

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. <u>REPORT DATE:</u> February 25, 2003	2. <u>BUREAU AGENDA NO.:</u> MAR-2003-FUS-1001*
3. <u>BUREAU:</u> Fixed Utility Services	
4. <u>SECTION(S):</u> Energy	5. <u>PUBLIC MEETING DATE:</u>
6. <u>APPROVED BY:</u> Director: Rosenthal 2-0400 Supervisor: Bennett 7-5553 Legal Review by <i>[Signature]</i>	March 6, 2003
7. <u>PERSONS IN CHARGE:</u> Rodrock/Gill 3-6185 Hummel (BCS) <i>[Signature]</i> 3-9088	<div style="text-align: center;">  DOCKETED APR 3 2003 </div>
8. <u>DOCKET NO.:</u> R-00027870 M-00001418	

9. (a) **CAPTION** (abbreviate if more than 4 lines)
 (b) Short summary of history & facts, documents & briefs **DOCUMENT FOLDER**
 (c) **Recommendation**
- (a) PECO Energy Company
 (Home Office: Philadelphia, PA)
 Petition for expedited approval of consensus modifications to PECO Energy Company's Universal Service program and associated tariff changes.
- (b) On October 1, 2002, PECO Energy Company ("PECO") filed a Petition to modify its Universal Service Program. The Bureau of Consumer Services ("BCS") has had extensive discussions with the company concerning this filing.
- (c) The Bureau of Fixed Utility Services recommends that the Commission adopt the proposed draft Order which approves the petition with modifications.

10. MOTION BY: Commissioner Fitzpatrick **Commissioner Chm. Thomas - Yes**
Commissioner Wilson - Yes
SECONDED: Commissioner Bloom **Commissioner Pizzingrilli - Yes**

CONTENTS OF MOTION:

- The staff recommendation be accepted in part and rejected in part, as set forth in the body of this Motion.
- The Commission issue a Tentative Order and give the parties 20 (twenty) days to file comments.
- The Bureau of Fixed Utility Services, Bureau of Consumer Services, and the Law Bureau make the necessary revisions in accordance with this Motion.



**Petition of PECO Energy
Company for expedited approval
of consensus modifications to its
Universal Service Program and
associated tariff changes.**

**MAR-2003-FUS-1001*
Docket Nos. R-00027870, M-00001418**

MOTION OF COMMISSIONER TERRANCE J. FITZPATRICK

This matter involves a Petition filed by PECO Energy Company ("PECO") seeking expedited approval of "consensus modifications" to PECO's Universal Service Program. PECO states that these modifications are supported by the Office of Consumer Advocate ("OCA"), the Pennsylvania Department of Public Welfare ("DPW"), and by a number of organizations that are concerned regarding the ability of low-income customers to pay their utility bills. The staff recommends that the Commission approve the Petition with several additional modifications. I will move that the Commission accept staff's recommendation, in part, and reject it in part, as described below.

At the outset, I recognize that it is generally in the public interest to encourage further development of universal service programs. I compliment PECO and the other parties who worked to develop the consensus modifications to PECO's program. I also wish to thank the Commission's staff for its dedication and diligence in advancing these programs. However, I disagree with four aspects of the staff's recommendation in this particular case.

First, staff recommends several modifications to the Petition, including, but not limited to, requiring PECO to determine the reasons for "excessive usage" by some customers, directing PECO to correct certain information technology deficiencies, directing PECO to evaluate an "affordability test" with respect to its program, and directing PECO to allow customers participating in the customer assistance program to be placed on budget billing. Neither PECO nor the other parties who have an interest in PECO's Petition have been given the opportunity to be heard with regard to the modifications recommended by our staff. They clearly have a right to notice and an opportunity to be heard under the Administrative Agency Law, 2 Pa. C.S. §504. In order to provide these parties with due process of law, I will move that this Order be issued as a "Tentative Order" and provide the parties with 20 days to comment on the modifications recommended by the staff.

Second, I disagree with the language in the draft Order (pages 2 and 3) suggesting that it may be appropriate for a utility to seek a deferral of costs related to its CAP program that cannot be recovered under the capped rates currently in effect. I question the wisdom and legality of establishing a current program that is so costly that future customers must be saddled with such costs (which would be in addition to the cost of similar programs in effect during the future period). In addition, since the

Petition does not seek a deferral and staff does not recommend that we adopt one, the discussion of the propriety of the deferral mechanism is unnecessary.

Third, I disagree with the staff's interpretation of subsection 2802(10) of the Public Utility Code, 66 Pa. C.S. §2802(10). This subsection provides:

The Commonwealth must at a minimum, continue the protections, policies and services that now assist customers who are low-income to afford electric service.

The staff emphasizes the word "afford" in this quote, which leads it to conclude that "...a customer assistance program must be affordable to help a customer maintain his or her electric service." (Proposed Order, p. 3). I disagree with this interpretation. The point of this language is that the Commonwealth must at least continue the CAP and other low-income programs that were in effect as of the date of the Act. It is also reasonable to infer from the language that the Commission could require programs that are even more beneficial to low-income customers than those in effect as of the date of the Act. It is not reasonable, however, to interpret this language as imposing a statutory requirement that utility rates meet an "affordability" test. While "affordability" is a laudable goal for the Commission to pursue as a matter of policy, this goal must be balanced with the recognition that other customers pay for these programs.

Fourth, beginning on page five of the Proposed Order, the discussion appears to give controlling weight to a third-party's evaluation of PECO's CAP Rate. I believe that this language goes beyond what is called for in a proceeding that was uncontