony and the testimony of others as calling for
2 Applicants’ “unregulated” affiliates to “subsidize regulated” affiliates.
3 Mr. Arndt relies upon the rebuttal testimony of Mr. Sidak in trying to
4 address this issue.

5
6 **Q. Please summarize the rebuttal testimony of Mr. Sidak.**

7
8 A. Mr. Sidak’s rebuttal testimony characterizes my testimony (and the testimony of
9 others) as “appropriating” the profits of “unregulated” affiliates to the benefit of
10 “regulated” affiliates and demanding a “re-regulation” of generation. He provides
11 a lengthy legal analysis attempting to demonstrate why past legal precedents
12 should cause the Commission not to allow this.

13
14 **Q. How do you respond to the issues raised in the Messrs. Arndt and Sidak’s**
15 **rebuttal testimony?**

16
17 A. Each, in their way, allege that the OCA proposal confiscates “unregulated” profits
18 for the “regulated” sector and attempts to, alternately, re-regulate the generation
19 function or rewrite the restructuring settlement. Neither of these arguments can be
20 found in my testimony and consequently offer no challenge to the OCA proposal.
21 There appears to be a choice of language in the collaborative statements of
22 Messrs. Arndt and Sidak referring to the OCA position as capturing, seizing and
23 appropriating generation profits. Further, Mr. Sidak states that OCA’s proposal
24 that PECO show substantive benefits, bring into question the entire framework of
25 the electricity competition act (Sidak p. 3). The OCA objects to the PECO
26 witness’ first creating, then knocking down straw men under the guise of
27 addressing the OCA position.

28
29 The essential issues which underlie the OCA proposal for this merger are:
30

- 1) The Applicants proposed merger introduces several new risks to the PECO customer as enumerated in OCA Statement 1, p.9;
- 2) The Applicants have the burden of showing a substantial, affirmative benefit to PECO customers and Pennsylvania as a result of this merger;
- 3) The standard of substantial, affirmative benefits was not negated by either the competitive electricity act or the restructuring settlement;
- 4) The benefits which should flow to the PECO customers do not require regulation of generation, scrapping the restructuring settlement, repealing the competition act nor violating Supreme Court rulings;
- 5) A company wide assessment of merger synergies and an application of tangible benefits to 2010 after which PECO will return to traditional cost of service ratemaking (*excluding* generation) is required;
- 6) My proposal does not ignore the distinction between “regulated” and “unregulated” sectors nor does it require that generation profits flow to PECO customers. The Applicant’s insistence that this is the OCA position is a function of their own allocation scheme;
- 7) My proposal for delivering substantial affirmative benefits to Pennsylvania represents a small fraction of synergy benefits, but it is not tied in any direct or indirect way to “unregulated” synergies; and
- 8) The elaborate recitations of the electricity act, restructuring “essence” and prior mergers all obfuscate the fact that the Applicants are not committing to any affirmative benefits. Essentially, it is the Applicants’ position that has no basis in law or in prior merger precedent.

The currently proposed merger is a new deal, one that should neither be automatically approved nor automatically rejected because of any prior settlement. The current proposal should stand on its own merits, and it should meet the criteria and standards that are applicable in the Commonwealth of Pennsylvania. If it does not, then it should not be approved by the Commission. It

1 is the Applicants' responsibility to meet those standards. If the merger they
2 propose does not provide substantial, affirmative benefits to PECO ratepayers and
3 Pennsylvania, then the merger should be rejected.

4
5 **Q. Why have various PECO witness reargued the calculation of merger savings**
6 **in response of your testimony?**

7
8 A. Much of the PECO argument to avoid providing tangible benefits relies on the
9 relatively small proportion of net merger savings that reside in the distribution
10 sector. Interestingly, PECO still has not even proposed that their calculated
11 distribution sector savings be passed on to customers. Mr. Arndt, particularly,
12 emphasizes the direct assignments of cost to achieve and a cursory reading of his
13 argument would suggest that this was a reasonably exact process. The much
14 larger proportion of generation sector merger savings lends itself to the argument
15 that generation profits should not be transferred to the PECO customers. In fact,
16 the suggestion that the matching of costs to achieve and gross savings is
17 reasonably exact is not credible.

18
19 I have analyzed the Applicants' detailed work papers and have a clear
20 understanding of how they arrived at their estimates. Some savings were directly
21 assignable to "regulated" operations, while others were directly assignable to
22 "unregulated" operations. There is a large group of savings, in fact the single
23 largest dollar amount, in the area labeled *Corporate and Shared Services* where a
24 direct assignment wasn't feasible. The Applicants allocated 40% of these benefits
25 to "regulated" operations. However, they allocated 60% of the costs to achieve
26 these savings to "regulated" operations. I find that allocating 60% of the costs,
27 but only 40% of the benefits, to "regulated" operations to be inequitable and
28 inappropriate. There is, as is almost always the case in allocation of joint costs,
29 no true economic basis, only one of generally accepted reasonability. Thus the
30 Applicant's central argument of the specific percentage differences between
31 regulated and non-regulated which gives rise to the claim of appropriated

1 generation profits is a circular argument. In fact, the relevant issue is the total
2 company synergy and what reasonable proportion of same should be directed to
3 satisfy the affirmative benefit standard.

4
5 **Q. Please respond to the allegations in Applicants' rebuttal testimony that**
6 **merger savings cannot be tracked after the merger is approved.**

7
8 A. I find this statement quite astonishing. The Applicants' merger estimates are
9 based upon job reductions, reductions in combined spending on things such as
10 computers, software licenses, advertising, etc. All of these expenditures are
11 clearly measurable, so tracking these expenditures before and after the merger is
12 certainly doable. The Applicants could explain or rationalize variances due to
13 dramatic abrupt changes in business conditions requiring substantially higher
14 costs. Furthermore, if my proposal to implement rate reductions to ensure
15 substantial affirmative benefits to Pennsylvania is implemented, this is clearly
16 measurable.

17
18 If, however, there is any concern that the Applicant cannot track merger savings,
19 then it even more important to secure substantial affirmatives benefits now. It
20 highlights the danger in waiting for benefits to materialize in the future, as
21 Applicants contend they might, but do not assure.

22
23 **Q. What do you conclude?**

24
25 A. My direct testimony made the point that the merger proposal as filed by the
26 Applicants does not meet the required standard. The rebuttal testimony of the
27 Applicants is completely devoid of any attempt to demonstrate otherwise. They
28 have failed to show that their proposed merger meets the criteria for approval. I
29 and other OCA witnesses have proposed mechanisms for the Applicants to
30 implement that will cause this merger to meet these standards, but the Applicants
31 have rejected these without offering any alternatives.

1 If the Applicants do not wish to meet the Pennsylvania standards for approval of
2 their merger application, then they should not be permitted to proceed with the
3 merger.

4
5 *Corporate Protections*

6
7 **Q. Please describe the rebuttal testimony of Mr. Mitchell.**

8
9 A. Mr. Mitchell's rebuttal testimony deals with the topics of corporate protections,
10 and why it is inappropriate and unnecessary to adopt the protections suggested by
11 myself and others.

12
13 **Q. How would you respond to the issues raised in rebuttal testimony regarding
14 corporate protections?**

15
16 A. The rebuttal testimony of Mr. Mitchell claims that the existence of the SEC,
17 FERC, Sarbanes-Oxley, and Pennsylvania laws provide adequate protections, and
18 that further protections are not necessary or effective. In particular, he criticizes
19 the suggestion in my direct testimony that some oversight of PECO Energy's
20 dividend policy should be established. Further, Mr. Mitchell suggests I have
21 essentially endorsed a common equity threshold. This is not the case.

22
23 I should note that the Applicants' agreement to continue all corporate protections
24 established in the ComEd – PECO merger is a positive step. The Commission
25 should order that such protections be continued if it approves this merger.
26 However, oversight of dividend policy was not among them. Nowhere in Mr.
27 Mitchell's testimony does he demonstrate specifically how the protections of
28 SEC, FERC, Sarbanes-Oxley, or Pennsylvania laws will prevent an inappropriate
29 dividend policy from draining excess cash from the distribution and transmission
30 operations. I believe that this is a potential risk to Pennsylvania ratepayers, given
31 the scope and breadth of the proposed merger and its combined operations and

1 thus propose the Applicant address the issue. Protections against supporting a
2 potentially cash starved generation business with distribution profits should also
3 be included as part of any merger approval.
4

5 *Method of Providing Rate Reductions*
6

7 **Q. Please summarize the rebuttal testimony of Mr. Kalcic.**
8

9 A. In his rebuttal testimony, witness Kalcic criticizes the manner in which I
10 “allocate” my recommended distribution rate reduction, and puts forth his own
11 recommendation to allocate distribution rate reductions based upon increased pro
12 forma CTC revenues.
13

14 **Q. Do you agree with Mr. Kalcic?**
15

16 A. No, I do not. First of all, witness Kalcic has misunderstood and mischaracterized
17 my testimony. I recommend that, as one condition for approving this merger, the
18 Commission ensure that the merger will deliver substantial, affirmative benefits to
19 Pennsylvania by continuing the rate reductions approved in the ComEd – PECO
20 merger for five additional years. I suggest that the status quo be preserved for
21 another five years. These rates were implicitly found to be just and reasonable
22 when they were approved in prior proceedings.
23

24 **Q. Is Mr. Kalcic proposing that a new cost of service study be performed to**
25 **serve as a guide in potentially correcting any inequities in rate design?**
26

27 A. No, he is not. Mr. Kalcic’s reference to “...class distribution subsidies identified
28 in the cost-of-service study PECO submitted during restructuring” attempts to
29 legitimize an out-of-date study that was not subject to challenge as to its
30 methodology during restructuring,
31

1 **Q. How do you respond to Mr. Kalcic's statements that a distribution-based**
2 **allocation of rate reductions does not "...comport with.." overall increases in**
3 **rates over the next five years, and that because business customers will**
4 **experience a higher percentage increase in total rates they should receive a**
5 **greater share of distribution rate reductions?**

6
7 A. Referring to expected future generation cost increases alone does not tell the
8 whole story. Commercial and industrial customers pay a large share of generation
9 costs because they use a large share of energy. Commercial and industrial
10 customers may also have a greater ability to respond to increases in POLR supply
11 costs by choosing alternative suppliers.

12
13 **Q. Mr. Kalcic's rebuttal testimony does seem to consider allocating some of the**
14 **rate reduction on a basis other than CTC revenues. Please comment.**

15
16 A. While Mr. Kalcic suggests a method that would allocate the rate reduction on
17 some combination of distribution revenue and CTC revenue, his reliance on the
18 Companies' synergy study for this allocation would be in error. As I explained,
19 the Applicants' presentation has many disproportionate allocations that are
20 questionable.

21
22 Also, as I explained above and in my rebuttal testimony, my recommendation
23 continues the distribution rate relief that is already in effect without the need for
24 disruption in rate levels or possible inequities from changes in the method of
25 providing rate relief. Providing the rate relief as part of PECO's distribution
26 operations, which will be a permanent component of all customer's rates, will
27 allow the rate relief to provide on-going benefits to all customers.

28
29 **Q. Does this complete your testimony?**

30 A. Yes it does.

9/23/05
Phila. jk

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOINT APPLICATION OF PECO ENERGY)
COMPANY AND PUBLIC SERVICE)
ELECTRIC AND GAS COMPANY FOR) APPLICATION DOCKET
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AUGUST 26, 2005

SEP 26 2005

PA PUBLIC UTILITY CO
SECRETARY'S BU

1 SUPPLEMENTAL TESTIMONY OF RICHARD LA CAPRA

2
3 I. INTRODUCTION

4
5 **Q. Please identify yourself for the record.**

6 A. My name is Richard La Capra. My business address is La Capra Associates, 20
7 Winthrop Square, Boston, MA 02110. La Capra Associates is a Boston-based
8 firm providing consulting services to utilities.

9
10 **Q. Have you testified previously in this docket?**

11 A. Yes. I submitted direct testimony on June 28, 2005, and submitted rebuttal
12 testimony on July 31, 2005. I am also submitting surrebuttal testimony on other
13 merger related issues at the same time as this supplemental testimony.

14
15 **Q. What is the subject of this rebuttal testimony?**

16 A. I address the five questions (the “Directed Questions”) issued by the Commission
17 to all Parties in this proceeding.

18
19 **Q. Please describe the five questions issued by the Commission.**

20 A. On July 15, 2005, the Commission sent a letter to all Parties in this proceeding.
21 This letter outlined a procedure used previously by the Commission to engage in a
22 type of fact finding mission to provide the Commission with the opportunity to
23 propound “what if” questions and gain valuable information in an efficient
24 manner. The five specific questions posed by the Commission in this proceeding
25 are provided in the following paragraphs.

- 26
27 • Neighboring states have availed themselves of opportunities to enhance
28 their economic competitiveness through access to economical energy
29 resources. What opportunities exist from this proposed merger in terms of
30 economic development for Pennsylvania? Specifically, does this proposed
31 merger present us with an opportunity to strengthen the state’s ability to

1 remain competitive during periods of economic recession and volatile
2 energy pricing?

3 • The innovative and controversial nuclear “virtual divestiture” component
4 of the FERC decision appears to present intriguing opportunities for the
5 Commonwealth. Does the proposed merger present this Commission with
6 an opportunity to create an additional economic development program
7 designed to improve Pennsylvania’s business climate by creating strategic
8 partnerships with the public and private sector that support product
9 development and the use of energy-efficient technologies?

10 • Would it be possible to set aside 10% or some relatively small share of the
11 “virtually” divested generation to augment economic development and
12 economic competition within the Commonwealth? For example, could the
13 parties consider and comment on creating a pool of energy and capacity of
14 at least 260 MW which could be used at the discretion of the Secretary of
15 the Department of Community and Economic Development to attract and
16 retain business in the Commonwealth?

17 • Could the Commonwealth through one of its agencies and/or in
18 conjunction with a licensed Electric Generation Supplier facilitate the use
19 of the output of this generation?

20 • Would the combination of the PSE&G gas division with the PECO gas
21 division and the Philadelphia Gas Works provide critical mass for a viable,
22 profitable, shareholder owned public utility, assuming a revenue stream
23 from off system sales from an LNG facility, and separate resolution of the
24 problem of a billion dollar debt?

25 These questions cover two separate topics. The first four of these questions deal
26 with opportunities associated with economic development and the ability to
27 improve the Commonwealth of Pennsylvania’s competitive position to retain and
28 attract jobs. The last question deals with the possibility of merging the gas

1 operations of PECO Energy and PSE&G with those of the Philadelphia Gas
2 Works in an attempt to create a stronger provider of natural gas service.

3

4 **Q. Please address the first topic of economic development.**

5 A. The questions make reference to efforts of neighboring states that have availed
6 themselves of opportunities to enhance their economic competitiveness through
7 access to economic energy resources. This appears to be a reference to the State
8 of New York and its utilization of the New York Power Authority (NYPA) low
9 cost energy resources to promote economic development. There are also
10 legislated economic development programs in Nevada and Washington. These
11 programs differ in structure from the NYPA programs.

12

13 **Q. Please describe NYPA and its economic sources of electric capacity and
14 energy.**

15 A. NYPA is the largest state-owned power authority in the country. They own and
16 operate more than 5,700 MW of generating capacity and 1,400 circuit-miles of
17 transmission. The largest of these generating plants is the Niagara Power Project,
18 a 2,400 MW hydro-electric facility on the St. Lawrence Seaway. NYPA sells
19 electricity at wholesale to government agencies, community-owned electric
20 systems, rural cooperatives, job-producing companies, and private utilities for
21 resale. Nearly three fourths of NYPA generating capacity is hydro-electric, the
22 majority of which was built more than 30 years ago.

23

24 **Q. How does the State of New York utilize the electric generating resources of
25 NYPA for economic development?**

26 A. The State of New York has several economic development programs. The first is
27 known as "Power for Jobs". This program was created in 1997 by the Governor
28 and the Legislature to provide 400 MW of economical electrical capacity for
29 businesses and not-for-profit corporations that commit to retain or create jobs in
30 New York. In subsequent years, this program was renewed and expanded.
31 Companies can apply for the ability to receive this low cost power. Decisions as

1 to who is eligible and how much each entity receives are made for the Economic
2 Development Power Allocation Board (EDPAB). Companies typically receive
3 low cost power allocations for up to three years, providing them with the
4 opportunity to grow into profitability.

5
6 The second program is the Economic Development Program which can allocate
7 developmental power from five to fifteen years. Eligibility can vary by among
8 different regions of the State.

9
10 The third program is NYPA assistance to Western New York businesses. Under
11 this program, NYPA sells electricity generated at the Niagara Power Project to
12 eligible businesses who add 250 kW of new load within 30 miles of the Niagara
13 Power Project.

14
15 **Q. Could the Commonwealth of Pennsylvania achieve a comparable situation,**
16 **where it utilizes access to low cost power to further its own economic**
17 **development goals?**

18 **A.** In theory, yes, although there would be many steps in the process. These steps
19 include:

- 20 • *Establishing or identifying a state agency or creating a state authority to*
21 *serve as the purchaser or manager of acquiring low cost supply.*
- 22 • *Acquiring the sources of low cost supply.*
- 23 • *Establishing criteria for eligibility and selection of businesses seeking to*
24 *obtain such low cost power supplies, specifically including location.*
- 25 • *Creating processes and procedures for applying for and receiving such*
26 *grants.*
- 27 • *Assigning the responsibility to manage this economic development*
28 *program, including the review and approval.*
- 29 • *Verification of jobs created or retained.*
- 30 • *Validation of total benefits to the Commonwealth of Pennsylvania.*

31

1 The need for legislation to establish these responsibilities and operations must
2 also be reviewed.

3
4 **Q. What is the most critical step as it relates to this merger?**

5 A. Obviously, acquiring the sources of low cost power supply is the critical step.
6 The Commissions questions imply that consideration should be given to the
7 provision of low cost power supply by the Applicants from their virtually divested
8 units in their mitigation plan to the Commonwealth of Pennsylvania for economic
9 development purposes as a condition of approval of this merger. The 260 MW
10 figure referenced in the Commission's questions, would provide nearly 2.1
11 million MWH of energy for economic development in Pennsylvania. The average
12 business customer in PECO Energy's service territory used 54.8 MWH per year.¹
13 If new business customers attracted by economic development incentives
14 consumed that amount on average, then the 260 MW of capacity could support
15 over 38,000 new businesses.

16
17 **Q. Are there any implications to setting aside this 260 MW for economic
18 development?**

19 A. Yes, utilizing economic development power from virtually divested assets could
20 imply both a Commonwealth pre-condition to the merger approval as well as an
21 acceptance of the Applicant's proposal of virtual divestiture as a market power
22 mitigation tool. As Messrs. Smith and Hahn discuss in their direct testimony and
23 in their surrebuttal testimony, the virtual divestiture has not been shown to be an
24 effective mitigation measure.

25
26 Past these implications and setting aside virtual divestiture, if the Applicants were
27 to provide 260 MW of power supply from their generating assets for economic
28 development purposes, the price at which the Applicants provide this power
29 supply to the Commonwealth of Pennsylvania is central to its impact on economic
30 development. If this power supply were supplied at market rates, the

¹ See PECO Energy 2004 Form 1, page 304.

1 Commonwealth would not be able to provide economic assistance competitively
2 with neighboring states. But if, on the other hand, this power supply were
3 provided at cost or at a meaningful discount from full market price that would
4 otherwise be charged to the customer, the Commonwealth could provide a
5 meaningful economic incentive for business retention or expansion. For example,
6 if power were provided at cost, the production cost of Applicants nuclear energy
7 is \$12 per MWH², and the price likely to be realized at auction or in the market is
8 \$50 per MWH³, the savings of \$38 per MWH (or 3.8 cents per KWH) in
9 wholesale power supply costs could be deployed as a substantial incentive for
10 economic expansion. A 30% discount from market based rates would produce a
11 savings \$15 per MWH (or 1.5 cents per KWH) for economic development and
12 still provide Applicants with a substantial margin.

13
14 **Q. Wouldn't the Applicants lose a similar amount of money by selling this**
15 **power supply at below market rates?**

16 A. The Applicants' revenue from wholesale power sales would be lower by the
17 difference between the potential auction or market revenue and the discounted
18 sale to the Commonwealth. However, the availability of low cost power supply is
19 pre-conditioned on economic development, i.e., load and economic activity which
20 would not have otherwise located or expanded in Pennsylvania. The economic
21 development activity will result in increased sales of electricity, which Applicants
22 can compete to supply, thereby potentially increasing revenues. If the new
23 economic development is located in the Applicants' retail service territories, that
24 will result in additional electric delivery revenues. While there may be some
25 small increase in marginal transmission and distribution costs, the net increase in
26 new delivery revenues could more than offset any loss from lower wholesale
27 power revenues. Even though the electric supply and delivery businesses are
28 separate, their financial results are consolidated on the parent company's books.
29 The proposed economic development activity could likely represent improved

² See "Power Marketing Update – Harris Nesbitt Investor Meeting – March 31, 2005", page 12.

³ YTD May 2005 PECO all hours RT LMPs average \$49.55 per MWH.

1 results for the combined company. Additionally, there will be benefits to the
2 Commonwealth from additional jobs, as well as enhanced sales for all utility
3 services from related increases in commercial and industrial demand. If this is
4 part of a statewide program and the new economic development is located outside
5 of the Companies service territory, the Companies would receive a proportionate
6 benefit from economic development benefiting the Commonwealth.

7
8 **Q. Please comment on the remaining steps in the process.**

9 A. A department or agency within the state would have to be assigned the
10 responsibility of coordinating and managing this program. The questions suggest
11 that a department, such as the Department of Community and Economic
12 Development, could be assigned this responsibility. This department already
13 assists businesses in locating or expanding in Pennsylvania, so a program that
14 provides access to low cost power might fit very nicely with their existing
15 programs.

16
17 As noted by the Commission in their questions, it might be necessary to partner
18 with another third party or EGS who has expertise in electric markets. In New
19 York, NYPA is a sophisticated participant in the NY ISO's electric markets that
20 operates significant generation and transmission assets, and is experienced in
21 wholesale power transactions and hedging techniques. Given the complexity of
22 electric markets in PJM, external assistance is likely needed if this function
23 resides in a Commonwealth department.

24
25 **Q. Should the provision of low cost power to the Commonwealth of**
26 **Pennsylvania for economic development purposes be counted towards**
27 **meeting the merger approval criteria of providing substantial, affirmative**
28 **benefits?**

29 A. If the Applicants would support such a program, I believe that the Commission
30 should consider it as a benefit to Pennsylvania as part of their overall assessment
31 of the merger. An economic development program should not replace or reduce

1 the necessary benefits described in my and other OCA testimony to meet the
2 standard of approval. The rate reductions proposed in my direct testimony and
3 the customer benefits proposed by OCA witness Alexander should remain as
4 conditions of the Commission's approval of this merger. The rate reductions that
5 I have proposed are a powerful economic development tool. They will help
6 attract new businesses as well as retain existing ones. The combined effects of
7 my rate reductions and the Commission's suggested economic development
8 program using low cost power supplies will be most helpful in improving the
9 competitiveness of the Commonwealth of Pennsylvania.

10
11 **Q. Are there other ways to support economic development besides providing**
12 **low cost power supply?**

13 A. Yes. As mentioned above, continuing the rate reduction I originally proposed will
14 be a very effective support mechanism for economic development. There are
15 other ways as well. Economic development could be supported by direct funding
16 or by offering assistance to locate suitable sites. Utilizing low cost power supply
17 is but one of several options.

18
19 **Q. Please comment on the fifth question posed by the Commission regarding the**
20 **potential for merging the gas operations of PECO, PSE&G, and the**
21 **Philadelphia Gas Works.**

22 A. As I understand the situation with the Philadelphia Gas Works, they are a
23 municipally-owned utility with a dense urban service territory, an aging
24 infrastructure, a relatively large amount of debt, and atypically high uncollectible
25 revenue. The Commission asks if the combination of respective gas operations
26 could produce a viable, profitable, shareholder-owned utility. On immediate
27 observation, it is apparent that a merger with a much larger entity would provide
28 PGW with added human and financial resources. The larger effects of such a
29 combination are less obvious. There must be a great deal of due diligence,
30 financial analysis, and physical assessment. At this point, a sober assessment of

1 the financial requirements and risks to the acquiring entity cannot be reasonably
2 quantified. The subsequent, presumably collaborative, assessments include:

- 3
- 4 • What is the timeframe and investment required to bring Philadelphia Gas
- 5 Works to the service level of PECO Energy and PSEG gas operations?
- 6 • What is the potential for the LNG facility and how are any costs
- 7 associated with the facility being treated for ratemaking purposes?
- 8 • What is a reasonable rate path for the emerged company, i.e., should there
- 9 be a uniform rate for each class throughout the service territory and what
- 10 rate changes are appropriate in the short term?
- 11 • What synergies are available to the emerged company and how much of
- 12 those savings could mitigate the revenue requirement of PGW?
- 13 • What are the relative costs and benefits, including benefits of municipal
- 14 operation versus investor owned operation?
- 15 • What are the potential environmental issues with each company?
- 16 • What other impacts might there be on ratepayers, such as in billing,
- 17 collection, safety, or provision of universal service programs?
- 18 • How many jobs will be lost in Philadelphia?
- 19 • Can the emerged company improve the storage gas profits and to what
- 20 extent?
- 21 • Are there quantifiable net benefits to Pennsylvania?
- 22

23 The issues surrounding such a proposal are significant and require much due
24 diligence and detailed examination.

25

26 **Q. Does this complete your supplemental testimony?**

27 **A.** Yes it does.

28

9/23/05
Phila
jk

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

DIRECT TESTIMONY
OF
JEROME D. MIERZWA

DOCUMENT
FOLDER

ON BEHALF OF THE
PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE

JUNE 2005

RECEIVED

SEP 26 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

EXETER

ASSOCIATES, INC.
5565 Sterrett Place
Suite 310
Columbia, Maryland 21044

1 **I. Introduction**

2 Q. WOULD YOU PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

3 A. My name is Jerome D. Mierzwa. I am a principal and Vice President with Exeter
4 Associates, Inc. My business address is 5565 Sterrett Place, Suite 310, Columbia,
5 Maryland 21044. Exeter specializes in providing public utility-related consulting
6 services.

7 Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND
8 EXPERIENCE.

9 A. I graduated from Canisius College in Buffalo, New York, in 1981 with a Bachelor of
10 Science Degree in Marketing. In 1985, I received a Masters Degree in Business
11 Administration with a concentration in finance, also from Canisius College. In July
12 1986, I joined National Fuel Gas Distribution Corporation ("NFGD") as a Management
13 Trainee in the Research and Statistical Services Department ("RSS"). I was promoted to
14 Supervisor RSS in January 1987. While employed with NFGD, I conducted various
15 financial and statistical analyses related to the company's market research activity and
16 state regulatory affairs. In April 1987, as part of a corporate reorganization, I was
17 transferred to National Fuel Gas Supply Corporation's ("NFG Supply's") rate department
18 where my responsibilities included utility cost of service and rate design analysis,
19 expense and revenue requirement forecasting and activities related to federal regulation.
20 I was also responsible for preparing NFG Supply's Purchased Gas Adjustment ("PGA")
21 filings and developing interstate pipeline and spot market supply gas price projections.
22 These forecasts were utilized for internal planning purposes as well as in NFGD's
23 1307(f) proceedings.

24 In April 1990, I accepted a position as a Utility Analyst with Exeter Associates,
25 Inc. In December 1992, I was promoted to Senior Regulatory Analyst. Effective April 1,

1 1996, I became a principal of Exeter Associates. Since joining Exeter Associates, I have
2 specialized in evaluating the gas purchasing practices and policies of natural gas utilities,
3 utility class cost of service and rate design analysis, sales and rate forecasting,
4 performance-based incentive regulation, revenue requirement analysis, the unbundling of
5 utility services and evaluation of customer choice natural gas transportation programs.

6 Q. HAVE YOU PREVIOUSLY TESTIFIED IN REGULATORY PROCEEDINGS
7 ON UTILITY RATES?

8 A. Yes. I have provided testimony on more than 90 occasions in proceedings before the
9 Federal Energy Regulatory Commission ("FERC"), utility regulatory commissions in
10 Delaware, Georgia, Illinois, Indiana, Louisiana, Montana, Nevada, New Jersey, Ohio,
11 Rhode Island, Texas and Virginia, as well as before this Commission.

12 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

13 A. Exeter Associates, Inc. was retained by the Pennsylvania Office of Consumer Advocate
14 ("OCA") to review the impact of the proposed merger of Public Service Enterprise Group
15 ("PSEG") with and into Exelon Corporation ("Exelon") on the purchased gas costs of
16 Pennsylvania ratepayers. My testimony presents the results of my review.

17 Q. PLEASE SUMMARIZE YOUR CONCLUSIONS AND
18 RECOMMENDATIONS.

19 A. My conclusions and recommendations are as follows:

- 20
- 21 • Natural gas service is provided to Pennsylvania ratepayers by PECO Energy
22 Company, a subsidiary of Exelon Corporation;
- 23 • PECO claims that no formal analyses or evaluations have been conducted
24 which address the potential effect of the merger on the structure of the gas
25 procurement function at PECO;
- 26 • Exelon does not currently plan to combine the gas procurement operations of
27 PECO and PSE&G;

- 1 • PECO is not contemplating any changes to gas procurement operations as a
2 result of the merger;
- 3 • Changes to PECO's gas procurement operations that restrict the availability of
4 capacity on the interstate pipelines could increase the delivered cost of gas to
5 Pennsylvania; and
- 6 • Before any future changes to the structure of the gas procurement function or
7 the management of PECO's capacity and gas supply contracts are
8 implemented, those changes should be reviewed and pre-approved by the
9 Commission.

1 **II. Background**

2 Q. PLEASE DESCRIBE THE BUSINESS ACTIVITIES OF EXELON AND PSEG.

3 A. Exelon is a Pennsylvania corporation and a registered holding company under the Public
4 Utility Holding Company Act of 1935 (“PUHCA”). PECO Energy (“PECO”) is a
5 subsidiary of Exelon and is engaged in the business of supplying, transmitting and
6 distributing electricity and natural gas. As to its natural gas service, PECO serves
7 customers in Bucks, Chester, Delaware, Montgomery and Lancaster counties in
8 Pennsylvania. PECO provides natural gas service to approximately 460,000 customers in
9 Pennsylvania.

10 PSEG is a New Jersey corporation and is an exempt holding company under
11 PUHCA. PSE&G is a subsidiary of PSEG and is engaged in the business of supplying,
12 transmitting and distributing electricity and natural gas to most of New Jersey’s largest
13 municipalities. PSE&G provides natural gas service to approximately 1,600,000
14 customers in New Jersey.

15 Q. PLEASE DESCRIBE THE PROPOSED MERGER.

16 A. Exelon and PSEG have entered into a merger agreement pursuant to which PSEG will
17 merge with and into Exelon with Exelon continuing as the surviving corporation.

18 Q. PLEASE DESCRIBE THE NATURAL GAS OPERATING
19 CHARACTERISTICS OF PECO AND PSE&G IN ADDITIONAL DETAIL.

20 A. PECO and PSE&G are each served primarily by two interstate pipelines -- Texas Eastern
21 Transmission Corporation (“Tetco”) and Transcontinental Gas Pipeline Company
22 (“Transco”). The transmission pipeline facilities of Tetco and Transco extend from the
23 Gulf Coast gas production regions in Texas and Louisiana to the New York City area.
24 Tetco and Transco each serve markets from the Gulf Coast to the New York City area.
25 The peak day delivery capability of Tetco and Transco together total approximately

1 14,000,000 Dth. The combined peak day delivery requirements of the sales customers
2 served by PECO and PSE&G total approximately 3,700,000 Dth.

1 **III. Impact on Natural Gas Service**

2 Q. WHAT DO THE COMPANIES CLAIM TO BE THE EXPECTED BENEFITS
3 OF THE MERGER WITH RESPECT TO THE PROVISION OF NATURAL
4 GAS SERVICE?

5 A. PECO and PSE&G state that they expect the merger to create opportunities to increase
6 efficiencies, improve service and capture economies of scale and scope in natural gas
7 operations.

8 Q. DOES EXELON CURRENTLY PLAN TO COMBINE THE GAS
9 PROCUREMENT OPERATIONS OF PECO AND PSE&G?

10 A. No. Exelon does not currently plan to combine the gas procurement operations of PECO
11 and PSE&G. No changes to gas procurement operations are contemplated, or proposed,
12 as a result of the merger.

13 Q. HAVE ANY ANALYSES OR EVALUATIONS BEEN CONDUCTED BY THE
14 MERGING COMPANIES WHICH ADDRESS THE POTENTIAL EFFECT OF
15 THE MERGER ON THE STRUCTURE OF THE GAS PROCUREMENT
16 FUNCTION AT PECO?

17 A. No formal analyses or evaluations have been conducted to date.

18 Q. DOES PECO BELIEVE THAT THE MERGER WILL HAVE ANY ADVERSE
19 IMPACT ON THE GAS COSTS OF PENNSYLVANIA RATEPAYERS?

20 A. No. PECO states that it believes that there will be no adverse impact on the gas costs
21 incurred by Pennsylvania ratepayers. PECO's gas procurement operations will continue
22 to be performed by PECO under the merger terms proposed by the affected companies.

23 Q. WHAT IS YOUR CONCERN FOR PENNSYLVANIA RATEPAYERS?

24 A. Section 1307(f) of the Public Utility Code requires Pennsylvania natural gas distribution
25 companies to adhere to a least cost gas procurement policy. The merger between PECO
26 and PSE&G should not affect this requirement in any way.

1 Q. GIVEN THE ABOVE, WHAT IS YOUR RECOMMENDATION WITH
2 RESPECT TO ANY POTENTIAL MERGER OF PECO'S GAS
3 PROCUREMENT OPERATIONS?

4 A. As explained above, PECO anticipates maintaining the status quo with respect to gas
5 procurement operations. Addressing potential impacts of any merged procurement
6 operations would be premature, since no merger of this function is proposed. Therefore,
7 I recommend that before any future changes to the structure of the gas procurement
8 function or management of PECO's capacity and gas supply contracts are implemented,
9 those proposed changes should be carefully reviewed and pre-approved by the
10 Commission.

11 Q. WHEN YOU REFER TO THE CHANGES TO THE STRUCTURE OF THE
12 GAS PROCUREMENT FUNCTION OR THE MANAGEMENT OF PECO'S
13 CAPACITY AND GAS SUPPLY CONTRACTS, TO WHAT ARE YOU
14 SPECIFICALLY REFERRING?

15 A. When I refer to changes to the structure of the gas procurement function or the
16 management of PECO's capacity and gas supply contracts, I am referring to the
17 combining of the PECO gas procurement function with that of PSE&G or another entity,
18 or transferring control or the use of PECO's capacity and/or gas supply contracts to
19 another entity beyond that currently and customarily done by PECO.

20 Q. COULD YOU PROVIDE AN EXAMPLE OF WHAT YOU MEAN BY
21 CURRENTLY AND CUSTOMARILY DONE BY PECO?

22 A. Yes. It is my understanding that PECO currently engages in capacity release activities
23 and has entered into certain storage asset management arrangements. Under these
24 activities and arrangements, control of the use of PECO's capacity and/or gas supply
25 contracts may be transferred to another entity. Any arrangements beyond the customary

1 storage asset management arrangements that PECO has historically entered into which
2 transfer greater control of the use of PECO's capacity and/or gas supply contracts to
3 another entity should be proposed by PECO and pre-approved by the Commission. This
4 recommendation is especially appropriate given that PECO's current purchased gas
5 reviews are after-the-fact reviews. My recommendation would allow the Commission to
6 address any concerns brought to its attention prior to the incurrence of purchased gas
7 costs related to any such concerns.

8 Q. IN WHAT TYPE OF A PROCEEDING SHOULD PECO SEEK PRE-
9 APPROVAL?

10 A. PECO's gas operations and purchasing practices and policies are currently reviewed on
11 an annual basis in Section 1307(f) proceedings. However, these proceedings are fast
12 track proceedings and provide only a limited opportunity to examine and review a
13 company's gas operations and purchasing practices and policies. Generally, only a month
14 and one-half exists between the time a company makes its definitive filing and intervenor
15 testimony is required. I don't believe that this provides a sufficient opportunity to
16 examine and review any changes to the structure of the gas procurement function or
17 management of PECO's capacity and gas supply contracts. Therefore, I recommend that
18 the Company be required to file a separate petition to obtain Commission pre-approval of
19 any changes to the gas procurement function.

20 Q. COULD COMBINING THE GAS PROCUREMENT OPERATIONS OF PECO
21 AND PSE&G OR CHANGES IN THE MANAGEMENT OF PECO'S
22 CAPACITY AND GAS SUPPLY CONTRACTS HAVE AN ADVERSE
23 IMPACT ON THE GAS COSTS OF PENNSYLVANIA RATEPAYERS?

24 A. Yes. Participants in the natural gas market can purchase gas in the Gulf Coast region and
25 secure interstate pipeline capacity to deliver that gas to the service territories of PECO

1 and PSE&G. The price paid for the gas purchased will reflect the market price of gas in
2 the Gulf Coast. Participants in the natural gas market can also purchase gas on a
3 delivered to PECO or PSE&G basis. The price paid for these purchases will reflect the
4 market price of gas in the Gulf Coast plus the market price of the capacity necessary to
5 deliver that gas from the Gulf Coast to PECO or PSE&G.

6 PECO and PSE&G are largely served by the same interstate pipelines. PECO and
7 PSE&G reserve a significant percentage of the capacity on these pipelines. The capacity
8 on these pipelines is generally fully subscribed. That is, there is generally little capacity
9 available for use by those entities, which do not reserve firm capacity on these pipelines.
10 If changes to PECO's gas procurement operations restrict the availability of capacity, the
11 market price of capacity and the delivered cost of gas in Northeast markets could increase
12 significantly. This potentially could adversely impact Pennsylvania ratepayers.

13 Q. WHY ARE YOU RECOMMENDING PRE-APPROVAL OF ANY SUCH
14 CHANGES TO PECO'S GAS OPERATIONS?

15 A. As explained above, changes to the structure or management of PECO's gas procurement
16 function could have an adverse impact on the gas costs of Pennsylvania ratepayers. As
17 the California electric price manipulation experience has shown, it is far preferable to
18 structure energy procurement markets to prevent such occurrences than to deal with them
19 after-the-fact.

20 Q. ARE THERE CONCERNS WITH COMBINING THE GAS AND ELECTRIC
21 OPERATIONS OF PECO AND PSE&G?

22 A. Yes. OCA witnesses Hahn and Smith describe concerns related to the combining of
23 PECO's and PSE&G's large generation portfolio with their large gas operations.

1 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

2 A. Yes, it does.

3

9/23/05
Phila
jk

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

DOCUMENT
FOLDER

SURREBUTTAL TESTIMONY

OF

JEROME D. MIERZWA

ON BEHALF OF THE

PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE

RECEIVED

SEP 26 2005

AUGUST 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

EXETER

ASSOCIATES, INC.
5565 Sterrett Place
Suite 310
Columbia, Maryland 21044

1 **I. Introduction**

2 Q. WOULD YOU PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

3 A. My name is Jerome D. Mierzwa. I am a principal and Vice President with Exeter
4 Associates, Inc. My business address is 5565 Sterrett Place, Suite 310, Columbia,
5 Maryland 21044. Exeter specializes in providing public utility-related consulting
6 services.

7 Q. HAVE YOU PREVIOUSLY TESTIFIED IN THIS PROCEEDING?

8 A. Yes. My direct testimony was filed as OCA Statement No. 3.

9 Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

10 A. The purpose of my testimony is to respond to those portions of the rebuttal testimony
11 presented by PECO witness Lisa Crutchfield which address my direct testimony.

12 Q. WHICH ISSUE RAISED IN YOUR DIRECT TESTIMONY DOES WITNESS
13 CRUTCHFIELD ADDRESS?

14 A. Witness Crutchfield addresses my recommendation that before any future changes to the
15 structure of the gas procurement function or the management of PECO's capacity and gas
16 supply contracts are implemented, those changes should be reviewed and pre-approved
17 by the Commission.

18 Q. WHAT IS WITNESS CRUTCHFIELD'S RESPONSE TO YOUR
19 RECOMMENDATION?

20 A. Ms. Crutchfield finds my recommendation unreasonable and unnecessary for two
21 reasons:

- 22
- 23 • It does not provide the Company with sufficient notice of the types of
24 transactions for which it would be required to seek approval; and
 - 25
 - 26 • It is unnecessary because the Commission already has the statutory means for
27 reviewing post-merger gas supply or procurement transactions between PECO
28 and affiliates or non-affiliates.
 - 29

1 Q. WHY DOES WITNESS CRUTCHFIELD BELIEVE THAT YOUR
2 RECOMMENDATION DOES NOT PROVIDE THE COMPANY WITH
3 SUFFICIENT NOTICE OF THE TYPES OF TRANSACTIONS FOR WHICH
4 IT WOULD BE REQUIRED TO SEEK PRIOR APPROVAL?

5 A. Among the changes to the management of PECO's capacity and gas supply contracts
6 which I recommended be pre-approved by the Commission is the transferring of control
7 or the use of PECO's capacity and/or gas supply contracts to another entity beyond that
8 currently and customarily done by PECO. Witness Crutchfield believes that the phrase
9 "beyond that currently and customarily done by PECO" is vague and impossible to
10 practically apply. She claims that it would be impossible for PECO to be certain about
11 which transactions would be subject to the prior approval process.

12 Q. WHAT IS YOUR RESPONSE TO WITNESS CRUTCHFIELD?

13 A. I believe that the phrase "beyond that currently and customarily done by PECO" is more
14 than adequate to determine which transactions would be subject to the prior approval
15 process. If the control or use of PECO's capacity is proposed to be transferred from the
16 current PECO entity which routinely and customarily administers that responsibility, that
17 proposal would be subject to pre-approval. Should there be uncertainty whether prior
18 approval is required for a particular transaction, PECO can always seek clarification from
19 the Commission and the affected parties. This clarification could be obtained during the
20 Company's annual 1307(f) proceedings or a separate Commission request.

21 Witness Crutchfield is proposing to establish an impossible standard -- the
22 issuance of a Commission order so precise and specific that it could never be subject to
23 various interpretations or dispute. As a former Commissioner, witness Crutchfield is well
24 aware that disputes may arise over the interpretation of a Commission order.

1 Q. WITNESS CRUTCHFIELD CLAIMS THAT YOUR RECOMMENDATION
2 FOR PRE-APPROVAL, AS IT RELATES TO AFFILIATE TRANSACTIONS,
3 IS UNNECESSARY. WHAT IS YOUR RESPONSE?

4 A. Witness Crutchfield claims that my recommendation to file for pre-approval for affiliate
5 transactions would unnecessarily duplicate the process that the Company is already
6 required to file. It would not be necessary for the Company to make an additional
7 separate filing. It is my understanding that the Commission is required to act on such a
8 filing within 30 days unless it specifically extends the 30-day period by written order.
9 Should the Company propose a change in the gas procurement function involving an
10 affiliate, the Commission can determine whether the change merits additional
11 investigation.

12 Q. WITNESS CRUTCHFIELD ALSO BELIEVES THAT PECO SHOULD NOT
13 BE REQUIRED TO SEEK PRIOR APPROVAL FOR TRANSACTIONS WITH
14 OTHER ENTITIES. WHAT IS YOUR RESPONSE?

15 A. Witness Crutchfield claims the merger will not affect PECO's relations with unaffiliated
16 third parties and the merger will have no impact on PECO's transactions with third
17 parties. However, the existence of two closely located NGDCs such as PECO and PSEG
18 served with pipeline capacity that are potential substitute delivery arrangements could
19 create new and novel regulatory considerations for the Commission. Transactions with
20 other entities not affiliated with PECO can still raise concerns and issues, particularly if
21 the other affiliated gas company is or may be transacting business with this entity. In
22 addition, the merger may create new issues related to purchased gas cost allocation
23 among Exelon affiliates which could impact the way that arrangements with unaffiliated
24 entities are transacted.

1 Q. WITNESS CRUTCHFIELD CLAIMS THAT A PRIOR APPROVAL
2 REQUIREMENT IS UNREASONABLE BECAUSE THE COMPANY DOES
3 NOT HAVE A HISTORY OF IMPRUDENT OR ABUSIVE GAS
4 PROCUREMENT DECISIONS. DO YOU HAVE ANY COMMENTS?

5 A. Yes. There are other reasons why prior approval should be required other than imprudent
6 or abusive gas procurement decision-making. Changes to the gas procurement function
7 may involve cost allocation issues between the Pennsylvania and New Jersey
8 jurisdictions. Prior approval would assist in ensuring a reasonable allocation of costs for
9 Pennsylvania ratepayers. In addition, if concerns arise with respect to a gas procurement
10 function change and prior approval is not obtained, it may be difficult or impossible to
11 “unscramble the egg” to determine cost impacts on an after-the-fact basis.

12 Q. FINALLY, WITNESS CRUTCHFIELD CLAIMS THAT PRE-APPROVAL
13 MAY RESTRICT MANAGERIAL FLEXIBILITY. SHOULD THIS BE A
14 CONCERN?

15 A. No. Managerial flexibility is necessary for the day-to-day operation of the gas
16 procurement function. Day-to-day ministerial activities presently performed within the
17 entity currently responsible for administering PECO’s capacity and gas supply contracts
18 would not be affected by my recommendation. The changes addressed under my
19 recommendation would be major changes to the gas procurement function requiring a
20 significant resource effort.

21 Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

22 A. Yes, it does.

9/23/05

Phila

jk

EX BAA

COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PUBLIC UTILITY COMMISSION

JOINT APPLICATION OF PECO ENERGY CO. AND PUBLIC SERVICE ELECTRIC AND
GAS CO. FOR APPROVAL OF THE MERGER OF PUBLIC SERVICE ENTERPRISE
GROUP, INC. WITH AND INTO EXELON CORPORATION

DOCKET NO. A-110550F0160

DOCUMENT
FOLDER

DIRECT TESTIMONY OF

BARBARA R. ALEXANDER

Consumer Affairs Consultant

(Reliability, Customer Service, Universal Service, Charitable Giving)

ON BEHALF OF THE

OFFICE OF CONSUMER ADVOCATE

June 28, 2005

RECEIVED

SEP 26 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Q. PLEASE STATE YOUR NAME, ADDRESS AND OCCUPATION.

A. My name is Barbara R. Alexander. I use a business title of Consumer Affairs Consultant. *I am a consultant on consumer protection and customer service issues associated with utility regulation. My address is 83 Wedgewood Dr., Winthrop, ME 04364. I appear in this case as a witness on behalf of the Office of Consumer Advocate (OCA).*

Q. PLEASE DESCRIBE YOUR BACKGROUND AND QUALIFICATIONS FOR YOUR TESTIMONY IN THIS PROCEEDING.

A. I opened my consulting practice in March, 1996, after nearly ten years as the Director of the Consumer Assistance Division of the Maine Public Utilities Commission. While there, I managed the resolution of informal customer complaints for electric, gas, telephone, and water utility service, and testified as an expert witness on consumer protection, customer service and low-income issues in rate cases and other investigations before the Commission. My current consulting practice is directed to consumer protection, customer service and low-income issues associated with both regulated utilities and retail competition markets. My recent clients include the Pennsylvania Office of Consumer Advocate, New Jersey Division of Ratepayer Advocate, Maine Office of Public Advocate, Colorado Office of Consumer Counsel, Vermont Department of Public Service, Citizens Utility Board in Wisconsin and in Illinois, and various AARP state offices (Montana, New Jersey, Maine, California, and Illinois). I have published widely on consumer protection, service quality, universal service, and Default Service policies and programs. I attach my resume with all my publications and published testimony as Exhibit BA-1.

I have assisted the Pennsylvania OCA in its restructuring activities concerning

electricity and natural gas since 1997, numerous rulemaking proceedings relating to customer service, reliability of service, and consumer protection regulations, as well as the OCA's participation in the merger proceeding between Exelon and PECO Energy in 2000 and the merger between FirstEnergy and GPU Energy in 2001.

I am also an attorney, and a graduate of the University of Michigan (1968) and the University of Maine School of Law (1976).

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. The purpose of my testimony is to respond to the filing by Exelon Corporation ("Exelon") and PECO Energy ("PECO") to obtain the approval of the Pennsylvania PUC for the proposed merger between Exelon and the Public Service Enterprise Group, the holding company that owns Public Service Electric and Gas ("PSE&G"), the largest utility in New Jersey. My testimony will address those aspects of the merger that may affect customer service, reliability and service quality, and compliance with universal service mandates for PECO. Specifically, I will review PECO Energy's performance with the service quality and universal service conditions approved by the Commission as a condition of the Company's merger with Exelon in 2000, as well as the promises being made in this proceeding to unite Exelon (and "PECO") with Public Service Electric and Gas Co.

Q. PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS.

A. My key conclusions and recommendations are as follows:

I. Introduction and Reasons Why Customer Service, Reliability of Service, Universal Service, and Community Impact Policies and Programs Should be Carefully Considered in this Proceeding

- As a result of this merger, Exelon is proposing to undertake certain changes in the

operations of all its electric distribution companies to introduce “best practices” and other efficiencies with the avowed intent to lower costs and improve customer service. However, these changes and the drive to achieve efficiencies among the three utilities located in three states with different regulators operating under different statutory mandates and regulatory policies and programs also have the potential to degrade service quality and reliability of service, as well as threaten the ability of vulnerable lower income customers to maintain and retain affordable service. These risks must be considered in light of the clear statutory and case law obligation for the proponents of this Merger to demonstrate clear benefits for Pennsylvania customers.

- As part of the Application for approval of this transaction submitted to the Pennsylvania PUC, Exelon and PECO promised that the merger “will not diminish in any way PECO’s aggressive pursuit of service excellence. To the contrary, the merger, by combining the resources of two outstanding utility companies and permitting them to share “best practices,” will make PECO even better positioned to meet future customer demands and to ensure that high quality service will be maintained and enhanced.”
- There are a number of reasons why this Merger could result in exactly the opposite of the promises made by the Joint Applicants in this proceeding. First, most of these commitments are vague promises without any enforceable mechanism or performance standards to track and assure compliance in the future. Second, customers will bear significant risks that the forces set in motion in order to achieve the cost savings described by the Applicants may adversely impact customer service and service reliability. Third, the particular proposal by the Applicants in this case to replace PECO’s existing billing system with that currently used by ComEd and to unify the billing and customer care activities at the three utilities (ComEd in Illinois, PECO in Pennsylvania, and PSE&G in New Jersey) carries with it significant risks associated with billing errors, delays in issuance of bills, and confusion in customer care and collection activities. Finally, the risks I have described above can have particularly adverse consequences for low-income and other payment troubled customers.

II. Pennsylvania’s Customer Service and Reliability Policies

- The Pennsylvania PUC has required electric distribution companies to report customer service and reliability performance data in a number of key areas, and, with respect to reliability performance, has established benchmarks and performance standards.
- For the foreseeable future, residential customers will remain the “captive” of PECO Energy for reliability of service associated with the distribution system, meter reading, the issuance and collection of most bills, and for responding to questions and concerns about the PECO Energy portion of the bill. It is because of the key role played by the distribution companies that the Commonwealth’s

electric restructuring legislation requires the Commission to make sure that service quality and reliability does not deteriorate as a result of retail electric competition.

III. PECO Energy's Service Quality and Reliability Performance: 2000 Merger Settlement.

- While the final performance data for 2005 is not yet available, the Company appears to have met its performance and reporting obligations under the 2000 Merger Agreement. For the years 2001 through 2004 (and including 2005 to date), PECO met its commitment to improve its reliability performance over a five-year period by at least 10% compared to the standard in effect in 2000 for CAIDI, SAIFI, and SAIDI. In addition, the company met its annual performance target for all of the five performance measures for which a standard was included in the 2000 Merger settlement. These obligations expire at the end of 2005.

IV. Proposed Reliability and Service Quality Standards and Customer Improvement Plan as a Condition for Approval of the Merger.

- I recommend that the Commission order PECO to adopt performance standards or targets for a representative number of indicators for reliability and customer service quality and shift the risk of deterioration of performance from customers to PECO. This can best be done by adopting specific performance areas, performance standards, and an enforcement mechanism that will return "service compensation dollars" to customers in the event of a failure to meet the annual performance standard.
- I have proposed performance standards that reflect PECO's historical performance, industry standards, and that reflect the promises made to improve performance and customer service as a result of the adoption of best practices through this merger.
- I propose that PECO be required to provide "service compensation dollars" to customers in the form of a one-time credit on the distribution portion of the bill when or if the company fails to meet any of these annual performance standards. I recommend that the total dollar amount of service compensation dollars at risk for the 14 performance indicators equal \$1 million for each metric or a total of \$14 million.
- In light of the proposed change in PECO's billing system and the integration of the various utility customer care functions, I recommend that PECO agree to provide payment arrangements and billing options that may exceed the protections allowed by the recently enacted Act 201 for customers that may be affected by billing errors or billing delays associated with these changes.

V. PECO Energy's Implementation of Universal Service Programs.

- PECO has a number of Universal Service programs designed to respond to the needs of its low-income electric and gas customers. These programs consist of a Customer Assistance Program (bill payment assistance in the form of discounts), Low Income Usage Reduction Program or LIURP (energy conservation programs and weatherization), CARES (special counseling and assistance to help low-income households pay their energy bills), and Hardship funds (ratepayer and shareholder contributions to local crisis assistance agencies in the community). The combination of the Restructuring settlement in 1998 and the Merger settlement in 2000 has established budgets and enrollment expectations for all these programs. PECO has implemented its community funding obligations and implemented a more stratified CAP Rate structure, including the relatively new "special needs" program for very low income customers with household income below 50% of the federal poverty guidelines.
- PECO's electric CAP program has five rates that reflect the household income level of the customer and as of 2004 had approximately 99,000 customers enrolled. The gas CAP program had 15,300 customers enrolled as of the end of 2003.
- PECO reports that its CARES program expended \$500,000-\$600,000 in the past four years and served 429,537 customers in 2004. This was a sudden and unexplained increase in the number of customers served by this program and appears questionable in light of the services that this type of program typically delivers. Furthermore, PECO's CARES program is implemented by a very small staff of 5. In addition to providing special counseling and assistance to customers with income at or below 200% of federal poverty level, these employees are required to qualify customers for the "extenuating circumstances" criteria associated with CAP Rate A.
- PECO's Hardship program is called Matching Energy Assistance Fund or MEAF. Company contributions to this fund decreased \$100,000 from 2003 to 2004. Furthermore, PECO relies on quarterly bill inserts to inform customers about MEAF and solicit contributions, but has halted its bill check off option. In addition, direct deposit bill payment customers do not have a method to contribute to MEAF.
- With regard to community presence and charitable giving, this Merger raises some of the same concerns that existed at the time of the earlier merger of PECO and Unicom, but magnified by the various integration plans for three large electric and gas distribution utilities located in three states, as well as the large fleet of generation assets, thus resulting in the potential for lessening the corporate presence and community giving tradition historically in place for PECO. In addition, PECO's employment levels have a significant impact on the health and welfare of the greater Philadelphia area.

VI. Proposed Universal Service Program and Community Impact Conditions for Approval of the Merger

- With regard to PECO's CAP Rates program, I recommend the following benefits be provided to low income customers:
 - First, the current CAP rates for most customers only provide a substantial discount for usage below a level that is typically 500 kWh. Usage above the 500 kWh level is then either priced at a much lower discount level or at the regular residential rate. While the average CAP customer's monthly usage is below that of the average residential customer, this usage cap on the discount has significant impacts on the ability of the CAP customer to make affordable payments. In a recent Order the Commission pointed to the usage caps associated with the CAP Rate structure as contributing to this problem. According to PECO's recent estimate, raising the usage level for CAP Rate B-C-D-E customers to 800 kWh on a year-round basis would increase CAP costs by \$10.3 million annually. I recommend that this step be ordered immediately to be followed by a report by PECO within one year on the impact of this change on the affordability of CAP rate payments for each of the various CAP rate discount levels. In this report, PECO should also be required to consider eliminating any usage caps for the lowest income customers in CAP Rates A, B, and C.
 - PECO has clearly not met the expectations associated with the new CAP rates for the lowest income customers, particularly CAP Rate A whose enrollment has been consistently less than 20 customers, but for which an enrollment cap of 7,500 was negotiated. CAP Rates A, B and C are crucial to the ability of very low income electric customers to make affordable bill payments and was an important reform PECO agreed to implement as a condition of the 2000 Merger. I recommend that the Commission order PECO to conduct more outreach concerning this CAP Rate among current CAP Rate customers in particular and eliminate the requirement of two failed payment plans for other CAP rates as a pre-condition to considering other extenuating circumstances. PECO should also be required to compare its CAP Rate customer participant database with that of the Pennsylvania social service agencies to identify those with household income below 50% of federal poverty guidelines and then target educational and outreach materials to those specific customers to increase enrollment. Finally, the Commission should require PECO to allow newly enrolled CAP Rate A, B, and C customers to qualify for arrears forgiveness under the new CAP rate payment obligation for arrears incurred under the other CAP rates because these customers are entering a new program (not implemented until 2004) that is intended to make the bill affordable.

- PECO should take additional steps to facilitate enrollment of qualified customers into the CAP program. PECO administers its CAP Rate program internally and requires the customer to complete an application with detailed household income information. I recommend that the Commission require PECO to explore the development of the transmittal of the appropriate household income information from the social service agencies *within six months of the date of approval of this Merger*. Since the social service agencies have the necessary information on the federal poverty level of its clients, it would appear to be a minor reform to transmit this information as part of the automated database. Furthermore, such a reform reflects the currently implemented “best practice” in effect in New Jersey for its Universal Service program (and in which PSE&G is the largest utility participant) in which customer benefits are determined automatically at the time of a customer’s qualification for LIHEAP and transmitted electronically to the various electric and gas utilities.

- Finally, the Commission should not permit any further increases in residential customer rates associated with the USF surcharge mechanism for both gas and electric CAP rate programs until the Company’s next base rate proceeding. I recommend that no further CAP or Universal Service program costs approved by the Commission in this proceeding be recovered through USF recovery mechanisms. The current electric USF cost recovery amount, following the recovery of any approved undercollection, should remain in place. Any additional expenses for these programs should be funded from Merger savings as identified by other witnesses.

- PECO should reconcile the discrepancy in the number of CARES full-time employees and the number of customers served by this program that I have identified and focus the CARES program on the provision of social services to individual customers. Furthermore, PECO should establish professional job qualifications for CARES employees that reflect the specialized social services that should be the focus of this program.

- With regard to the data warehouse, its creation is crucial to the ability to conduct proper evaluations of PECO’s Universal Service programs and document the net benefits and costs associated with these programs. I recommend that the Commission order PECO to submit a specific description of the steps that will be taken to preserve historical data and capture data on an ongoing basis for this purpose during the transition and changes associated with the billing changes and other IT changes that may occur as a result of this Merger. This description should document how PECO will assure its continued compliance with this provision of the 2000 Merger.

- With respect to PECO’s Hardship program funding, I recommend that the Commission require PECO to continue its quarterly solicitations for MEAF

contributions. This quarterly solicitation should include the option for customers to select a contribution that will be automatically included in future monthly bills. In addition, PECO should be required to design a monthly bill check off option for MEAF contributions as part of the future billing program that the Applicants seek to implement pursuant to this Merger. Finally, customers who select automatic payment through their checking account or credit card should be provided the ability to contribute to MEAF in the same manner as customers who receive paper bills.

- With regard to PECO's charitable giving and community presence programs, I recommend that the Commission require PECO to maintain its recent historic level of charitable giving of at least \$8 million per year for a period of at least five years as a condition of the Merger.

**I. INTRODUCTION: WHY CUSTOMER SERVICE, SERVICE QUALITY,
RELIABILITY OF SERVICE, UNIVERSAL SERVICE, AND COMMUNITY IMPACT
POLICIES AND PROGRAMS SHOULD BE CAREFULLY CONSIDERED IN THIS
PROCEEDING**

Q. PLEASE DESCRIBE THE TRANSACTION BEING PROPOSED IN THIS PROCEEDING AND HOW THIS CHANGE RAISES CONCERNS ABOUT SERVICE QUALITY, RELIABILITY, AND UNIVERSAL SERVICE PROGRAMS.

A. Exelon and PECO merged in 2000. PECO is presently one of two electric distribution companies that are subsidiaries of Exelon. PECO's parent company is the Exelon Energy Delivery Company. The other subsidiary is Commonwealth Edison ("ComEd") which serves the greater Chicago area in Illinois. Exelon is now proposing to merge or unite with PSE&G in New Jersey and PSE&G will become the third subsidiary of Exelon Energy Delivery. As a result of this merger, Exelon is proposing to undertake certain changes in the operations of all its electric distribution companies to introduce "best practices" and other efficiencies with the avowed intent to lower costs and improve customer service. However, these changes and the drive to achieve efficiencies among the three utilities located in three states with different regulators operating under different statutory mandates and regulatory policies and programs also have the potential to degrade service quality and reliability of service, as well as threaten the ability of vulnerable lower income customers to maintain and retain affordable service. These risks must be considered in light of the clear statutory and case law obligation for the proponents of this Merger to demonstrate clear benefits for Pennsylvania customers. My testimony focuses on the implications of these promises by the Applicants, the statutory

directives, and the risks associated with the implementation of this merger for PECO's residential customers.

Q. WHAT DO THE APPLICANTS SAY ABOUT THE CUSTOMER SERVICE IMPLICATIONS OF THE PROPOSED MERGER OF EXELON WITH PSE&G?

A. As part of the Application for approval of this transaction submitted to the Pennsylvania PUC, Exelon and PECO promised that the merger "will not diminish in any way PECO's aggressive pursuit of service excellence. To the contrary, the merger, by combining the resources of two outstanding utility companies and permitting them to share "best practices," will make PECO even better positioned to meet future customer demands and to ensure that high quality service will be maintained and enhanced." [Joint Application at 14-15] The Joint Application emphasized the Sharing of Best Practices among the three utilities and pointed out that PSE&G has consistently achieved first quartile performance in all major metrics for transmission and distribution reliability. [Joint Application at 18] Finally, the merger will "create the opportunity to achieve meaningful cost savings for regulated and unregulated business of Exelon and PSE&G through the sharing of best practices, elimination of duplicative functions..." [Joint Application at 18] These synergies "may reduce the size of future rate increases." [Joint Application at 19] The Application states that the merger will "benefit the communities" served by PECO and the other utilities and that the companies "expect to maintain and enhance their roles as leaders and active participants in civil and cultural life of the cities and communities they serve and to take an even greater leadership role in contributing money, time, and other resources to charitable institutions and causes throughout their combined service areas." [Joint Application at 19-20] Finally, the Application states,

“PECO remains fully committed to providing safe and reliable electric and natural gas service at reasonable rates and, in fact, is convinced that the Merger will enhance its ability to do so.” [Joint Application at 20]

Q. DID THE APPLICANTS STATE ANY SPECIFIC CUSTOMER SERVICE, SERVICE QUALITY OR LOW INCOME PROGRAM IMPLICATIONS ASSOCIATED WITH THE MERGER?

A. Exelon Witness Denis P. O’Brien testified that PECO would benefit from the opportunity to share best practices with PSE&G, “which has an outstanding record of reliability and customer service...” [O’Brien at 7] Mr. O’ Brien testified that that Merger will provide PECO opportunities to “perform at an even higher level” (compared to recent performance). [O’Brien at 9] With regard to PECO’s universal service programs, Mr. O’Brien stated that the strong commitment to the various programs, such as the Customer Assistance Program or CAP, LIHEAP (federal energy assistance program), Low Income Usage Reduction Program (“LIURP”), and CARES (special assistance programs for certain customers) would continue unabated and that the commitments in the 2000 Merger settlement and Restructuring case would be honored. [O’Brien at 14]

Furthermore, the Merger will “create the opportunity to achieve meaningful cost savings not only through the sharing of best practices, as mentioned above, but also through synergies. According to Exelon Witness William D. Arndt, the merger will unify the Information Technology function, as well as integrate the various billing and collection systems, as well as the customer care function and calling centers. [Arndt at 24-26] These integrations and changes are designed to reduce bad debt expense and reduce the number of customer call center representatives by 115 positions or 12% of the

call center resources currently in use by PECO.¹ These savings are estimated at \$5.2 million in year two growing to \$5.5 million in year four, resulting in an annual average savings of \$4 million over the four-year period. [Arndt at 32-33]

Both witnesses emphasized that there would be no adverse impact on customer service, reliability of service, or existing low-income programs as a result of this search for “best practices” and the implementation of the programs to generate synergies or cost savings that will exceed the costs incurred to implement the merger and the synergies themselves.

Q. SO WHY ARE YOU CONCERNED ABOUT THE IMPACTS OF THIS MERGER ON PECO’S RESIDENTIAL CUSTOMERS IN LIGHT OF THESE COMMITMENTS?

A. There are a number of reasons why this Merger could result in exactly the opposite of the promises made by the Joint Applicants in this proceeding.

First, most of these commitments are vague promises without any enforceable mechanism or performance standards to track and assure compliance in the future. These general statements, while welcome, are “cheap” in that they are not accompanied with any specific commitments, performance targets, or carry with them any risk to shareholders if they are not met.

Second, customers will bear significant risks that the forces set in motion in order to achieve the cost savings described by Mr. Arndt may adversely impact customer service and service reliability. Exelon and PECO may (particularly in light of the lack of enforceable promises noted above) reduce the level of employees necessary to properly manage the reliability and distribution service function or the level of customer service

¹ Data Response AA Set I-1. In addition to the 115 positions, PECO expects to eliminate 12 exempt positions in the customer service/call center function.

currently provided at PECO's customer call centers. In addition, PECO may suffer from lack of sufficient investment in the distribution infrastructure and management of the billing and collection function in terms of technology, routine maintenance, and improvements in equipment. These types of actions are not necessarily inevitable as a result of this merger. Nor do I suggest that I have a basis for suggesting that such actions are contemplated by Exelon or PECO at this time. However, it is only appropriate to point out the potential for such actions that have occurred when utilities have merged in the past and that could occur when management is striving to demonstrate lower costs and savings to shareholders. The merger of Exelon and PSE&G, New Jersey's largest electric utility, will drive the participating companies to reduce costs and find savings that can pay for the costs incurred to bring about the merged companies. The merger will require a significant amount of time and effort by the current management of both companies as they search for the promised "best practices" and the integration strategies that will affect day-to-day operations. In short, stockholders of both companies will be looking to the balance sheet and income statement to determine if the merger was "worth it." This motivation may result in efforts to reduce employees and programs in a manner that adversely affects service quality and reliability. Of course, it may very well be possible to reduce costs, increase efficiency, increase profits, and maintain a high quality customer service profile. My testimony is designed to make it more likely that these "win-win" results do occur and that the risk of their nonoccurrence is shifted from PECO's customers to Exelon and PECO's shareholders.

Third, the particular proposal by the Applicants in this case to replace PECO's existing billing system with that currently used by ComEd and to unify the billing and

customer care activities at the three utilities (ComEd in Illinois, PECO in Pennsylvania, and PSE&G in New Jersey) carries with it significant risks associated with billing errors, delays in issuance of bills, and confusion in customer care and collection activities. I am aware of several examples of utility billing conversion projects that resulted in significant deterioration in billing performance, to the detriment of the customers, as well as utility managers who were then forced to reduce or eliminate ongoing collection efforts because of the lack of actual billing and amount overdue information. One utility in New Jersey, for example, was forced to halt disconnections for almost a full year due to these difficulties. Other utilities have had to severely constrain their ability to make changes and reforms to their collection procedures or their ability to report key credit and collection data to state regulators as a result of billing conversion projects that went awry. Another aspect of these billing and customer care changes that is of concern is that the three electric distribution utilities operate in three different states with three different retail statutory and regulatory regimes so that any attempt to coordinate or implement a consolidated call center or integrate customer care activities carries a high risk of noncompliance with one or more state policies or regulatory requirements. PECO's customers have the expectation and right to be treated in accordance with the Pennsylvania regulatory policies and customer protection rules no matter where the phone call is answered or the bill is issued. The initiatives that will be required to assure this result will complicate the stated intent to achieve efficiencies in this area and create the risk of inappropriate actions and resulting service quality failures.

Finally, the risks I have described above can have particularly adverse consequences for low-income and other payment troubled customers. This is particularly

true because of the recent enactment of Act 201 which made a number of statutory changes to the PUC's Chapter 56 customer protection regulations, particularly with respect to restrictions on access to payment arrangements and criteria for disconnection of service. Already, disconnections by Pennsylvania's electric and natural gas utilities have soared to a 113% increase for the first four months of 2005 compared to the same period in 2004. More so than other residential customers, low-income, vulnerable, and payment troubled customers rely on access to customer call centers to negotiate payment arrangements, respond to disconnection notices, enroll in various low-income programs (all of which are directly implemented by PECO). Low-income customers (defined as those with household income at or below 150% of Federal Poverty Level) are typically disconnected more frequently than non-low income customers and experience a higher rate of nonpayment.² The receipt of timely and accurate bills with a well-understood and efficient collection routine is crucial to such customers' ability to manage their monthly payments and seek financial assistance which is typically triggered on the receipt of an accurate disconnection notice. These activities are at risk when a utility undertakes to make reforms in their billing and customer care policies and programs, such as suggested will occur as a result of this merger.

Q. PLEASE EXPLAIN THE 2000 MERGER BETWEEN PECO AND EXELON AND THE COMMITMENTS MADE BY PECO IN ITS SETTLEMENT OF THAT PROCEEDING.

A. The Joint Petition for Settlement approved by the Commission in 2000 encompassed a

² According to the U.S. Department of Energy-Energy Information Administration 1997 Residential Energy Consumption Survey, over 5% of low income households experienced an electric shutoff in 1997 compare to less than 2% of those over 150% of poverty. Those with very low income (less than \$5,000 annual household income) experience disconnection at an even higher rate, about 8%.

number of specific promises and commitments with respect to service quality, customer service, and universal service programs, most of which were designed to reflect a five-year period. I will discuss PECO's compliance with these commitments in the 2000 Merger proceeding later in my testimony. With respect to customer service and reliability of service, PECO promised to:

- Comply with a commitment to achieve a level of performance for Customer Average Interruption Duration Index (CAIDI) and System Average Interruption Frequency Index (SAIFI) that represents a 10% improvement compared to the level set by the Commission for its Reliability Benchmarks and Standards.
- Adopt a yearly plan for repeat outages and report repeat outages annually;
- Assure improved performance for the five worst circuits identified in the annual report;
- Provide storm management reports to certain parties;
- Comply with a series of performance targets for five specific customer service areas for 2001-2005 and set forth the enforcement process (including the right to seek penalties by any party) that would be followed if the targets were not met in any year;
- Report a wide range of additional data annually on additional customer service performance areas;

With respect to Universal Service programs and policies, PECO promised:

- A determination of the need for and formulation of a "special needs" program for very low income customers by June 30, 2002³;
- A \$1.3 million grant per year for two years to county fuel fund agencies for additional

³ This program was filed with the Commission for approval in 2003 and implemented starting January 2004.

emergency financial assistance grants and a \$400,000 contribution for 2003 if the “special needs” program was not in effect that year;

- By January 31, 2001, to institute and maintain a “customer data warehouse” that will include historic and current data on low income customers to allow for future evaluations of PECO’s Universal Service programs;
- An updated evaluation of the CAP Rate programs by January 31, 2002;
- Increase the maximum participation level of 100,000 electric CAP customers to 125,000; and
- A cost recovery mechanism for Universal Service Fund Section 1307 recovery mechanism for each CAP Rate electric customer in excess of 90,000 in the amount of \$383 per year and for each Gas CAP Rate customer in excess of 17,500 in the amount of \$200 per year.

II. PENNSYLVANIA’S CUSTOMER SERVICE AND RELIABILITY POLICIES

Q. DOES PENNSYLVANIA HAVE CUSTOMER SERVICE QUALITY AND RELIABILITY STANDARDS APPLICABLE TO ALL ELECTRIC UTILITIES?

A. In general, Pennsylvania has adopted a system of reporting key indicators of reliability and service quality by electric distribution companies. Pursuant to 52 Pa. Code §57.191-197, EDCs report their performance quarterly for System Average Interruption Frequency Index (SAIFI), Customer Average Interruption Duration Index (CAIDI), System Average Interruption Duration Index (SAIDI), and Momentary Average Interruption Frequency Index (MAIFI) (where available). In 1999, the Commission established a “benchmark” and “performance standard” for each EDC and EDC operating

area and then revised and updated these benchmarks and standards in 2004.⁴ As a result, the Commission has established a “benchmark” equal to the five-year average (1994-1998) historical performance excluding major event data. The Commission also adopted two “performance standards” that represent the minimal performance allowed for a given EDC. The two performance standards are a 12-month rolling standard and a three-year rolling standard. The rule does not state what will occur if the utility fails to meet the Performance Standards, but the Commission has the authority to initiate investigations of its rules and assess penalties for violation of its rules.

With respect to customer service, the Commission, pursuant to 52 Pa.Code §54.151-155, requires EDCs to report performance for a wide variety of customer service metrics that reflect customer call center performance, complaint handling, billing, meter reading, and transaction surveys. These reporting requirements do not include performance standards or penalty provisions.

Q. WHAT ROLE DOES EMERGING COMPETITION IN THE ELECTRICITY MARKET PLAY IN ASSURING ADEQUATE SERVICE QUALITY?

A. In a perfectly competitive market, consumers will shop for an electricity supplier based on both price and service quality. Competitors will compete based on service quality features that they find are important to customers. Of course, there is no "perfect" market, but even in a relatively competitive market there is usually a backstop to assure adequate service quality in the form of state and federal consumer protection regulations. More importantly, the service quality associated with electric service of most direct

⁴ Pennsylvania PUC, Rulemaking Re Amending Electric Service Reliability Regulations at 52 Pa. Code Chapter 57, Final Rulemaking Order, Docket No. L-00030161 (Order Adopted May 7, 2004); Amended Reliability Benchmarks and Standards for the Electric Distribution Companies, Order, Docket No. M-00991220 (Order Entered May 7, 2004).

concern to most customers is a function of the monopoly transmission and distribution system. As a result, customers will not be able to improve their service quality, should they choose to do so, by selecting a competitive energy provider, except with respect to the provider's issuance of its own bill or responding to inquiries and complaints about the provider's charges or contract terms. Of course, the number of marketers seeking residential customers has dropped dramatically in recent years, not only in Pennsylvania, and the number of residential customers who are "shopping" continues to drop. For the foreseeable future, residential customers will remain the "captive" of PECO Energy for reliability of service associated with the distribution system, meter reading, the issuance and collection of most bills, and for responding to questions and concerns about the PECO Energy portion of the bill. It is because of the key role played by the distribution companies that the Commonwealth's electric restructuring legislation requires the Commission to make sure that service quality and reliability does not deteriorate as a result of retail electric competition.⁵

**III. PECO ENERGY'S SERVICE QUALITY AND RELIABILITY PERFORMANCE:
2000 MERGER SETTLEMENT.**

Q. PLEASE DISCUSS PECO'S COMPLIANCE WITH ITS CUSTOMER SERVICE AND RELIABILITY PERFORMANCE AS A RESULT OF THE 2000 MERGER SETTLEMENT.

A. I will discuss PECO's compliance with the provisions relating to Reliability and Customer Service in this portion of my testimony. The following Reliability Performance Tables present the revised Reliability Benchmarks and Performance

⁵ 66 Pa. C.S. §§2804(1); 2807(a).

Standards adopted by the PUC in its 2004 Order, the applicable Merger Settlement performance targets and PECO's performance for the calendar year 2004. The Service Quality Performance Tables present the five indicators for which PECO was required to meet a specific performance target, as well as other indicators that are reported by PECO and other Pennsylvania EDCs annually to the Bureau of Consumer Services, along with the historical performance data for 2001 through 2004.

RELIABILITY PERFORMANCE

	PUC Benchmark	2000 Merger Settlement Target (10 % improvement)	Current Performance ⁶
SAIFI	1.23	1.12 incidents	.98
CAIDI	112	101 minutes	106
SAIDI	138	124.2 minutes	104

	PUC 12-month Standard	2000 Merger Target (10% improvement)	Current Performance
SAIFI	1.48	1.33	0.98
CAIDI	134	120.6	106
SAIDI	198	178.2	104

	PUC 3-year Standard	2000 Merger Target (10% improvement)	Current Performance (2002-2004)
SAIFI	1.35	1.25	1.03
CAIDI	123	111	104
SAIDI	167	150	108

⁶ Data Response OCA Set I-1c. Also, it should be noted that the lower the value for each reliability performance indicator, the better the performance because it represents fewer interruptions and lower minutes of interruption.

CUSTOMER SERVICE PERFORMANCE⁷

Performance Indicator	2000 Merger Target	2001	2002	2003	2004
% calls answered w/i 30 secs (all call centers)	70%	76%	79%	81%	73.2%
Average busyout rate	4%	0.0%	0.97%	.022%	.33%
# of res. Customer disputes not issued a report within 30 days	50% decrease compared to 1999 (2125)	156	55	38	0
Gas Response Time to Safety Calls	99% within one hour	100%	100%	100%	99.64%
OSHA Lost Work Days	Top 10% of EEI comparable utilities	.76	0.69	.51 (top 10%)	1.03 (top 10%)
# and % of res. Meters not read as required by 56.12(4)(ii) and iii)	Reporting only	13,956	8,841	6,008	E - 811 G-428
		.722%	.44%	.298%	E - .052% G - .10%
		12,196	8,052	6,626	E - 2,936 G - 737
		.633%	.40%	.329%	E - .178% G - .171%
Justified Consumer Complaint Rate	Reporting only	.49	.37 (electric and gas)	.53 (electric and gas)	Not available
PUC Infraction Rate	Reporting only	.43	.27	.21	Not available
Percent of residential bills not rendered once every billing period	Reporting only	.53%	.07%	0% (77 bills)	0.002%
Average Call Abandonment Rate	Reporting only	5%	4%	4%	9.1%

Q. HAS PECO COMPLIED WITH ITS AGREED UPON PERFORMANCE STANDARDS SINCE 2000?

A. While the final performance data for 2005 is not yet available, the Company appears to have met its performance and reporting obligations under the 2000 Merger Agreement.

⁷ Data derived from Data Response OCA Set I-1; OCA Set I-12; OCA Set XV-2; BCS Annual Reports.

For the years 2001 through 2004 (and including 2005 to date), PECO met its commitment to improve its reliability performance over a five-year period by at least 10% compared to the standard in effect in 2000 for CAIDI, SAIFI, and SAIDI. In addition, the company met its annual performance target for all of the five performance measures for which a standard was included in the 2000 Merger settlement. These obligations expire at the end of 2005.

Q. DID YOU REVIEW OTHER PERFORMANCE DATA TRACKED BY PECO FOR THE PAST SEVERAL YEARS?

A. Yes, I compared PECO's performance with that of other Pennsylvania electric distribution companies for the past several years based on the annual reports published by the PUC's Bureau of Consumer Services. In general, PECO performs within the average or above the average range in the past several years for which data is available, but this comparison is somewhat difficult because PECO reports all of its customer service data reflecting both gas and electric accounts while other utilities report only gas or only electric data for these reports.

**IV. PROPOSED SERVICE QUALITY IMPROVEMENT PLAN FOR PECO ENERGY
AS A CONDITION OF APPROVAL OF THIS MERGER PROPOSAL.**

Q. DO YOU HAVE A RECOMMENDATION IN RESPONSE TO THE CONCERNS YOU RAISED ABOUT THE RISKS ASSOCIATED WITH THIS MERGER'S IMPACT ON RELIABILITY AND QUALITY OF SERVICE FOR PECO'S RESIDENTIAL CUSTOMERS?

A. Yes, I recommend that the Commission order PECO to adopt performance standards or

targets for a representative number of indicators for reliability and customer service quality and shift the risk of deterioration of performance from customers to PECO. This can best be done by adopting specific performance areas, performance standards, and an enforcement mechanism that will return "service compensation dollars" to customers in the event of a failure to meet the annual performance standard.

Q. IN LIGHT OF YOUR ACKNOWLEDGEMENT THAT PECO COMPLIED WITH THE MERGER CONDITIONS APPROVED IN 2000, WHY ARE ADDITIONAL PERFORMANCE STANDARDS AND ENFORCEMENT MECHANISMS REQUIRED AT THIS TIME?

A. *There are several reasons why the Commission should not merely look at PECO's compliance with the 2000 Merger settlement provisions and conclude that further action is not necessary in light of this Merger proposal. First, those merger conditions concerning customer benefits expire at the end of 2005, leaving customers without any enforceable customer service standards for billing, call center, field operations, or safety. Second, PECO and Exelon have made promises in this Merger application concerning their ability to deliver customer service benefits, but have not suggested any specific standards or enforcement mechanisms to back up these vague promises. Third, this particular Merger carries with it additional risks for Pennsylvania customers. The resulting combination of three very large electric distribution companies in Illinois, Pennsylvania, and New Jersey, the move to integrate billing and customer care operations, and the potential for corporate priorities dictated by this far ranging energy delivery system that reflect more than purely Pennsylvania concerns suggest a higher level of risk that should be addressed in any conditions imposed by the Commission as an*

approval of this Application for Merger. Because this Merger does contain the high level of risks I have identified, I recommend that performance standards for service quality and reliability of service incorporate a specific enforcement mechanism to transfer the risk of nonperformance from customers to shareholders.

Q. PLEASE GIVE AN OVERALL SUMMARY OF THE SERVICE QUALITY IMPROVEMENT PLAN THAT YOU PROPOSE AS A CONDITION OF THE COMMISSION'S APPROVAL OF THE MERGER IN THIS PROCEEDING.

A. In general, the Commission should establish a Service Quality Improvement Plan that measures the key attributes of PECO's service quality and reliability of service. The adoption of a Service Quality Improvement Plan will enhance the likelihood that promises made by the applicants in this proceeding will be achieved. The Plan should measure *reliability of service, customer call center performance, customer complaint handling, billing accuracy and timeliness, and safety performance*. Performance in each area should be compared to a pre-established baseline performance standard and when performance falls below the standard, PECO should be required to compensate customers for poor service quality in the form of a "service compensation" credit.

Q. WHAT SPECIFIC PERFORMANCE AREAS SHOULD BE INCLUDED IN THE PLAN AND WHAT SPECIFIC BASELINE PERFORMANCE STANDARDS SHOULD BE ESTABLISHED FOR EACH INDICATOR?

A. I recommend that the Commission include six measurements of reliability of service (those established in the recent Commission Reliability Standards rulemaking amendments) and the same five measurements of service quality and customer service that were included in the 2000 Merger settlement. I then propose the addition of three

additional performance areas to reflect the potential for deterioration in billing accuracy and timeliness that may occur with the announced change in PECO's billing system and customer care operations that will occur when this merger is consummated. I recommend the following 14 measures and performance standards:

SERVICE QUALITY IMPROVEMENT PLAN

Performance Area	2000 Merger Performance Standard (10% improvement compared to PUC standard)	Proposed 2005 Merger Standard
SAIFI (PUC 12-month rolling standard)	1.33 incidents	1.06 (20% improvement over five years)
CAIDI (PUC 12-month rolling standard)	120.6 minutes	96.48 (20% improvement over five years)
SAIDI (PUC 12-month rolling standard)	178.2 minutes	142.6 (20% improvement over five years)
SAIFI (PUC 36-month standard)	1.25 incidents	1 (20% improvement over five years)
CAIDI (PUC 36-month standard)	111 minutes	88.8 (20% improvement over five years)
SAIDI (PUC 36-month standard)	150 minutes	120 (20% improvement over five years)
% calls answered within 30 seconds (all call centers)	70%	80% (industry standard)
Average busyout rate	4%	.4% (2003 and 2004 performance)
Call Abandonment Rate	Not applicable	4%
Gas Response Time to Safety Calls	99% within 1 hour	99% within 1 hour
OSHA Lost Work Days	Top 10% of comparable utilities	Top 10% of comparable utilities
Percent of residential bills issued accurately	Not currently measured	99.99%
Justified Consumer Complaint Rate	Not applicable	.28 (industry average for 2003)
Percent of residential bills not rendered once every billing period	Not applicable	.01%

Q. PLEASE EXPLAIN YOUR APPROACH IN ESTABLISHING THE PROPOSED PERFORMANCE STANDARDS.

A. I have proposed performance standards that reflect PECO's historical performance, industry standards, and that reflect the promises made to improve performance and customer service as a result of the adoption of best practices through this merger. I provide a few specific comments below:

Reliability Standards (SAIFI, CAIDI, SAIDI): The proposed standards for the 12-month and 36-month reliability standards reflect the 10% improvement promised and delivered over the five-year period as a result of the 2000 Merger Settlement with an added 10% to reflect the benefits that should be provided to PECO's customers as a result of this proposed Merger. This performance should be measured annually with an expectation of a 2% improvement each year, similar to the approach of the 2000 Merger settlement. In recent years, PECO has for the most part complied with these proposed standards. Where PECO has not already demonstrated compliance, it is reasonable to expect improvement. One of the benefits identified in the proposed Merger is the sharing of "best practices" with PSE&G which has recorded reliability performance for SAIFI and CAIDI in the 1st Quartile of comparable electric utilities, while PECO's performance has been in the 2nd or 3rd Quartile.⁸ Therefore, it is reasonable to expect improvement in this area.

Percent Calls Answered within 30 Seconds: PECO has significantly improved its overall annual call answering performance. This improvement should continue without degradation of service as a result of the Merger and the integration of customer care

⁸ Data Response OCA Set 1-5.

activities among the three Exelon delivery companies. However, this performance reflects the average of all of PECO's call centers, several of which (including the Universal Service call center) perform at a lower level than call center that handles routine billing and service inquiries. As a result, I recommend that the performance standard reflect the typical industry standard of annually answering 80% of the calls within 30 seconds.

Average Busyout Rate: This performance area measures customer calls that receive a busy signal when attempting to call the call center. PECO should manage its call centers to allow almost all traffic to be "answered" and enter the queue to either select an automated response option or choose to talk with a customer service representative. The proposed standard reflects PECO's actual performance in recent years. Again, any future performance should not deteriorate as a result of the Merger and integration of customer call center activities.

Call Abandonment Rate: This performance area is reported annually to the Bureau of Consumer Services and represents the percentage of customers who abandon the call once the call is received by the call center. The proposed performance standard reflects my concern about PECO's recent decrease in performance in this area, reporting a 9% call abandonment rate for 2004, one of the highest (i.e., poorest) rates among the Pennsylvania EDCs. Therefore, I recommend a 4% abandonment rate standard that reflects 2002 and 2003 performance and that is also typical of other EDCs for that time period.

Gas Safety Response Time: This performance area is applicable to PECO's gas operations and requires the company to respond to gas safety calls in under an hour. The

actual performance has complied with the very high performance standard put into effect in the 2000 Merger settlement and should continue.

OSHA Lost Work Days: This performance area measures worker safety and reflects the importance of assuring that any moves to adopt efficiencies and reduce operation and maintenance expenditures is not done at the expense of worker safety. The proposed standard reflects PECO's actual performance since the 2000 Merger.

Percent of residential bills issued accurately: This is a new performance area that is currently not reported by PECO to the Commission. It is important to adopt such a performance area in response to the company's intent to abandon its current billing system and adopt that in effect at ComEd. This change, while it may produce efficiencies and improvements, also carries implementation risks of increased billing error and billing failure. I recommend a performance standard that reflects the typical utility performance of extremely high billing accuracy. In fact, several utilities promise customers a one-time credit if any bill is issued inaccurately.

Percent of Residential Bills Not Timely Issued: This performance area is already tracked and reported by PECO to the Commission as part of its annual customer service report. The historical performance shows that PECO rarely reports any failures with this performance indicator. This performance should be continued and the proposed standard reflects that intent.

Justified Consumer Complaints: This performance standard is currently calculated annually by the Commission's Bureau of Consumer Services and reported as part of the BCS utility customer service reports. It represents the rate of consumer complaints filed with the BCS in which the BCS determines that the utility failed to properly handle the

dispute prior to the customer's informal appeal. The proposed performance standard is based on the 2003 electric distribution utility average. Although PECO's performance has typically not met this ratio, the company should strive to do so as a result of the merger.

Q. SHOULD CUSTOMERS BE COMPENSATED DIRECTLY FOR SERVICE QUALITY PERFORMANCE THAT DOES NOT MEET THE ANNUAL PERFORMANCE STANDARDS?

A. I propose that PECO be required to provide "service compensation dollars" to customers in the form of a one-time credit on the distribution portion of the bill when or if the company fails to meet any of these annual performance standards. I recommend that the total dollar amount of service compensation dollars at risk for the 14 performance indicators equal \$1 million for each metric or a total of \$14 million.⁹ Service compensation dollars should be returned to customers based on the dollar value of each percentage by which the individual standard is not met on an annual basis. Each percentage drop in performance compared to the annual standard should be equal to \$100,000 service compensation dollars. By triggering compensation credits based on the percentage deterioration in annual performance, the mechanism I have proposed equitably links the level of deterioration with the level of compensation credits required to be paid to customers.

⁹ This maximum amount of compensation credits are only triggered if there is a massive deterioration in customer service and reliability in all indicators, an extremely unlikely event. Furthermore, I should note that this amount is close to the \$15 million in bad debt expense savings that PECO identified to the Commission in its filing concerning the implementation of Act 201. Data Response AA Set I-44.

Q. PLEASE PROVIDE AN EXAMPLE OF HOW THE SERVICE COMPENSATION DOLLARS WOULD BE CALCULATED UNDER YOUR PROPOSED MECHANISM.

A. For example, if the company fails to meet the CAIDI standard by 5%, a total of \$500,000 service compensation dollars will be returned to customers. The scale of the compensation points and dollars is intended to pay out the maximum service compensation credits if the reliability of service failure reflects a 10% or more deterioration in performance from the annual performance standard.

Q. SHOULD THE SERVICE QUALITY FAILURES BE TARGETED TO ELECTRIC OR GAS CUSTOMERS OR BOTH?

A. Any service compensation dollars associated with the six reliability indicators should be returned to all electric customers only since these indicators are not relevant to gas service. The reliability-related compensation credits should be returned to all electric customers on a pro rata basis. The 7 service quality indicators should be focused on residential customers. The Gas Safety Response Time compensation credits, if any, should be returned to gas residential customers only. The other 6 service quality indicators should result in credits returned to all PECO's residential customers, about 85% of which are electric and 15% gas.

Q. HOW SHOULD PECO ENERGY REPORT THE SERVICE IMPROVEMENT PLAN RESULTS TO THE COMMISSION AND OTHER INTERESTED PARTIES?

A. The Company should submit its reliability and service quality results with either an independent verification by a third party or an affidavit signed by a senior officer who attests that the information is accurate and verifiable. This information should be submitted annually to the Commission, the OCA, the OSBA, OTS, and other interested

parties. This report should contain a proposed service quality report to PECO's customers.

Q. HOW SHOULD THE COMPANY REPORT THE RESULTS OF THE SERVICE QUALITY IMPROVEMENT PLAN TO CUSTOMERS?

A. PECO should report the results of its service quality and reliability performance to its customers annually. This report should include a full report on performance in all categories, both where the Company performed better than the baseline standards and any failures, as well as any service compensation credits being returned to customers.

Q. DO YOU RECOMMEND ANY FURTHER CONDITIONS RELATING TO BILLING PERFORMANCE?

A. In light of the proposed change in PECO's billing system and the integration of the various utility customer care functions, I recommend that PECO agree to provide payment arrangements and billing options that may exceed the protections allowed by the recently enacted Act 201 for customers that may be affected by billing errors or billing delays associated with these changes. For example, if PECO is forced to issue estimated bills or fails to issue timely bills, PECO should offer payment arrangements and remedies that go beyond the restrictions that Act 201 may impose.

V. PECO ENERGY'S IMPLEMENTATION OF UNIVERSAL SERVICE PROGRAMS

Q. PLEASE DESCRIBE PECO'S UNIVERSAL SERVICE PROGRAMS AND THE CHANGES REQUIRED BY THE 2000 MERGER SETTLEMENT.

A. PECO has a number of Universal Service programs designed to respond to the need of its low-income electric and gas customers. These programs consist of a Customer

Assistance Program (bill payment assistance in the form of discounts), Low Income Usage Reduction Program or LIURP (energy conservation programs and weatherization), CARES (special counseling and assistance to help low-income households pay their energy bills), and Hardship funds (ratepayer and shareholder contributions to local crisis assistance agencies in the community). The combination of the Restructuring settlement in 1998 and the Merger settlement in 2000 has established budgets and enrollment expectations for all these programs. PECO has implemented its community funding obligations and implemented a more stratified CAP Rate structure, including the relatively new "special needs" program for very low income customers with household income below 50% of the federal poverty guidelines. I have a number of comments on several aspects of these programs that should be considered as important aspects of any conditions attached to the approval of this merger.

Q. PLEASE DESCRIBE PECO'S CAP RATE STRUCTURE, ENROLLMENT, AND FUNDING SINCE 2000.

A. PECO has five CAP Rates that provide a discount to low income customers, the amount of which reflects the customer's household income so that the lowest income and most needy customers receive the largest percentage discount from the regular residential rate. The entry level requirements for these various discount levels reflect the customer's annual household income in relationship to the Federal Poverty Level (FPL).¹⁰ The following Table shows the five electric CAP rate discounts, the recent participation levels, and the funding associated with current enrollment¹¹:

¹⁰ The FPL is established annually by the U.S. Department of Health and Human Services. For the 2004 fiscal year, 100% of FPL for a family of one adult and two children was equal to \$15,260.

¹¹ Data Response COP Set I-64; OCA Set I-2.

PECO'S CAP RATE STRUCTURE

Cap Rate	Description	Program Benefit	Average 2004 Enrollment
CAP Rate A	0-25% FPL (with extenuating circumstances)	Flat \$12 Monthly Bill for usage up to 1,000 kWh and then 50% discount.	6 [9 as of 1/1/2005]
CAP Rate B	0-25% FPL (without extenuating circumstances)	85% discount for first 500 kWh and 30% discount on next 100 kWh in summer; excess at regular R or RH rate	2,500 (3,249 as of 2/28/2005)
CAP Rate C	26-50% FPL	75% discount for first 500 kWh, 30% discount on next 100 kWh in summer; excess at regular rate R or RH	4,000 (9,519 as of 2/28/2005)
CAP Rate D	51-100% FPL	50% discount for first 500 kWh and excess at regular rate R or RH	
CAP Rate E	101-150% FPL	25% discount for first 500 kWh and excess at regular rate R or RH	
Total			99,600

All of these discount programs include an arrears forgiveness feature in which the customer's arrears upon entering the program are forgiven if the customer pays the CAP rate in full for six consecutive months.

With regard to the PECO gas CAP rate program, 15,384 customers were enrolled in 2003.

Q. HOW ARE THE COSTS OF THIS PROGRAM RECOVERED IN RATES?

A. Pursuant to the 2000 Merger settlement, PECO was allowed to seek rate recovery for electric CAP Rate costs at a USF cost of \$383 per CAP customer for enrollment in excess

of 90,000 customers. PECO filed for this rate recovery and it was approved in July 2003.

As a result, residential ratepayer rates include a USF surcharge which totals approximately \$3.8 million annually without over or underrecovery. In addition, a trigger for PECO to seek additional cost recovery for its gas CAP program was set at 17,500 customers, an enrollment target which has not yet been reached.

Q. PLEASE EXPLAIN THE CARES PROGRAM AND YOUR CONCERNS ABOUT ITS CURRENT IMPLEMENTATION BY PECO.

A. PECO reports that its CARES program expended \$500,000-\$600,000 in the past four years and served 429,537 customers in 2004.¹² This was a sudden and unexplained increase in the number of customers served by this program and appears questionable in light of the services that this type of program typically delivers. Furthermore, PECO's CARES program is implemented by a very small staff of 5.¹³ In addition to providing special counseling and assistance to customers with income at or below 200% of federal poverty level, these employees are required to qualify customers for the "extenuating circumstances" criteria associated with CAP Rate A.

Q. PLEASE EXPLAIN PECO'S HARDSHIP PROGRAM AND FUNDING LEVELS IN RECENT YEARS.

A. PECO's Hardship program is called Matching Energy Assistance Fund or MEAF. Company contributions to this fund decreased \$100,000 from 2003 to 2004.¹⁴ Furthermore, PECO relies on quarterly bill inserts to inform customers about MEAF and

¹² Data Response AA Set I-3 and 26. The latter response states that the 5 CARES workers serve an average of 982 "cases" at any time for a total of 4,910. Even if the case load completely turned over every month that would only result in about 60,000 CARES cases per year.

¹³ The PUC's recent Order on PECO's Universal Service programs issued on April 15, 2005 in Docket No. M-00041788 (at 5) states that PECO orally informed the Commission that there were 3 CARES staff, thus conflicting with the information provided in response to AA Set I-26.

¹⁴ Data Response AA Set I-33.

solicit contributions, but has halted its bill check off option. In addition, direct deposit bill payment customers do not have a method to contribute to MEAF.¹⁵

Q. DO YOU HAVE ANY CONCERNS ABOUT PECO'S COMMUNITY PRESENCE AND CHARITABLE GIVING IN RELATONSHIP TO THIS MERGER?

A. This Merger raises some of the same concerns that existed at the time of the original acquisition of PECO by Exelon, but magnified by the various integration plans for three large electric and gas distribution utilities located in three states, as well as the large fleet of generation assets, thus resulting in the potential for lessening the corporate presence and community giving tradition historically in place for PECO. In addition, PECO's employment levels have a significant impact on the health and welfare of the greater Philadelphia area. While the Applicants have stated that they have no current plans to reduce "field forces", they are proposing to eliminate at least 115 jobs at the various PECO calling centers.¹⁶ However, the lack of any long term commitment in regard to corporate giving and employment levels suggests that future changes could occur without any recourse to the Commission. This is particularly a concern with regard to *employment levels because of the lack of clarity with respect to the type and kind of "best practices" that will be developed and implemented after the merger is consummated.*

¹⁵ Data Response AA Set I-34.

¹⁶ Data Response AA Set I-1. This figure does not reflect other job losses associated with the integration plans associated with this Merger proposal.

VI. RECOMMENDED MERGER CONDITIONS CONCERNING PECO'S UNIVERSAL SERVICE PROGRAMS

Q. PLEASE SUMMARIZE WHY YOU ARE RECOMMENDING SPECIFIC BENEFITS BE DIRECTED TO UNIVERSAL SERVICE PROGRAMS AND LOW INCOME CUSTOMERS AS A CONDITION OF THIS MERGER.

A. As I described in my Introduction, the risks associated with this Merger and the specific billing and customer care initiatives proposed as the source of some of the customer benefits by the Applicants carry special risks for low income customers. These customers are the most vulnerable to any degradation in service quality and reliability of service, particularly in light of the directives and restrictions with respect to payment arrangements and increased disconnection of service that has already resulted from the implementation of Act 201. In addition, with regard to the Applicants' promises with respect to the implementation of "best practices," there are a number of these evident in the current New Jersey Universal Service programs implemented by PSE&G that should be specifically addressed by the Commission as conditions for the pending Merger. I will identify those in more detail below, but generally I recommend that the Commission and PECO look carefully at the design and implementation of the New Jersey USF program to respond to the need for affordable bill payments by low income customers. Finally, I should note that PECO has identified substantial savings in bad debt expense associated both with the implementation of Act 201 (\$15 million)¹⁷ and the billing and customer care integration initiatives proposed in this Merger (\$4 million).¹⁸ It will be important to capture the benefits of these savings for all customers, but particularly low income

¹⁷ See PECO's Act 201 Implementation Plan submitted to the PUC and attached to Data Response AA Set I-44.

¹⁸ Arndt Direct at 32-33.

customers since those enrolled in the CAP Rates and LIURP in particular will also generate collection cost savings if these programs result in more affordable bills.

Q. DO YOU HAVE SUGGESTED MERGER CONDITIONS RELATING TO PECO'S CAP RATE PROGRAM?

A. Yes. There is a wide range of reasonable benefits that could be implemented to respond to the increased risks I outlined previously for low income residential customers and to assure that these most vulnerable customers receive the necessary benefits to justify the approval of this Merger. My recommendations at this time are as follows:

- First, the current CAP rates only provide a substantial discount for usage below a level that is typically 500 kWh. Usage above the 500 kWh level is then either priced at a much lower discount level or at the regular residential rate.¹⁹ While the average CAP customer's monthly usage is below that of the average residential customer,²⁰ this usage cap on the discount has significant impacts on the ability of the CAP customer to make affordable payments. Furthermore, if this usage level cap is designed to prevent "excessive" usage, there is no basis for the conclusion that low income customers will use more energy as a result of enrollment in a discount program. Most other substantial electric or gas discount programs with which I am familiar (e.g., California, Massachusetts) do not impose a higher rate for usage above what is a relatively low usage ceiling. Finally, raising or eliminating the cap on usage

¹⁹ CAP Rate A has a usage level cap of 1,000 kWh for the full rate discount. CAP Rates B and C allow usage up to 600 kWh in the 3 summer months at discounted rates, but only 500 kWh for the other 9 months. CAP Rates D and E, applicable to the vast majority of CAP rate customers, receive a discount only on the first 500 kWh of usage each month.

²⁰ National data has consistently shown that the average low-income customer uses less electricity or natural gas than the average residential customer. This is confirmed by available data from PECO. Data Response COP Set I-2 shows that the average CAP customer's monthly usage in 2004 was 632 kWh (which includes both heating and non-heating CAP customers), but that the average usage of Rate R and RH customers was 735 kWh.

discounts would contribute to the resolution of the issue of unaffordable CAP Rate payment requirements documented by the Commission in its recent review of PECO's Universal Service programs. In this Order the Commission pointed to the usage caps associated with the CAP Rate structure as contributing to this problem.²¹ While the total elimination of any usage levels or caps in the various CAP rates would be expensive, I do recommend that the Commission order PECO to move in the direction of raising usage caps over a multi-year period. According to PECO's recent estimate²², raising the usage level for the application of the full discount for CAP Rate B-C-D-E customers to 800 kWh on a year-round basis would increase CAP costs by about \$10.3 million annually. I recommend that this step be ordered immediately to be followed by a report by PECO within one year on the impact of this change on the affordability of CAP rate payments for each of the various CAP rate discount levels. In this report, PECO should also be required to consider eliminating any usage caps for the lowest income customers in CAP Rates A, B, and C, all of whom must be living on less than 50% of the federal poverty level to qualify for this discount. To the extent that CAP Rate customer usage is higher than average, such customers should be promptly referred to and receive services pursuant to LIURP, the usage reduction program.²³

²¹ Pennsylvania PUC, PECO's Universal Service and Energy Conservation Plan Submission in Compliance with 52 Pa. Code §54.74, Order, Docket No. M-00041788 (Order Adopted April 15, 2005). The Commission's Payment Arrangement Requests from PECO's CAP customers and the most recent evaluation of PECO's Universal Service programs confirmed that the vast majority of CAP customers do not have affordable budget payments.

²² Data Response OCA Set XIX-1.

²³ PECO's rates under the electric Restructuring Act proceedings were deemed to include \$6.475 million for LIURP. No additional funding has been identified by PECO. Data Response PF Set I-28. However, it is not clear what dollar amount is actually spent for this program annually since PECO states when requested to provide actual LIURP expenses, this same dollar amount for each year. Approximately 8,000 customers are served annually. See Data Response AA Set I-3.

- PECO has clearly not met the expectations associated with enrollment for new CAP rates for the lowest income customers, particularly CAP Rate A whose enrollment has been consistently less than 20 customers, but for which an enrollment cap of 7,500 was negotiated. CAP Rates A, B and C are crucial to the ability of very low income electric customers to make affordable bill payments and was an important reform PECO agreed to implement as a condition of the 2000 Merger and the consensus modifications that created the program in response to PECO's Merger commitment. In my opinion, PECO has constructed too many barriers to entry for this program and appears to be using the criteria of at least two failed payment plans on other CAP rates as a pre-condition to even considering the other extenuating circumstances.²⁴ I recommend that the Commission order PECO to conduct more outreach concerning this CAP Rate among current CAP Rate customers in particular and eliminate the requirement of two failed payment plans for other CAP rates as a pre-condition to the analysis of other extenuating circumstances. PECO should also be required to compare its CAP Rate customer participant database with that of the Pennsylvania social service agencies to identify those with household income below 50% of federal poverty guidelines and then target educational and outreach materials to those specific customers to increase enrollment. Finally, PECO is evidently not allowing these customers enrolled in the new CAP rates to qualify for arrears forgiveness if they were previously enrolled in another CAP rate. The Commission should require

²⁴ Data Response OCA XVI-9 states that CAP Rate A "is for customers with documented extenuating circumstances and who have demonstrated an inability to pay while on CAP Rate B." The PECO CAP Rate Modification Training Manual [Data Response AA-Set I-7(g)] demonstrates that a potential entrant into CAP Rate A must complete an Extenuating Circumstances Verification Letter that requires (a) illness or injury to result in a 30-day absence from work; (b) disability that limits one or more major life activities and requires a medical form to be completed by a doctor; (c) death in the immediate family to be proved with a death certificate; (d) loss of employment by immediate family member with proof of unemployment. CAP Rate Modification, page 10 of 30.

PECO to allow newly enrolled CAP Rate A, B, and C customers to qualify for arrears forgiveness under the new CAP rate payment obligation for arrears incurred under the other CAP rates because these customers are entering a new program (not implemented until 2004) that is intended to make the bill affordable. These customers should not be held accountable for arrears built up under a prior CAP rate that by definition was not affordable for these very low income households, all of whom have household income of less than 50% of the federal poverty level (and, with respect to CAP Rate A, less than 25% of federal poverty level).

- PECO should take additional steps to facilitate enrollment of qualified customers into the CAP program. PECO administers its CAP Rate program internally and requires the customer to complete an application with detailed household income information. This information is then reviewed and determined to be complete and accurate prior to customer enrollment in CAP. PECO takes an average of 24 days²⁵ to process a CAP customer enrollment form, which means of course that many customers must wait even longer to enter the program. PECO used to rely on an automated determination of household income through Pennsylvania social services agencies, but this was discontinued with the implementation of the more stratified CAP rates because the social service agency data confirmed that a customer's household income was at or below 150% of poverty, but did not allow PECO to determine the actual level of household income as it relates to federal poverty levels for the specific CAP Rate.²⁶ As a result, PECO's review of household income information and its verification duplicates a determination done by other financial assistance programs

²⁵ Data Response OCA Set XVI-5.

²⁶ Data Response OCA Set XVI-3.

implemented by various Pennsylvania state and local social service agencies for many of these customers who are already participating in PECO's programs. I recommend that the Commission require PECO to explore the development of the transmittal of the appropriate household income information from the social service agencies within six months of the date of approval of this Merger. Since the social service agencies have the necessary information on the federal poverty level of its clients, it would appear to be a minor reform to transmit this information as part of the automated database. Furthermore, such a reform reflects the currently implemented "best practice" in effect in New Jersey for its Universal Service program (and in which PSE&G is the largest utility participant) in which customer benefits are determined automatically at the time of a customer's qualification for LIHEAP and transmitted electronically to the various electric and gas utilities. While the design of the New Jersey USF program²⁷ is quite different from PECO's CAP Rate program, the notion of relying on automatic transmission of social service agency income information for qualified low-income customers should be pursued by PECO. This will allow PECO to enroll the customer in the proper CAP program, thus eliminating a potential costly and inefficient duplication of information. Furthermore, this proposal has an even more important impact on the CAP Rate requirement that a customer submit proof of eligibility every two years to remain on the CAP Rate (or, with respect to CAP Rate A, every year) or move to a different CAP Rate depending on changes in household income. Such an automated means of obtaining the proper income level will reduce

²⁷ The New Jersey USF program is a "fixed credit percentage of income payment program" in which the customer's annual household income and actual usage is considered in a formula designed to require the eligible customer to pay no more than 3% of their income for electricity and 3% for heating or natural gas.

the reliance on the current letter-based verification method for most CAP recipients.²⁸

- Finally, the Commission should not permit any further increases in residential customer rates associated with the USF surcharge mechanism for either gas or electric CAP rate programs until a full analysis of the net costs of this program can be determined and reflected in PECO's next base rate case. The current electric USF surcharge is producing approximately \$3.8 million in revenues annually (without over or under recovery) based on enrollment in excess of 90,000 electric CAP customers. The current enrollment is approximately 100,000 customers. The current enrollment of 15,000 gas CAP customers has not yet triggered any USF recovery mechanism, set at 17,500 customers in the prior Merger settlement. As a condition of the approval of this Merger, I recommend that no further CAP or Universal Service program costs approved by the Commission in this proceeding be recovered through USF recovery mechanisms. The current electric USF cost recovery amount (following the recovery of an approved under collection) should remain in place. Any additional expenses for these programs—whether resulting from incremental enrollment or increased CAP discounts—should be funded from Merger savings as identified by other witnesses. My recommended approach should remain in place until PECO's next distribution base rate case, which would not occur until at least the end of 2010 pursuant to the OCA's recommendations in this proceeding.

Q. WHAT ARE YOUR RECOMMENDATIONS WITH RESPECT TO THE CARES PROGRAM?

²⁸ Data Response OCA Set XVI-1 and 11. It should be noted that the current recertification method that relies entirely on a series of letters is poorly designed for CAP customers with special conditions, such as mental illness, illiteracy, or other disabilities that may impair customer understanding and ability to complete the forms.

A. PECO should reconcile the discrepancy in the number of CARES full-time employees and the number of customers served by this program that I have identified and focus the CARES program on the provision of social services to individual customers.

Furthermore, PECO should establish professional job qualifications for CARES employees that reflect the specialized social services that should be the focus of this program.

Q. DO YOU HAVE ANY CONCERNS ABOUT PECO'S IMPLEMENTATION OF THE CUSTOMER DATA WAREHOUSE FOR UNIVERSAL SERVICE PROGRAMS THAT WAS REQUIRED AS A RESULT OF THE 2000 MERGER?

A. The creation of this Data Mart is crucial to the ability to conduct proper evaluations of PECO's Universal Service programs and document the net benefits and costs associated with these programs. Since the Data Mart is maintained and serviced by PECO's IT department,²⁹ the integration of the various utility IT departments proposed as a condition of this Merger (and relied upon for a portion of the proposed merger savings) carries the risk of the loss of data or an interruption in PECO's ability to capture and make use of the billing and collection data relating to Universal Service program customers. Therefore, I recommend that the Commission order PECO to submit a specific description of the steps that will be taken to preserve historical data and capture data on an ongoing basis for this purpose during the transition and changes associated with the billing changes and other IT changes that may occur as a result of this Merger. This description should document how PECO will assure its continued compliance with this provision of the 2000 Merger.

Q. WHAT ARE YOUR RECOMMENDATIONS WITH RESPECT TO PECO'S

²⁹ Data Response OCA Set I-2c.

HARDSHIP FUND?

A. As I have already documented, PECO's MEAF program funding has decreased in recent years. I recommend that the Commission require PECO to continue its quarterly solicitations for MEAF contributions. This quarterly solicitation should include the option for customers to select a contribution that will be automatically included in future monthly bills. In addition, PECO should be required to design a monthly bill check off option for MEAF contributions as part of the future billing program that the Applicants seek to implement pursuant to this Merger. Finally, customers who select automatic payment through their checking account or credit card should be provided the ability to contribute to MEAF in the same manner as customers who receive paper bills.

Q. WHAT ABOUT PECO'S COMMUNITY PRESENCE AND CHARITABLE GIVING LEVELS?

A. PECO's charitable contributions have averaged \$8-9 million in the past two years.³⁰ Nonetheless, the historical level of contributions by PECO to the greater Philadelphia area typically exceed the routine level of giving by ComEd in the Chicago region, which averages \$4-5 million per year.³¹ It is important not to allow the historic level of charitable contributions by PECO to deteriorate. Therefore, I recommend that the Commission require PECO to maintain its historic level of charitable giving of at least \$8 million per year for a period of at least five years as a condition of the Merger.

Q. DOES THIS COMPLETE YOUR DIRECT TESTIMONY?

A. Yes, it does.

³⁰ Data Response COP Set I-18. This amount includes energy assistance program contributions, as well as economic development and other charitable giving.

³¹ Data Response COP Set I-26.

EXHIBIT BA-1

Resume of Barbara R. Alexander

BARBARA R. ALEXANDER
Consumer Affairs Consultant

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Winthrop, ME 04364

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Recent Clients

AARP (Montana, Maine, New Jersey, California, Vermont)
Citizens' Utility Board (Wisconsin)
Pennsylvania Office of Consumer Advocate
New Jersey Division of Ratepayer Advocate
Colorado Office of Consumer Counsel
Vermont Department of Public Service
Ohio Office of Consumer's Counsel
Delaware Division of the Public Advocate
Maine Office of Public Advocate
Oak Ridge National Laboratory, DOE
Regulatory Assistance Project
Vickery and Waldner, LLP, Houston, TX [Expert Witness]
Carr, Korein, Tillery, Kunin, Montrov, Cates, Katz & Glass, LLC, St. Louis, MO [Expert Witness]
Shearman-Denene, L.L.C., New Orleans, LA [Expert Witness]
Rosner, Law, and Mansfield, San Diego, CA [Expert Witness]
National Center for Appropriate Technology
Washington Office of Public Counsel
D.C. Office of People's Counsel
Consumer Energy Council of America
Citizens Utility Board (Illinois)
Texas Legal Services Center

Areas of Expertise.

- Default Service, Consumer Protection, Service Quality, and Universal Service policies and programs associated with the move to competition in the electric, natural gas, and telecommunications industries;
- Consumer Protection and Service Quality policies and programs associated with the regulation of competitive energy and telecommunications providers;

- The regulatory policies associated with the regulation of Credit, Collection, Consumer Protection, and Service Quality programs and policies for public utilities; and
- Code of Conduct and affiliated interest rules applicable to regulated utilities and their affiliates.

Prior Employment

DIRECTOR 1986-96
Consumer Assistance Division
Maine Public Utilities Commission Augusta, Maine

One of five division directors appointed by a three-member regulatory commission and part of commission management team. Direct supervision of 10 employees, oversight of public utility consumer complaint function, appearance as an expert witness on customer services, consumer protection, service quality and low income policy issues before the PUC. Chair, NARUC Staff Subcommittee on Consumer Affairs.

SUPERINTENDENT 1979-83
Bureau of Consumer Credit Protection
Department of Professional and Financial Regulation Augusta, Maine

Director of an independent regulatory agency charged with the implementation of Maine Consumer Credit Code and Truth in Lending Act. Investigations and audits of financial institutions and retail creditors, enforcement activities, testimony before Maine Legislature and U.S. Congress.

Education

JURIS DOCTOR 1973-76
University of Maine School of Law Portland, Maine

Admitted to the Bar of the State of Maine, September 1976.

B.A. (WITH DISTINCTION) IN POLITICAL SCIENCE 1964-68
University of Michigan Ann Arbor, Michigan

Publications and Testimony

"How to Construct a Service Quality Index in Performance-Based Ratemaking", The Electricity Journal, April, 1996

"The Consumer Protection Agenda in the Electric Restructuring Debate", William A. Spratley & Associates, May, 1996

Direct Testimony on behalf of the Telecommunications Workers Union, Telecom Public Notice 96-8, Price Cap Regulation and Related Issues, Canadian Radio-Television and Telecommunications Commission, September, 1996. [Analysis of and recommendations concerning the need to regulate service quality in move to price cap regulation]

Direct Testimony on behalf of Public Counsel Section, Office of Attorney General, Docket No. UE-960195, Application by Puget Sound Power and Light Co. And Washington Natural Gas Co. For Approval of Merger), Washington Utilities and Transportation Commission, September, 1996 [Need for and design of a Service Quality Index for both electric and gas business units as part of a multi-year rate plan]

Consumer Protection Proposals for Retail Electric Competition: Model Legislation and Regulations", Regulatory Assistance Project, Gardiner, ME, October, 1996

Direct and Rebuttal Testimony on behalf of the Citizens Utility Board (IL), Docket 96-0178, Illinois Commerce Commission, CUB v. Illinois Bell Telephone Co., January 22, 1997; July, 1997. [Analysis of recent service quality performance and recommendations for changes in current service quality performance plan]

Direct and Surrebuttal Testimony on behalf of the Pennsylvania Office of Consumer Advocate, Restructuring Proceedings before the Pennsylvania PUC: PECO Energy; Pennsylvania Power and Light Co.; GPU Energy; Duquesne Light Co.; West Penn Power Co., UGI-Electric, Pennsylvania Power Co., Pike County Light and Power Co. (1997 and 1998). [Specific consumer protection, consumer education and supplier-utility-customer interactions necessary for move to electric restructuring]

"The Transition to Local Telecommunications Competition: A New Challenge for Consumer Protection", Public Counsel Section, Washington Attorney General, October, 1997. [Reprinted in part in NRRI Quarterly Bulletin, Vol. 19, NO.1, Spring, 1998]

Direct and Surrebuttal Testimony on behalf of the New Jersey Division of Ratepayer Advocate, Restructuring Proceedings before the New Jersey Board of Public Utilities: Public Service Electric and Gas, Jersey Central (GPU), Rockland Electric Co., Atlantic Electric Co., March-April, 1998. [Phase-in and customer enrollment, Code of Conduct, consumer protections associated with the provision of Provider of Last Resort service]

Oppenheim, Gerald (NCLC) and Alexander, Barbara, Model Electricity Consumer Protection Disclosures, A Report to the National Council on Competition and the Electric Industry, April, 1998.

Direct and Reply Testimony on behalf of the Maryland Office of People's Counsel, Investigation into Certain Unauthorized Practices (Slamming and Cramming), Case. No. 8776, before the Maryland Public Service Commission, 1998 and 1999.

Direct Testimony on behalf of the Maryland Office of People's Counsel, Universal Service Issues, Case No. 8745, before the Maryland Public Service Commission, November 20, 1998.

"Cramming is the Last Straw: A Proposal to Prevent and Discourage the Use of the Local Telephone Bill to Commit Fraud," NRRI Quarterly Bulletin, Fall, 1998.

Alexander, Barbara, Retail Electric Competition: A Blueprint for Consumer Protection, U.S. Department of Energy, Office of Energy and Renewable Energy, Washington, D.C., October, 1998. Available at

http://www.eren.doe.gov/electricity_restructuring.

Alexander, Barbara, "Consumer Protection Issues in Electric Restructuring for Colorado: A Report to the Colorado Electricity Advisory Panel," on behalf of the Colorado Office of Consumer Counsel, February, 1999.

Testimony on Proposed Interim Rules (Consumer Protection, Customer Enrollment, Code of Conduct, Supplier Licensing) on behalf of the New Jersey Division of Ratepayer Advocate before the New Jersey BPU, May, 1999.

Direct Testimony on behalf of AARP, West Virginia PUC Investigation into Retail Electric Competition (consumer protection, universal service, Code of Conduct), June 15, 1999.

Direct and Surrebuttal Testimony on behalf of the Pennsylvania OCA, Gas Restructuring proceedings (8 natural gas utilities): consumer protection; consumer education; code of conduct, before the Pennsylvania PUC, October, 1999-April, 2000.

Comments on Draft Rules addressing slamming and cramming (Docket No. RMU-99-7) on behalf of the Iowa Office of Consumer Advocate, before the Iowa Utilities Board, October, 1999.

Alexander, Barbara, "Door to Door Sales of Competitive Energy Services," LEAP Letter, January-February, 2000 [Wm. A. Spratley & Associates, Columbus, OH]

Direct Testimony on behalf of the Maine Office of Public Advocate, Central Maine Power Company Alternative Regulation Plan [Docket 99-666] on service quality issues, before the Maine PUC, May, 2000.

Direct Testimony on behalf of AARP, Universal Service Programs and Funding of low-income programs for electric and natural gas service, before the New Jersey Board of Public Utilities, Docket No. EX000200091, July, 2000.

Comments (on behalf of NASUCA and AARP) on Uniform Business Practices Reports, May and September, 2000.

Direct Testimony on behalf of the Pennsylvania OCA, Verizon-Pennsylvania Structural Separation Plan on service quality, customer service and consumer protection issues [Docket No. M-00001353] before the Pennsylvania PUC, October, 2000.

Direct and Rebuttal Testimony on behalf of the Maine Office of Public Advocate, Verizon-Maine Alternative Form of Regulation on service quality issues [Docket No. 99-851] before the Maine PUC, January and February, 2001.

Direct and Rebuttal Testimony on behalf of the Citizens Utility Board, Nicor Gas Customer Select Pilot Program, on consumer protection and regulation of competitive natural gas suppliers [Docket Nos. 00-0620 and 00-0621] before the Illinois Commerce Commission, December, 2000 and February, 2001.

Direct and Surrebuttal Testimony on behalf of the Pennsylvania Office of Consumer Advocate on consumer protection and service quality issues associated with the pending merger between GPU Energy and FirstEnergy, before the Pennsylvania PUC, Docket Nos. A-110300F0095 and A-110400F.0040 (February and March, 2001)

Direct and Surrebuttal Testimony on behalf of the New Jersey Division of Ratepayer Advocate on consumer protection, service quality, and universal service issues associated with the pending merger between GPU Energy and FirstEnergy, before the New Jersey Board of Public Utilities, Docket No. EM00110870 (April, 2001).

Alexander, Barbara, "Default Service: What Should be Done when the Experiment Goes Awry?", April 2001

Responsive Testimony on behalf of the New Jersey Division of Ratepayer Advocate on service quality issues associated with a Plan for Alternative Regulation by Verizon-New Jersey, before the New Jersey Board of Public Utilities, Docket No. To1020095 (May 2001).

Direct and Surrebuttal Testimony on behalf of the New Jersey Division of Ratepayer Advocate on service quality, consumer protection, and universal service issues associated with the pending merger between Conectiv and Pepco, before the New Jersey Board of Public Utilities, BPU Docket No. EM101050308 (September and November 2001).

Direct Testimony on behalf of the Public Interest Advocacy Centre (and others) on service quality regulation in the context of price cap rate plans, before the Canadian Radio-Television and Telecommunications Commission, Docket No. CRTC 2001-37 (August 2001).

Alexander, Barbara, "Default Service: What Should be Done when the Experiment Goes Awry?", An Update to the April 2001 paper, October 2001.

Expert Witness Report, Sparks v. AT&T and Lucent Technologies, October 2001 [National class action lawsuit concerning the leasing of residential telephones]

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Comments on behalf of the Pennsylvania Office of Consumer Advocate on consumer protection, disclosure, and education program Guidelines applicable to local exchange telephone competition, before the Pennsylvania PUC, January 2002.

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Comments on behalf of AARP before the California PUC on CARE (low income program) concerning Rapid Deployment, Rulemaking 01-08-027 (2001 and 2002).

Comments on behalf of Citizens Utility Board before the Illinois Commerce Commission on Proposed Rule to Allow the Use of Credit Scoring to Determine When a Deposit May be Required, ICC Docket No. 01-0644, June 24, 2002.

Comments on behalf of Consumer Groups before the Texas PUC on Rulemaking Proceeding to Amend Requirements for Provider of Last Resort Service, Docket No. 25360, June 28, 2002.

Direct Testimony on behalf of the New Jersey Division of Ratepayer Advocate before the Board of Public Utilities on Joint Petition of New Jersey-American Water Co. and Thames Water Aqua Holding for Approval of a Change in Control of New Jersey-American Water Co., Docket No. WM01120833, July 18, 2002.

Alexander, Barbara, Consumer Education Programs to Accompany the Move to Retail Electric Competition, prepared for the National Association of State Utility Consumer Advocates (NASUCA), July 2002. Available at www.nasuca.org

Direct Testimony on behalf of New Jersey Division of Ratepayer Advocate before the Board of Public Utilities on Petition of NUI Utilities d/b/a Elizabethtown Gas Co. for Approval of Increased Base Tariff Rates and Charges for Gas Service, Docket No. GR02040245, September 6, 2002.

Alexander, Barbara, An Analysis of Residential Energy Markets in Georgia, Massachusetts, Ohio, New York, and Texas, prepared for the National Energy Affordability and Accessibility Project, National Center for Appropriate Technology, September 2002. Available at www.ncat.org/neaap

Direct and Surrebuttal Testimony on behalf of the Pennsylvania Office of Consumer Advocate before the Pennsylvania PUC on Philadelphia Gas Works' Gas Restructuring Filing, Docket No. M-00021612, September 2002 and November 2002.

Direct Testimony on behalf of Consumer Groups before the Texas PUC on Notice and Request of Mutual Energy CPL and Mutual Energy WTU for Approval of Changes in Ownership and Affiliation, Docket No. 25957, October 15, 2002.

Comments on behalf of the Pennsylvania Office of Consumer Advocate before the Pennsylvania PUC, Advanced Notice of Proposed Rulemaking for Revision of Chapter 54 Pertaining to Electric Generation Supplier Licensing, Docket No. L-00020158, March 5, 2003.

Direct and Surrebuttal Testimony on behalf of the New Jersey Division of Ratepayer Advocate before the New Jersey BPU on Jersey Central Power & Light's base rate case proceeding (service quality and reliability of service), Docket No. ER02080506, ERT02080507, and ER02070417, December 2002 and February 2003.

Alexander, Barbara, "Managing Default Service To Provide Consumer Benefits In Restructured States: Avoiding Short-Term Price Volatility" (National Center for Appropriate Technology, June 2003). Available at: <http://neaap.ncat.org/experts/defservintro.htm>

Comments and Reply Comments on behalf of New Jersey AARP before the New Jersey Board of Public Utilities on Basic Generation Service, Docket No. EO03050394, August and September 2003.

Direct and Surrebuttal Testimony on behalf of the New Jersey Division of the Ratepayer Advocate before the New Jersey BPU on rate case proceedings for New Jersey-American Water Co., Elizabethtown Water Co., and Mt. Holly Water Co. (service quality and low-income programs and policies), Dockets Nos. WR03070509-WR03070511 (December 2003).

Comments on behalf of the Texas Legal Services Center and other Consumer Groups before the Public Utility Commission of Texas, Proposed Revisions to Chapter 25, Substantive Rules Applicable to Electric Service Providers, Project No. 27084 (December 2003).

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Alexander, Barbara, "Montana's Universal Systems Benefit Programs and Funding for Low Income Programs: Recommendations for Reform: A Report to AARP" (January 2004).

Comments and Reply Comments on behalf of the Colorado Office of Consumer Counsel before the Public Utilities Commission of Colorado, In the Matter of the Proposed Repeal and Reenactment of all Rules Regulating Gas Utilities (Docket No. 03R-520G) and Electric Utilities (Docket No. 03R-519E) (February and September 2004).

Direct, Rebuttal, and Supplemental Testimony on behalf of the Pennsylvania Office of Consumer Advocate before the Pennsylvania PUC, Petition of Duquesne Light Co. for Approval of Plan for Post-Transition Period POLR Services, Docket No. P-00032071 (February-April 2004).

Comments on behalf of AARP before the California PUC, Order Instituting Rulemaking on the Commission's Own Motion to Establish Consumer Rights and Consumer Protection Rules Applicable to All Telecommunications Utilities, R. 00-02-004 (March 2004).

Comments and Reply Comments on behalf of AARP before the Maine PUC, Inquiry into Standard Offer Supply Procurement for Residential and Small Commercial Customers, Docket No. 2004-147 (April 2004).

Comments on behalf of Wisconsin Citizens' Utility Board before the Wisconsin Public Service Commission's Gas Service Standards, Docket No. 1-AC-210 (July 2004).

Comments on behalf of the Colorado Office of Consumer Counsel before the Public Utilities Commission of Colorado, In the Matter of the Proposed Repeal and Reenactment of all Rules Regulating Telephone Utilities and Providers (Docket No. 03R-524T) (September 2004).

Direct Testimony on behalf of the Pennsylvania Office of Consumer Advocate before the Pennsylvania PUC, Investigation of Metropolitan Edison Co., Pennsylvania Electric Co. and Pennsylvania Power Co. Reliability Performance, Docket no. I-00040102, [customer service and reliability performance] (June 2004).

Direct and Surrebuttal Testimony on behalf of the Vermont Department of Public Service before the Vermont Board of Public Utilities, Investigation into Successor Alternative Regulatory Plan for Verizon Vermont, Docket 6959 [Service Quality] (November 2004 and March 2005).

Alexander, Barbara, "Vermont Energy Programs For Low-Income Electric And Gas Customers: Filling The Gap" (November 2004), Prepared for AARP Vermont.

Presentations and Training Programs:

- National Low Income Energy Consortium (NLIEC) Annual Conference
- NARUC
- NASUCA
- State Legislatures: New Jersey, Texas, Kentucky, and Maine
- Commissions: Pennsylvania, Georgia, Kentucky, Illinois, New Jersey
- DOE-NARUC National Electricity Forum
- AIC Conference on Reliability of Electric Service
- Institute of Public Utilities, MSU (Camp NARUC)
- Training Programs on customer service and service quality regulation for international regulators (India and Brazil) on behalf of Regulatory Assistance Project
- Georgia Natural Gas Deregulation Task Force [December 2001]
- Mid Atlantic Assoc. of Regulatory Utility Commissioners [July 2003]
- Illinois Commerce Commission's Post 2006 Initiative [April 2004]
- Delaware Public Service Commission's Workshop on Standard Offer Service [August 2004]

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COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PUBLIC UTILITY COMMISSION

JOINT APPLICATION OF PECO ENERGY CO. AND PUBLIC SERVICE ELECTRIC AND
GAS CO. FOR APPROVAL OF THE MERGER OF PUBLIC SERVICE ENTERPRISE
GROUP, INC. WITH AND INTO EXELON CORPORATION

DOCKET NO. A-110550F0160

DOCUMENT
FOLDER

SURREBUTTAL TESTIMONY OF

BARBARA R. ALEXANDER

Consumer Affairs Consultant

(Reliability, Customer Service, Universal Service, Charitable Giving)

ON BEHALF OF THE

OFFICE OF CONSUMER ADVOCATE

August 26, 2005

RECEIVED

SEP 26 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

1 Q. PLEASE STATE YOUR NAME, ADDRESS AND OCCUPATION.

2 A. My name is Barbara R. Alexander. I use a business title of Consumer Affairs Consultant.

3 I am a consultant on consumer protection and customer service issues associated with
4 utility regulation. My address is 83 Wedgewood Dr., Winthrop, ME 04364. I appear in
5 this case as a witness on behalf of the Office of Consumer Advocate (“OCA”).

6 Q. HAVE YOU TESTIFIED PREVIOUSLY IN THIS PROCEEDING?

7 A. Yes, I filed Direct Testimony on behalf of the OCA on June 28, 2005.

8 Q. WHAT IS THE PURPOSE OF THIS SURREBUTTAL TESTIMONY?

9 A. My Surrebuttal Testimony addresses the Rebuttal Testimony submitted by PECO
10 Energy’s witnesses on Service Quality, Reliability of Service, Universal Service, and
11 Charitable Giving, namely Denis O’Brien (PECO Statement No. 1-R), M. Bridget Reidy
12 (PECO Statement No. 5-R), William J. Patterer (PECO Statement No. 8-R), and Lisa
13 Crutchfield (PECO Statement No. 4-R). I will address these issues in the same order in
14 which I presented my evidence and recommendations in my Direct Testimony.

15 Q. BEFORE YOU BEGIN TO RESPOND TO PECO’S REBUTTAL TESTIMONY, DO
16 YOU HAVE ANY CORRECTIONS TO YOUR DIRECT TESTIMONY?

17 A. Yes. There is a mistake in the chart on Page 25 of my Direct testimony with respect to
18 *the calculation of my proposed 2005 Merger Standards for the six reliability indices (two*
19 *each for SAIFI, CAIDI, and SAIDI).* The third column for the six reliability indicators
20 should reflect a 10% improvement compared to the performance standard listed in the
21 second column. The first column of this chart lists the proposed performance areas for
22 the Service Quality Improvement Plan. The second column lists the Commission’s
23 revised reliability standards applicable to PECO with a 10% improvement as promised

1 and complied with in the 2000 Merger settlement. With respect to the reliability
2 standards, I have restated the 2000 Merger reliability promises in light of the
3 Commission's revised reliability standards applicable to PECO and adopted in 2004. The
4 third column was intended to reflect approximately a 20% improvement compared to the
5 Commission's revised reliability standards adopted in 2004, which is about an additional
6 10% improvement over the results stated in column two, but inadvertently calculated an
7 additional 20% improvement compared to column two. As a result, the proposed 2005
8 Merger Standards should be as follows:

9	SAIFI (12-month rolling standard)	1.2 incidents
10	CAIDI (12-month rolling standard)	108 minutes
11	SAIDI (12-month rolling standard)	160 minutes
12	SAIFI (36-month standard)	1.1 incidents
13	CAIDI (36-month standard)	100 minutes
14	SAIDI (36-month standard)	135 minutes

15 I will discuss this change later in this Surrebuttal Testimony and include the
16 revised recommended performance standards in a chart as well.

17 Q. YOUR DEPOSITION WAS TAKEN AFTER YOUR DIRECT TESTIMONY AND
18 PECO ENERGY WITNESSES REFERENCED OR QUOTED FROM THIS
19 DEPOSITION ON NUMEROUS OCCASIONS. DO YOU HAVE ANY COMMENTS
20 ON THEIR USE OF YOUR DEPOSITION?

21 A. There were a number of citations or quotations from this deposition reflected in the
22 testimony of Mr. O'Brien, Mr. Patterer, Ms. Crutchfield, and Ms. Reidy. Several of those
23 quotations or references were taken out of context.

1 Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS.

2 A. The following recommendations reflect my consideration of the Company's Rebuttal
3 Testimony. For the most part, my recommendations are the same as those I proposed in
4 my Direct Testimony because the Company's reasons for rejecting my recommendations
5 are either not relevant or not reasonable in light of the merger at issue in this proceeding.

6
7 **I. Introduction and Reasons Why Customer Service, Reliability of Service,
8 Universal Service, and Community Impact Policies and Programs Should be
9 Carefully Considered in this Proceeding**

- 10
11 ■ As a result of this merger, Exelon is proposing to undertake certain
12 changes in the operations of all its electric distribution companies to
13 introduce "best practices" and other efficiencies with the avowed intent to
14 lower costs and improve customer service. However, these changes and
15 the drive to achieve efficiencies among the three utilities located in three
16 states with different regulators operating under different statutory
17 mandates and regulatory policies and programs also have the potential to
18 degrade service quality and reliability of service, as well as threaten the
19 ability of vulnerable lower income customers to maintain and retain
20 affordable service. These risks must be considered in light of the clear
21 statutory and case law obligation for the proponents of this Merger to
22 demonstrate clear benefits for Pennsylvania customers.
23
24 ■ As part of the Application for approval of this transaction submitted to the
25 Pennsylvania PUC, Exelon and PECO promised that the merger "will not
26 diminish in any way PECO's aggressive pursuit of service excellence. To
27 the contrary, the merger, by combining the resources of two outstanding
28 utility companies and permitting them to share "best practices," will make
29 PECO even better positioned to meet future customer demands and to
30 ensure that high quality service will be maintained and enhanced."
31
32 ■ There are a number of reasons why this Merger could result in exactly the
33 opposite of the promises made by the Joint Applicants in this proceeding.
34 First, most of these commitments are vague promises without any
35 enforceable mechanism or performance standards to track and assure
36 compliance in the future. Second, contrary to the lack of any risk to
37 shareholders, customers will bear significant risks that the forces set in
38 motion in order to achieve the cost savings described by the Applicants
39 may adversely impact customer service and service reliability. Third, the
40 particular proposal by the Applicants in this case to replace PECO's

1 existing billing system with that currently used by ComEd and to unify the
2 billing and customer care activities at the three utilities (ComEd in Illinois,
3 PECO in Pennsylvania, and PSE&G in New Jersey) carries with it
4 significant risks associated with billing errors, delays in issuance of bills,
5 and confusion in customer care and collection activities. Finally, the risks
6 I have described above can have particularly adverse consequences for
7 low-income and other payment troubled customers.
8

9 **II. Proposed Reliability and Service Quality Standards and Customer**
10 **Improvement Plan as a Condition for Approval of the Merger.**

- 11
- 12 ■ I recommend that the Commission order PECO to adopt performance
13 standards or targets for a representative number of indicators for reliability
14 and customer service quality and shift the risk of deterioration of
15 performance from customers to PECO and Exelon's shareholders. This
16 can best be done by adopting specific performance areas, performance
17 standards, and an enforcement mechanism that will return "service
18 compensation dollars" to customers in the event of a failure to meet the
19 annual performance standard.
20
 - 21 ■ I have proposed performance standards that reflect PECO's historical
22 performance, industry standards, and that reflect the promises made to
23 improve performance and customer service as a result of the adoption of
24 best practices through this merger.
25
 - 26 ■ I propose that PECO be required to provide "service compensation
27 dollars" to customers in the form of a one-time credit on the distribution
28 portion of the bill when or if the company fails to meet any of these annual
29 performance standards. I recommend that the total dollar amount of
30 service compensation dollars at risk for the 14 performance indicators
31 equal \$1 million for each metric or a total of \$14 million.
32
 - 33 ■ In light of the proposed change in PECO's billing system and the
34 integration of the various utility customer care functions, I recommend
35 that PECO agree to provide payment arrangements and billing options that
36 may exceed the protections allowed by the recently enacted Act 201 for
37 customers that may be affected by billing errors or billing delays
38 associated with these changes.
39

40 **III. Proposed Universal Service Program and Community Impact Conditions for**
41 **Approval of the Merger**

- 42
- 43 ■ With regard to PECO's CAP Rates program, I recommend the following
44 benefits be provided to low income customers:
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- The current CAP rates for most customers only provide a substantial discount for usage below a level that is typically 500 kWh. Usage above the 500 kWh level is then either priced at a much lower discount level or at the regular residential rate. In a recent Order the Commission pointed to the usage caps associated with the CAP Rate structure as contributing to the unaffordability of CAP customer payment plans. According to PECO's recent estimate, raising the usage level for CAP Rate B-C-D-E customers to 800 kWh on a year-round basis would increase CAP costs by \$9.4 million annually. I recommend that this step be ordered immediately to be followed by a report by PECO within one year on the impact of this change on the affordability of CAP rate payments for each of the various CAP rate discount levels. In this report, PECO should also be required to consider eliminating any usage caps for the lowest income customers in CAP Rates A, B, and C.

- PECO has clearly not met the enrollment expectations associated with the new CAP rates for the lowest income customers, particularly CAP Rate A whose enrollment has been consistently less than 20 customers, but for which an enrollment cap of 7,500 was negotiated. CAP Rates A, B and C are crucial to the ability of very low income electric customers to make affordable bill payments and was an important reform PECO agreed to implement as a condition of the 2000 Merger. I recommend that the Commission order PECO to conduct more outreach concerning this CAP Rate among current CAP Rate customers in particular and eliminate the requirement of two failed payment plans for other CAP rates as a pre-condition to considering other extenuating circumstances. PECO should also be required to compare its CAP Rate customer participant database with that of the Pennsylvania social service agencies to identify those with household income below 50% of federal poverty guidelines and then target educational and outreach materials to those specific customers to increase enrollment. Finally, the Commission should require PECO to allow newly enrolled CAP Rate A, B, and C customers to qualify for arrears forgiveness under the new CAP rate payment obligation for arrears incurred under the other CAP rates because these customers are entering a new program (not implemented until 2004) that is intended to make the bill more affordable. The only incremental costs of this recommendation should be calculated based on the arrears balances incurred by these CAP Rate A-B-C customers when they were enrolled in the prior CAP rates (now D and E) since their pre-program arrears balances are already subject to arrears forgiveness.

- 1 ○ PECO administers its CAP Rate program internally and requires
2 the customer to complete an application with detailed household
3 income information. I recommend that the Commission require
4 PECO to explore the development of the transmittal of the
5 appropriate household income information from the social service
6 agencies within six months of the date of approval of this Merger.
7 Since the social service agencies have the necessary information
8 on the federal poverty level of its clients, it would appear to be a
9 minor reform to transmit this information as part of the automated
10 database. Furthermore, such a reform reflects the currently
11 implemented “best practice” in effect in New Jersey for its
12 Universal Service program (and in which PSE&G is the largest
13 utility participant) in which customer benefits are determined
14 automatically at the time of a customer’s qualification for LIHEAP
15 and transmitted electronically to the various electric and gas
16 utilities.
- 17
- 18 ○ Finally, the Commission should hold in abeyance any further
19 increases in residential customer rates associated with the USF
20 surcharge mechanism for both gas and electric CAP rate programs.
21 As a condition for the approval of this Merger, I recommend that
22 no additional CAP or Universal Service program costs be
23 recovered through USF recovery mechanisms until the next
24 distribution rate case. The current electric USF cost recovery
25 amount following the recovery of any approved undercollection
26 should remain in place. Any additional expenses for these
27 programs should be funded from Merger savings as identified by
28 other OCA witnesses.
- 29
- 30 ▪ With regard to the data warehouse, its creation is crucial to the ability to
31 conduct proper evaluations of PECO’s Universal Service programs and
32 document the net benefits and costs associated with these programs. I
33 recommend that the Commission order PECO to submit a specific
34 description of the steps that will be taken to preserve historical data and
35 capture data on an ongoing basis for this purpose during the transition and
36 changes associated with the billing changes and other IT changes that may
37 occur as a result of this Merger. This description should document how
38 PECO will assure its continued compliance with this provision of the 2000
39 Merger.
- 40
- 41 ▪ With respect to PECO’s Hardship program funding, I recommend that the
42 Commission require PECO to continue its quarterly solicitations for
43 MEAF contributions. This quarterly solicitation should include the option
44 for customers to select a contribution that will be automatically included
45 in future monthly bills. In addition, PECO should be required to design a
46 monthly bill check off option for MEAF contributions as part of the future

1 billing program that the Applicants seek to implement pursuant to this
2 Merger. Finally, customers who select automatic payment through their
3 checking account or credit card should be provided the ability to
4 contribute to MEAF in the same manner as customers who receive paper
5 bills.

- 6
7 ■ With regard to PECO's charitable giving and community presence
8 programs, I recommend that the Commission require PECO to maintain its
9 recent historic level of charitable giving and community presence
10 programs of at least \$8 million per year for a period of at least five years
11 as a condition of the Merger.
12

13 **PECO's Reasons to Reject My Proposals Concerning Customer Service, Reliability**
14 **of Service, Universal Service, and Community Impact Policies and Programs Are**
15 **Not Persuasive and Should be Rejected**

16 Q. PECO WITNESS DENIS O'BRIEN OPPOSES THE INTERVENOR
17 RECOMMENDATIONS IN THIS PROCEEDING AND STATES THAT THEY ARE
18 "DESIGNED NOT TO INFORM, BUT INSTEAD TO EXTRACT CONCESSIONS
19 UNDER THE PRETEXT THAT THIS TRANSACTION IS HARMFUL FOR
20 PENNSYLVANIA." [Rebuttal at 47] DO YOU AGREE WITH THIS
21 CHARACTERIZATION OF THE BASIS FOR YOUR RECOMMENDATIONS?

22 A. I can only comment on Mr. O'Brien's comments with respect to my recommendations on
23 behalf of the OCA. Mr. O'Brien's characterization of these recommendations as relying
24 on a finding that this proposed merger will cause harm to Pennsylvania ratepayers of
25 PECO Energy is not correct. I outlined many risks associated with service quality,
26 reliability of service, and potentially adverse impacts on low income customers
27 associated with this merger, including the complete replacement of PECO's billing
28 system and the integration of its customer care activities with ComEd and PSE&G in
29 New Jersey. I did not conclude that this merger would in fact result in deterioration of

1 service. However, I did outline the potential for deterioration of service and suggested a
2 means to avoid imposing these risks on ratepayers. The issue in this proceeding is not
3 whether PECO's promises or Mr. O'Brien's confidence in positive outcomes should be
4 believed. The issue that the Commission must resolve is to determine who will bear the
5 risk of performance or non-performance in the many changes associated with this
6 merger--PECO's ratepayers or Exelon's shareholders? If Mr. O'Brien is correct that
7 service quality and reliability of service will improve,¹ my proposals with respect to
8 establishment of specific performance standards designed to assure compliance with
9 these promises should be adopted and there will be no adverse impacts on either
10 shareholders or ratepayers. Furthermore, in order to shift the risk of the failure to achieve
11 these performance promises from ratepayers to shareholders, my proposed service
12 compensation plan should also be adopted. These regulatory "hedges" should not result
13 in any harm to PECO or Exelon's shareholders since the Company has promised to
14 improve its performance and my proposal for a 10% additional improvement over a five-
15 year period are reasonable performance targets.

16 Q. DO YOU AGREE WITH MR. O'BRIEN'S PROMISE THAT THIS MERGER WILL
17 "AFFIRMATIVELY PROMOTE THE PUBLIC INTEREST IN A NUMBER OF
18 SUBSTANTIAL WAYS?" [Rebuttal at 3]

19 A. It is possible that the merger will in fact result in benefits set forth by Mr. O'Brien and
20 summarized on page 3, lines 13-23 in his Rebuttal testimony. However, these are
21 inchoate promises that are not tangible or definite. They are not enforceable. They do
22 not translate into substantial benefits as that term has historically been defined in

¹ Mr. O'Brien stated, "I am confident that PECO not only will meet its customer service obligations after this merger, but will improve upon its historic performance in doing so." [Rebuttal at 27, line 16-17]

1 Pennsylvania. In effect, Mr. O'Brien wants this Commission to approve the merger and
2 wait for results that cannot be identified, quantified, or translated into enforceable
3 performance standards or programs that benefit ratepayers. This is particularly
4 unfortunate with respect to the plight of PECO's low income customers, the majority of
5 whom are not enrolled in the formal low income programs. It is these vulnerable
6 customers who will bear the highest risk of non-performance with respect to reliability of
7 service, customer service, delivery of low income programs, calling center performance,
8 and billing and collection programs. Furthermore, this Company has proposed numerous
9 potential benefits to shareholders (particularly as outlined by Mr. LaCapra) without any
10 significant or quantifiable benefit to PECO's customers.

11 Q. IS IT NECESSARY THAT THE COMMISSION FIND THAT PECO HAS FAILED TO
12 PROPERLY IMPLEMENT THE PRIOR MERGER AGREEMENT OR SUBSEQUENT
13 AGREEMENTS CONCERNING ITS LOW INCOME PROGRAMS PRIOR TO
14 ORDERING BENEFITS FOR SUCH CUSTOMERS IN THIS PROCEEDING?

15 A. No, I do not rely on any finding of "wrong" or improper implementation by PECO with
16 respect to my recommendations for additional benefits for low income customers. As a
17 result of lower enrollment than anticipated when the program reforms reflected in the
18 2000 Merger Agreement were implemented, I have proposed a number of additional
19 means by which low income customers can be enrolled in PECO's programs.
20 Furthermore, my recommendations are not limited to those Special Needs customers who
21 were the focus of the Consensus Modifications adopted in 2004.

22 I have proposed a number of reforms that will increase PECO's spending for low
23 income and universal service programs and proposed that these increased program

1 benefits and costs be viewed as merger benefits in this proceeding. I recognize the policy
2 discretion by the Commission in determining which merger related benefits are
3 reasonable in light of the many proposals by the various intervenors in this proceeding.
4 However, I cannot agree with PECO's approach which is to offer nothing tangible or
5 significant in the way of merger related benefits to its low income customers.

6 Q. MR. O'BRIEN ALSO CLAIMS THAT INTERVENORS HAVE CRITICIZED THE
7 COMPANY FOR ITS FAILURE TO IDENTIFY BEST PRACTICES OR DOCUMENT
8 THE BENEFITS THAT MAY RESULT FROM THE IMPLEMENTATION OF THIS
9 APPROACH AFTER THE MERGER. IS THIS A FAIR CHARACTERIZATION OF
10 YOUR CONCERNS?

11 A. No. I do not expect PECO to identify all or even most of the best practices that may
12 result from this merger nor have I criticized the Company's inability to quantify the
13 results of those best practices. However, the fact that these best practices are not known
14 or that the Company cannot identify the value of their implementation are additional
15 reasons for the Commission to adopt tangible and forward looking benefits to ratepayers
16 to capture these results as part of its review of this merger proposal.

17
18 **Proposed Reliability and Service Quality Standards and**

19 **Customer Improvement Plan as a Condition for Approval of the Merger**

20 Q. MR. PATERER CRITICIZES YOUR TESTIMONY FOR FAILING TO PROPERLY
21 PRESENT PECO'S RELIABILITY PERFORMANCE PROMISES IN THE 2000
22 MERGER SETTLEMENT. DO YOU AGREE WITH HIS CONCERN?

23

1 A. I agree with Mr. Patterer that PECO Energy agreed to improve its reliability performance
2 by 10% over a five-year period based on the Commission's standards in effect in the
3 applicable regulations. I agree that PECO complied with that promise for the period
4 2001 through 2004. I also agree that there is no reason to believe that PECO will not
5 comply with its promise in 2005.² I made that position clear in my Direct Testimony at
6 page 21-22. However, my intent is to look forward and not backward. The Commission
7 adopted revised reliability performance standards in its rulemaking that concluded in
8 mid-2004. Therefore, it is not relevant to consider PECO's future performance
9 requirements in light of the "old" reliability performance standards. I developed my
10 recommendations in my Direct Testimony that were intended to provide the basis for
11 PECO's performance during the next five-year period (2006-2010). Naturally, those
12 recommendations should reflect the applicable performance standards as established by
13 the Commission. Mr. Patterer and I agree on the performance standards applicable to
14 PECO in 2005 as reflected in the Commission's revised reliability standards:

Metric	Benchmark	12-month Rolling Standard	36-Month Rolling Standard
SAIFI	1.23	1.48	1.35
CAIDI	112	134	123
SAIDI	138	198	167

15
16 For the purposes of looking forward to what should be expected in the way of
17 improvement as a result of this merger proposal, I then calculated a 10% improvement in
18 these standards as representing PECO's commitment in the 2000 Merger agreement and
19 then intended to calculate an additional 10% improvement to reflect my proposal for the

² Whether PECO's reliability performance is viewed in light of the "old" reliability standards in effect in 2000 or the "new" reliability standards in effect in 2004 and 2005, PECO has met its 2000 Merger promises.

1 next five-year period. Unfortunately, I erred in the preparation of the chart that appears
 2 on page 25 of my Direct Testimony and calculated a 20% improvement in addition to the
 3 10% improvement reflected in column two of that chart. As I have indicated above, the
 4 correct chart should reflect the following proposed reliability performance standards:

5 **SERVICE QUALITY IMPROVEMENT PLAN**
 6

Performance Area	2000 Merger Performance Standard (10% improvement compared to current PUC standards)	Proposed 2005 Merger Standard
SAIFI (PUC 12-month rolling standard)	1.33 incidents	1.2 (10% improvement over five years)
CAIDI (PUC 12-month rolling standard)	120.6 minutes	108 (10% improvement over five years)
SAIDI (PUC 12-month rolling standard)	178.2 minutes	160 (10% improvement over five years)
SAIFI (PUC 36-month standard)	1.25 incidents	1.1 (10% improvement over five years)
CAIDI (PUC 36-month standard)	111 minutes	100 (10% improvement over five years)
SAIDI (PUC 36-month standard)	150 minutes	135 (10% improvement over five years)
% calls answered within 30 seconds (all call centers)	70%	80% (industry standard)
Average busyout rate	4%	.4% (2003 and 2004 performance)
Call Abandonment Rate	Not applicable	4%
Gas Response Time to Safety Calls	99% within 1 hour	99% within 1 hour
OSHA Lost Work Days	Top 10% of comparable utilities	Top 10% of comparable utilities
Percent of residential bills issued accurately	Not currently measured	99.99%
Justified Consumer Complaint Rate	Not applicable	.28 (industry average for 2003)
Percent of residential bills not rendered once every billing period	Not applicable	.01%

1 Q. MR. PATERER RECOMMENDS THAT THE COMMISSION RELY ON ITS
2 RECENT RELIABILITY RULEMAKING TO PROTECT PECO'S CUSTOMERS
3 FROM DECLINING RELIABILITY PERFORMANCE. DO YOU AGREE?

4 A. No, it would not be appropriate to rely solely on those reliability standards in the context
5 of this merger proceeding for exactly the same reasons that the OCA sought and obtained
6 verifiable commitments and enforceable promises in the merger proceeding involving
7 GPU Energy and FirstEnergy and negotiated reliability improvements applicable to
8 PECO in the 2000 merger proceeding. In this proceeding, PECO has again promised
9 improvements in reliability. The Commission's reliability performance standards have a
10 different purpose. They are intended to prevent deterioration in performance compared
11 to pre-restructuring reliability performance. They are not intended to serve the purpose
12 of assuring compliance with improvements in reliability and implementation of "best
13 practices" as promised in this proceeding. For example, Mr. O'Brien stated that one
14 potential source of best practices with regard to his suggestion that PECO's reliability
15 could be improved as a result of the merger was to look at PSE&G in New Jersey whose
16 reliability performance is better than PECO's.³ I certainly agree with that approach.
17 Therefore, Mr. Patterer's reliance on the PUC's minimum standards is misplaced.
18 Furthermore, his suggested reliance on these standards in light of the Company's
19 promises to improve customer service and reliability as a result of this merger proposal
20 calls into question the nature of those promises.

21

22

³ O'Brien Rebuttal at 7. See also Data Response OCA Set I-5.

1 Q. MR. O'BRIEN AND MR. PATTERER CRITICIZED YOUR SERVICE QUALITY
2 IMPROVEMENT PLAN WITH ITS ACCOMPANYING SERVICE COMPENSATION
3 CREDITS TO CUSTOMERS ON THE GROUNDS THAT THE COMMISSION HAS
4 PREVIOUSLY REJECTED THIS APPROACH. IS THIS A LEGITIMATE REASON
5 TO REJECT YOUR PROPOSALS IN THIS PROCEEDING?

6 A. Mr. O'Brien has pointed to the Commission's decision in the GPU Energy-FirstEnergy
7 merger in 2001 and the recent reliability rulemaking proceeding as the basis for his
8 critique of my proposal to require service compensation credits be paid to PECO's
9 customers if the annual reliability and service quality performance standards are not met.
10 There are several reasons why the Commission may want to consider this proposal in the
11 context of this proceeding. First, in 2001 the Commission approved the merger of GPU
12 Energy and FirstEnergy. That decision also adopted the OCA's proposed service quality
13 and reliability performance standards for the same reasons set forth in my testimony in
14 that case and this one. However, the PUC rejected the OCA's proposal to enforce the
15 performance standards with automatic monetary payments (in the form of a one-time
16 credit) to customers if the annual standards were not met. The reliability performance of
17 the FirstEnergy electric distribution companies in Pennsylvania did not improve as
18 anticipated under the merger and the three EDC's failed to meet the applicable reliability
19 standards and the merger performance standards that were approved in 2001. These
20 standards were designed to reflect the company's promise to improve reliability of
21 service if the merger was approved. The Commission then opened a formal investigation
22 on its own motion in January 2004 based on the reliability performance as reflected in the
23 prior 3-4 years. That case was litigated until a settlement was reached and submitted on

1 September 30, 2004 and subsequently approved by the Commission. During that entire
2 period, FirstEnergy's customers suffered poor reliability while the company continued to
3 collect its regulated distribution rates and continued to seek to make a profit based on
4 those rates and its revenues. Relying solely on well meaning promises does not ensure
5 delivery of results.⁴ Promises that are made in the context of a merger proceeding
6 without a mechanism to shift the risk from ratepayers to shareholders following a merger
7 should be avoided. Second, the Commission opened a rulemaking to amend its reliability
8 rules in 2004. The OCA did not recommend automatic penalties for the failure to achieve
9 the various reliability standards, although the OCA provided extensive information on
10 other state reliability programs that do rely on automatic penalties for noncompliance
11 with an annual performance standard. Rather, the OCA proposed that non-compliance be
12 followed by a compliance plan that would contain enforceable implementation steps and
13 milestones that would carry automatic penalties. While the Commission rejected the
14 language proposed by the OCA, it did amend its proposed regulations to adopt changes
15 that included the option of requiring a "formal compliance plan with enforceable
16 commitments."⁵ More importantly, the precedent set by the Commission's actions in a
17 generic rulemaking proceeding that is applicable to all Pennsylvania electric distribution
18 companies is not particularly relevant to the specific merger and the merger-related
19 promises made by Exelon and PECO in this proceeding.

⁴ I do not mean to suggest that a predetermined customer credit mechanism alone is a sufficient enforcement tool and I have no doubt that the Commission would have and should have opened a formal investigation into reliability failures whether or not such a mechanism had been approved in the FirstEnergy merger. However, had such a compensation credit mechanism been approved, FirstEnergy's Pennsylvania customers would have at least been compensated for the lower performance in the form of a customer credit while the more detailed investigation and resolution was reached.

⁵ 57 Pa.Code §194(h)(1)(ii).

1 Q. WHAT ABOUT MR. PATTERER'S CONCERN ABOUT VARIABLES THAT ARE
2 OUTSIDE THE CONTROL OF PECO AND THAT MAY AFFECT PECO'S
3 PERFORMANCE?

4 A. Mr. Patterer evidently opposes any actual numerical performance standard on the grounds
5 that there are many variables that could influence reliability performance and that should
6 be considered when determining whether a "violation" has occurred. Mr. Patterer's
7 opposition to a firm performance standard is an attempt to avoid accountability and
8 compliance with any specific performance standard. The performance standards that I
9 have proposed reflect that variability already in that they are based on historical
10 performance with all their inherent vagaries in weather, trees, maintenance practices,
11 customer fault, and equipment failures. The standards reflect an annual average
12 performance which means that any individual outage event or local equipment failure is
13 smoothed out and typically would not have a significant impact on the system-wide
14 performance results. Furthermore, PECO has in fact complied with the standards I have
15 proposed with a comfortable margin in 2004 with the exception of the CAIDI three-year
16 rolling standard, which was only missed by a small margin based on the 2002-2004 data.
17 The applicable three-year rolling standard in 2006 will be based on the 2003-2005 data
18 and may well represent acceptable performance.⁶ Finally, if there is a significant
19 weather-related outage or other event that triggers the "major event" exclusion already
20 built into the PUC's reliability reporting rules, that should be applied as well to the
21 determination of actual performance under the proposed Merger performance standards.

⁶ In light of Mr. O'Brien's promise to adopt best practices to improve reliability of performance (based on the better performance of PSE&G), this should be the subject of PECO's improvement efforts.

1 Q. DOES MS. REIDY ON BEHALF OF PECO OFFER ANY ENFORCEABLE OR
2 DEFINITE PROMISES WITH RESPECT TO CUSTOMER SERVICE
3 PERFORMANCE?

4 A. No. Ms. Reidy asks the Commission to approve the merger with generic promises of
5 improved customer service, notwithstanding a significant change in PECO's billing
6 system and the integration of customer care facilities with ComEd in Illinois and PSE&G
7 in New Jersey. While Exelon tracks and internally reviews a variety of customer service
8 metrics, she offers no performance standards or performance metrics as a means to track
9 this promised benefit to PECO's ratepayers. While Ms. Reidy compliments PECO on its
10 performance under the 2000 Service Quality Plan and proposes to continue to "track and
11 report performance" on the same customer service indicators, she opposes any revision to
12 the performance standards, as well as opposing my proposed means to assure compliance
13 with any standards.

14 Q. DO YOU OPPOSE THE INTEGRATION OF THE CUSTOMER INFORMATION
15 AND BILLING SYSTEMS OF PECO AND PSE&G INTO THE SYSTEM
16 PRESENTLY USED BY COMED?

17 A. No, I do not oppose this management decision. I only point out the obvious potential for
18 customer harm during this transition and the implications for the integration of the
19 customer care and calling center activities that will be implemented in addition to this
20 billing change. These are risks that are well known to ComEd (and other utilities) since
21 there were customer service failures at the time of ComEd's adoption of this billing
22 system in 1998. I acknowledge that Exelon is likely to take steps based on those service
23 quality failures to prevent their occurrence at the time of the conversion for PECO's

1 customers. However, there is no point in deciding now whether the risks associated with
2 this move can or will be avoided in Pennsylvania. The safest approach is to require
3 PECO to meet certain service quality performance standards, including several new
4 metrics designed to reflect the billing system conversion and its impacts on customers,
5 and shift the risk of failure from ratepayers to shareholders. If Ms. Reidy is correct that
6 the new system will be properly implemented and that improvements in service quality
7 will result, the service compensation credit feature of my proposal will not be triggered.

8 Q. MS. REIDY OPPOSES YOUR SUGGESTED CONSUMER PROTECTIONS
9 ASSOCIATED WITH PAYMENT ARRANGEMENTS THAT MAY BE REQUIRED
10 AS A RESULT OF THE BILLING CONVERSION. DO YOU AGREE WITH HER
11 RESPONSE?

12 A. Ms. Reidy states that “PECO is more than able to handle situations where adjustments
13 need to be made to customer accounts that are affected by any billing problems that
14 arise.” I agree that PECO is “capable” of handling these situations. The issue is whether
15 PECO will be “required” to accommodate late bills, billing errors, and delays in customer
16 information system reforms that adversely impact customer ability to interact with the
17 new billing system so that any restrictions that may be applicable as a result of Act 201
18 will be lifted for these narrow circumstances. This appears a prudent step and should be
19 a condition of this merger. The only provision of the current Chapter 56 that PECO has
20 relied upon to assure that it will respond to the concerns that I have raised is 52 Pa. Code
21 §56.14 which governs how a utility must handle make-up bills for previously unbilled
22 utility service that may result from a utility billing error.⁷ I agree that this provision is

⁷ OCA-XXIII-Reidy-11.

1 applicable and was not changed by Act 201. But there are other situations that I have
2 outlined, including delayed billing, delayed disconnection notices, improper
3 disconnection notices, the inability of the customer to access the electronic payment
4 options, etc., that may also trigger the need for additional payment arrangements. The
5 adverse impact associated with billing errors (broadly defined) would also be more
6 significant for low income customers participating in the CAP programs in which the
7 discount must be properly calculated and presented so that the customer can clearly
8 understand the amount due on a monthly basis. These programs are not built into the
9 ComEd system because that utility does not offer discounts or other affirmative low
10 income program bill payment assistance programs that appear on the monthly customer
11 bill.

12 Q. DO YOU AGREE WITH MS. REIDY'S RESPONSE TO YOUR CONCERNS ABOUT
13 PECO'S DATA WAREHOUSE AND ITS CAPABILITY TO CAPTURE THE
14 NECESSARY INFORMATION TO TRACK AND EVALUATE ITS LOW INCOME
15 PROGRAMS?

16 A. Ms. Reidy states that "regulatory reports" will be built into the new system and that the
17 system will be designed to capture all the data required for reporting and evaluating
18 PECO's universal service programs. [Reidy Rebuttal at 18] My only suggestion is that
19 this commitment be highlighted as a condition of any approval of this merger that may be
20 issued by the Commission.

21

**Proposed Universal Service Program and Community Impact Conditions for
Approval of the Merger**

1
2
3 Q. MS. CRUTCHFIELD PRESENTS THE INTERVENORS PROPOSALS AS “SIMPLY
4 RE-LITIGATING ISSUES FROM THE CONSENSUS MODIFICATIONS...” [Rebuttal
5 at 3] DO YOU AGREE THAT THIS IS THE BASIS FOR YOUR UNIVERSAL
6 SERVICE RECOMMENDATIONS AS CONDITIONS FOR ANY MERGER
7 APPROVAL IN THIS PROCEEDING?

8 A. No. It appears that Ms. Crutchfield has ignored the key points of my proposals in this
9 proceeding. First, my recommendations are not solely directed to Special Needs
10 customers with income between 0 and 50% of federal poverty who were the subject of
11 the Consensus Modifications. Rather, several of my recommendations are directed to the
12 vast majority of CAP Rate customers on CAP Rate D and E, who have incomes in excess
13 of 50% of poverty. Second, I did not base my recommendations on whether or not PECO
14 failed to implement the 2000 Merger promises relating to Universal Service programs or
15 the Consensus Modifications. Nor do I seek to re-litigate the Consensus Modifications.
16 What I do seek are specific and tangible merger benefits for low income customers as a
17 condition of any merger approval in this proceeding. My recommendations are intended
18 to go beyond the promises made in 2000 and those changes to the programs approved in
19 the Consensus Modifications. My proposals are intended to represent new benefits and
20 *program enhancements*.

21 Q. MS. CRUTCHFIELD APPEARS TO AGREE THAT REFORMS ARE NEEDED TO
22 INCREASE CAP RATE A ENROLLMENT, AS WELL AS ENROLLMENT FOR ALL
23 CAP RATES. PLEASE COMMENT.

1 A. Ms. Crutchfield's Rebuttal testimony agrees that PECO needs to improve its efforts to
2 enroll eligible customers in CAP Rate A [Rebuttal at 15] and to at least evaluate my
3 proposal to eliminate the requirement that a CAP Rate B customer demonstrate the
4 inability to meet at least two payment arrangements prior to qualification for CAP Rate A
5 [Rebuttal at 15-16]. She also promises to conduct additional outreach to potential CAP
6 Rate customers generally and will specifically contact the social service agencies to
7 follow up on a number of my proposed methods to increase enrollment. [Rebuttal at 18]
8 These are welcome suggestions. I continue to urge the Commission to reflect my
9 recommendations as conditions of any merger approval, but it appears that PECO has
10 begun its favorable response even as this case is litigated.

11 Q. PLEASE DISCUSS MS. CRUTCHFIELD'S RESPONSE TO YOUR PROPOSAL TO
12 RAISE THE DISCOUNT LEVEL IN THE CAP RATES PROGRAM TO 800 KWH.

13 A. Her response focuses generally on her estimated cost of this proposal at \$9.4million per
14 year or \$38 million for four years. She also suggests that the current policy is important
15 to "encourage customers to find ways to limit their electric usage." However, Ms.
16 Crutchfield cannot point to any study which has found that low income customers will
17 "waste" electricity or use an inappropriate higher amount if the discount is applied to the
18 entire electric bill rather than only a portion of the bill as under PECO CAP rate
19 programs. Discounts (or equivalent bill credits based on usage) are available on the
20 entire electric bill in California, Massachusetts, Maine, New Jersey, Ohio, Maryland, and
21 other states. There is no basis for her suggestion that low income electric customers can
22 or should reduce usage in order to conform to the artificial constraints of the current CAP
23 Rate discount structure. On the contrary, there are numerous studies that have

1 documented that low income customers on average use less energy than other residential
2 customers and that the presence of a discount program or percentage of income payment
3 program does not result in higher usage.⁸ Rather, it appears that the current CAP Rate
4 discount structure is a function of the cost of the program and not any evaluation of the
5 impact of the 500 or 600 kWh discount trigger reflected for the current CAP Rates B-E.
6 Ms. Crutchfield's estimate of the costs associated with the move to an 800 kWh trigger is
7 no different from that provided in an earlier data response and on which I relied in my
8 Direct Testimony. In my opinion, this recommendation is an appropriate merger benefit
9 at a reasonable cost. The recommendation also has the advantage of responding to the
10 clear evidence as described in the Commission's Order on PECO's Universal Service
11 program plan submission in April 2005 of the unaffordability of PECO's current CAP
12 rate structure as evidenced by the payment arrangement disputes received by the
13 Commission's Bureau of Consumer Services. More recent information provided in this
14 proceeding confirms these concerns.

15 PECO has provided a breakdown of the number of CAP Rate customers within
16 various usage bands. According to this information,⁹ the vast majority of CAP Rate
17 customers use over 500 kWh in most months. During the period August 2004 through
18 July 2005, over 51,000 CAP Rate customers used over 500 kWh in any one month,
19 representing 55% of the 98,000 CAP Rate customers. For this group, the average
20 monthly usage was 926 kWh, varying from 949 kWh in August 2004 to 1,024 in January

⁸ According to an analysis of 2001 Residential Energy Consumption Survey information published by the U.S. Department of Energy, the average kWh usage for electricity and the average mcf usage for natural gas has traditionally been lower for low income households (eligible for LIHEAP) compared to all residential households. This information is summarized in an Economic Opportunity Studies report available at: <http://www.opportunitystudies.org/2001%20%20EnergyConsumersSpentMoreforLess.pdf>

⁹ Data Response AA-Set II-9.

1 2005. This data suggests that the current CAP Rate discount (applied to 500 kWh all year
2 and 600 kWh during the summer months) is insufficient to respond to the actual usage
3 patterns of 55% of the CAP Rate participants. Assuming this data is correct, it explains a
4 good deal of the payment difficulties documented by the Commission in its April 2005
5 Order. This usage pattern, coupled with the very small enrollment in CAP Rate A in
6 particular, documents the importance of targeting additional assistance to these customers
7 as I have proposed.

8 Q. PLEASE COMMENT ON MS. CRUTCHFIELD'S REACTION TO YOUR
9 PROPOSAL TO APPLY THE ARREARS FORGIVENESS PROGRAM TO THOSE
10 CUSTOMERS ENTERING CAP RATES A-C AND WHO PARTICIPATED IN THE
11 OLDER CAP RATES.

12 A. Ms. Crutchfield has misinterpreted my proposal. I did not recommend that PECO forgive
13 arrears anytime a customer moves from one CAP Rate to another. My recommendation
14 focuses on those customers in the newly created CAP Rates A through C that should be
15 eligible for arrears forgiveness for that portion of the arrears balance that was incurred
16 during their enrollment in CAP Rate D and E (or their prior versions). It is my
17 understanding that when a customer enrolls in CAP, their arrears balance at that time is
18 eligible for the arrears forgiveness program so I presume that we agree that the pre-
19 enrollment arrears balances remain eligible for arrears forgiveness no matter what CAP
20 rate the customer moves in and out of. I also presume that PECO can track these pre-
21 enrollment arrears balances separately from those incurred by the CAP customer after
22 their enrollment in the program. My proposal addressed the incremental arrears balances
23 incurred by customers after their enrollment in the CAP rates program, but before the

1 customer was enrolled in CAP Rates A through C. In other words, the new CAP Rates
2 were created to make the bill more affordable and were intended to provide new benefits
3 to those already participating in the CAP program, but who were provided a lower
4 discount amount. The entry of customers into the newly created CAP Rates should
5 qualify the customer for a fresh start since the prior CAP rates were viewed as
6 unaffordable for very low income customers.

7 Ms. Crutchfield interpreted my proposal to refer to any movement of a CAP Rate
8 customer from one discount level to another and that is not my recommendation. As a
9 result, her estimate of the cost of this recommendation of \$11 million over the next 3-4
10 years is incorrect. Her estimate (according to the workpaper provided in response to
11 OCA XXIII-4) calculates the cost of the arrears forgiveness for CAP Rate A, B, and C
12 customers as \$3,771,014 and an additional \$7,336,363 for CAP Rate D and E customers.
13 Since my proposal reflects my concern about the entry into CAP Rate A-C customers
14 only, the maximum estimated cost of my proposal is \$3.8 million. In fact, it is likely that
15 this estimate is too high as well because Ms. Crutchfield's estimate does not appear to
16 distinguish between the arrears balances incurred by the CAP Rate A-C customers that
17 were incurred prior to their enrollment in CAP and those arrears balances that may have
18 been incurred after their enrollment in CAP, but before their enrollment in the new CAP
19 Rates A-C. Therefore, the actual cost of my recommendation is probably less than \$3.7
20 million. Again, I recommend that this proposal be adopted as a means of providing
21 merger benefits to PECO's low income customers, as well as its importance in assuring
22 that the CAP Rate customer bill is more affordable for these customers who are enrolled
23 in the new CAP rates.

1 Q. PLEASE COMMENT ON MS. CRUTCHFIELD'S RESPONSE TO YOUR
2 RECOMMENDATION THAT THE CURRENT USFC CUSTOMER CONTRIBUTION
3 BE CAPPED UNTIL THE NEXT DISTRIBUTION RATE CASE AS A MERGER
4 BENEFIT.

5 A. Ms. Crutchfield presents this proposal as allowing PECO's residential customers to retain
6 the estimated cost of \$31-38 million and "would not be available to fund low-income
7 programs." [Rebuttal at 30] That was not my proposal. Rather, I recommended that
8 PECO continue to be obligated to fund its low income programs, with the modifications
9 that I recommended, as a merger benefit, thus absorbing the costs for a temporary period
10 until the next distribution rate case. This will provide a benefit to PECO's residential
11 customers who would otherwise pay higher rates to fund these programs.

12 Q. DO YOU AGREE WITH MS. CRUTCHFIELD'S ESTIMATES OF THE COST OF
13 YOUR USFC PROPOSAL?

14 A. Ms. Crutchfield's cost estimates of this benefit are questionable.¹⁰ The low end of her
15 estimate of \$31 million over four years assumes that PECO will gradually increase its
16 CAP customer participation from approximately 100,000 today to 125,000 in year three
17 (110,000 in year one, 121,000 in year two, and 125,000 in year three and four). Her high
18 end estimate assumes an immediate climb to an enrollment level of 125,000 for the next
19 four years. While I support efforts to increase CAP enrollment, PECO's ability to get to
20 the 125,000 enrollment target is not obvious to me in light of the flat enrollment rate in
21 recent months. The 125,000 enrollment target has been in effect since 2000 without any
22 indication that it will be met soon. Any estimate based on an immediate enrollment to

¹⁰ Data Response to OCA XXIII-5.

1 125,000 is unrealistic. I agree that any estimate should reflect the potential for CAP Rate
2 enrollment increases, however, the projected increases in enrollment reflected in Ms.
3 Crutchfield's estimate is too high in my opinion. Based on a more realistic increase of
4 5,000 CAP customers in each of the next five years, it is more reasonable to calculate the
5 cost of this recommendation at \$28.7 million over five years (as opposed to \$31 million
6 over four years). Even so, I recognize that this estimate (or any other reasonable
7 estimate) will impose costs on PECO that should be viewed as a form of merger benefit
8 to all residential customers, but which is designed not to have any adverse impact on
9 PECO's low income customers.

10 Q. DOES MS. CRUTCHFIELD OPPOSE YOUR RECOMMENDATIONS CONCERNING
11 PECO'S CONTRIBUTIONS TO AND OPERATION OF ITS HARDSHIP FUNDING?

12 A. Ms. Crutchfield does not appear to oppose my recommendations and agrees that a bill
13 check off feature for customer contributions to this program will be considered as part of
14 the new billing format. She also describes an increased level of customer solicitations
15 and a pending investigation into allowing customers to use a check off feature for
16 electronic bill payments. I continue to urge the Commission to specifically require these
17 recommendations as a condition of any merger approval.

18 Q. MR. O'BRIEN SUGGESTS THAT YOU INTEND TO REVISE YOUR
19 RECOMMENDATION WITH RESPECT TO PECO'S CHARITABLE GIVING
20 BASED ON HIS READING OF YOUR DEPOSITION. IS THIS CORRECT?

21 A. No, I am not adopting any revisions to my proposal that the Commission require PECO
22 to maintain its recent historical charitable and community giving amount of \$8 million
23 per year for a period of at least five years. I was asked in my deposition to provide

1 additional breakdowns of the various categories which PECO uses to track its giving
2 programs. I responded as requested. However, I never agreed that my original
3 recommendation would be changed by this information. As noted in footnote 30 on page
4 44 of my direct testimony, I relied upon COP Set I-18 to document my statement that
5 PECO's charitable contributions have averaged \$8-9 million in the past two years. This
6 data response states that PECO made "charitable contributions and grants" totaling \$9
7 million in 2003 and \$7.8 million in 2004. This response appears to state that this amount
8 did not include funding for charitable grants for energy assistance for two years (1999
9 and 2005 to date). I interpreted this to mean that the other years, including 2003 and
10 2004 totals, did include charitable contributions for energy assistance. The response to
11 COP Set I-21 asked PECO for the "community and economic development" and "energy
12 assistance" grants, both of which are presumably subsets of the larger figure noted in my
13 testimony. The response identified that in 2003 PECO provided a total of \$4.179 million
14 and in 2004, \$3.610 million for "community and economic development." The response
15 also identified the specific "energy assistance" grants for each agency for those years.
16 The total for 2003 was \$1.095 million and for 2004, \$610,314. My original
17 recommendation was intended to reflect the broadest possible definition and scope of
18 PECO's charitable and community giving and I continue to urge the Commission to
19 reflect that intent in its final decision.

20 Q. DOES THIS COMPLETE YOUR TESTIMONY AT THIS TIME?

21 A. Yes.

9/23/05
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jk

COMMONWEALTH OF PENNSYLVANIA

BEFORE THE PUBLIC UTILITY COMMISSION

JOINT APPLICATION OF PECO ENERGY CO. AND PUBLIC SERVICE ELECTRIC AND
GAS CO. FOR APPROVAL OF THE MERGER OF PUBLIC SERVICE ENTERPRISE
GROUP, INC. WITH AND INTO EXELON CORPORATION

DOCKET NO. A-110550F0160

DOCUMENT
FOLDER

SUPPLEMENTAL TESTIMONY OF

BARBARA R. ALEXANDER

Consumer Affairs Consultant

(Directed Question #5: Combined Gas Divisions)

ON BEHALF OF THE

OFFICE OF CONSUMER ADVOCATE

August 26, 2005

RECEIVED

SEP 26 2005

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

1 Q. PLEASE STATE YOUR NAME, ADDRESS AND OCCUPATION.

2 A. My name is Barbara R. Alexander. I use a business title of Consumer Affairs Consultant.
3 I am a consultant on consumer protection and customer service issues associated with
4 utility regulation. My address is 83 Wedgewood Dr., Winthrop, ME 04364. I appear in
5 this case as a witness on behalf of the Office of Consumer Advocate ("OCA").

6 Q. HAVE YOU TESTIFIED PREVIOUSLY IN THIS PROCEEDING?

7 A. Yes, I filed Direct Testimony on behalf of the OCA on June 28, 2005 and Surrebuttal
8 Testimony on August 26, 2005.

9 Q. WHAT IS THE PURPOSE OF THIS SUPPLEMENTAL TESTIMONY?

10 A. The purpose of this Supplemental Testimony is to respond to one of the Directed
11 Questions issued by Commissioner Shane and Vice Chairman Cawley of the PUC,
12 namely Question #5:

13 Would the combination of the PSE&G gas division with the PECO gas division
14 and the Philadelphia Gas Works provide critical mass for a viable, profitable,
15 shareholder owned public utility, assuming a revenue stream from off system
16 sales from an LNG facility, and separate resolution of the problem of a billion
17 dollar debt?

18
19 Q. WHAT ASPECT OF THIS QUESTION WILL YOU ADDRESS?

20 A. I cannot comment on whether such a combination of gas divisions will result in a viable,
21 profitable utility, but I wish to bring to the Commission's attention a number of issues
22 that would need to be resolved in order to effectuate this proposal. These issues relate to
23 the implementation of any combination of ownership of the gas distribution function
24 between PECO Energy and PGW in particular because of their geographic location.
25 PGW's gas service is provided within the City of Philadelphia, while PECO's current gas
26 service is provided to the suburban Philadelphia area and its electric service overlaps
27 PGW's gas service in the City. If there was a combined operation between these two gas

1 utilities, PECO would have the sole distribution utility function for both gas and electric
2 service in the City of Philadelphia. While it is not clear whether this Directed Question
3 assumes the combined retail operation of natural gas service by a single public utility (as
4 opposed to a unification of gas procurement on a wholesale level), the issues and
5 concerns that I highlight assumes the former approach.

6 Q. PLEASE IDENTIFY THE RETAIL OPERATIONAL ISSUES AND POLICIES THAT
7 WOULD NEED TO BE RESOLVED IN ORDER TO PROVIDE NATURAL GAS
8 SERVICE IN THE PHILADELPHIA AREA BY A SINGLE PUBLIC UTILITY.

9 A. PGW and PECO Energy are currently separate public utilities with separate billing
10 systems, credit and collection programs, and universal service programs. While I cannot
11 provide a definitive overview (due to my inability to examine all of the detailed aspects
12 of the formation of a combined gas utility and the differences between PGW and PECO
13 in the time allowed for this proceeding), the following list is intended to provide an
14 indication of the complications and scope of any integration that would be required.
15 Furthermore, I have not conducted an analysis nor can I provide any estimate of the
16 implementation and transition costs that would be incurred for such a transformation, but
17 it would appear that these costs would be significant and should be identified in detail
18 prior to any final Commission consideration of such an approach.

- 19 ▪ Billing System and Billing Policies: Both PECO and PGW have different billing
20 systems. PECO's billing system is set to change dramatically with the
21 implementation of ComEd's billing and customer service platform in 2006. Whether
22 or not this new system could be altered to reflect PGW's customer billing policies and
23 requirements is not known, but it would appear unlikely that any combined gas utility

1 could operate for long with two different billing systems. Furthermore, since PECO
2 already bills PGW's same customer base for electric service, the combined billing of
3 both electric and gas service by the same utility brings into question billing policies
4 concerning the allocation of partial payments, the priority of service that is identified
5 in the event of partial payments and its associated implications for disconnection
6 notices and disconnection of service.

- 7 ▪ Credit and Collection Policies: Since PGW and PECO have operated independently,
8 they have developed different policies with respect to application of service, credit,
9 collections, payment arrangements, and disconnection policies. In fact, while both
10 utilities are subject to Chapter 56 of the Commission's rules, PGW's experience with
11 Chapter 56 is fairly recent because it was not until 2000 that PGW was subject to the
12 PUC's jurisdiction.¹ That transition has been fraught with controversy. Finally, as
13 the Commission is well aware, PGW has had a long standing difficulty in collecting
14 its overdue gas bills and has repeatedly sought regulatory relief in its ratemaking
15 policies for this situation.² This suggests that any unification of billing and credit and
16 collection policies by a single public utility may encounter unexpected
17 implementation and transition expenses and difficulties.

- 18 ▪ Universal Service Programs and Policies: PECO and PGW operate different
19 Universal Service programs. PGW's Customer Responsibility Program is a percent

¹ The Natural Gas Choice and Competition Act delayed natural gas restructuring for PGW until 2002 and it was not until the resolution of that proceeding that the detailed implementation of Chapter 56 by PGW was resolved. PUC v. Philadelphia Gas Works, Docket M-00021612, et al., Opinion and Order, March 21, 2003.

² See, e.g., Petition of Philadelphia Gas Works for Extraordinary Rate Relief Pursuant to 66 Pa. C.S. §1308(e), Docket No. R-0017034F0002, Opinion and Order, April 11, 2002; Petition of Philadelphia Gas Works to Establish a Cash Receipts Reconciliation Clause, Docket R-00049157, Opinion and Order, July 8, 2004; Investigation into Financial and Collections Issues Regarding Philadelphia Gas Works, Docket P-00042090, et.al., Opinion and Order, September 30, 2004.

1 of income customer assistance program designed to offer affordable and discounted
2 payment plans to low income customers with household income at or below 150% of
3 federal poverty level. Under PGW's program, the method of calculating the level of
4 bill payment assistance takes into account the customer's household income and
5 historical usage. This approach contrasts significantly from PECO's CAP Rates
6 program in which the customer's bill payment assistance is a varying discount off the
7 tariffed rate based on the customer's household income. Furthermore, PGW provides
8 a 20% bill discount for senior customers based on age alone, but this program is
9 grandfathered and will not be provided to any new entrants. It would be extremely
10 inefficient and complicated for the combined gas utility to operate two different low
11 income programs, yet the consumer education effort and transition costs associated
12 with moving all customers into one program would be significant.

- 13 ■ Customer Education: The integration of PECO and PGW natural gas service would
14 require extensive customer education about the nature of the change in ownership,
15 change in policies and programs, and a means to gauge customer understanding of
16 these changes. I would recommend that any such change be accompanied by a
17 professionally designed public education campaign, the cost of which should be taken
18 into account in the determination of the reasonableness of this integration proposal.
- 19 ■ Quality of Customer Service: Any such transition to combined operations under a
20 single public utility would require the development of a transition plan with
21 performance measures and a means to assure accountability for performance failures.
22 While I am confident such a mechanism could be developed (similar to the Service
23 Quality Improvement Plan I have proposed for the PECO merger proceeding), any

1 transition plan to implement a combined natural gas utility should require a means to
2 measure and enforce retail quality of service prior to the implementation of a change
3 of ownership and operations.

4

5 Q. DOES THIS COMPLETE YOUR TESTIMONY AT THIS TIME?

6 A. Yes.

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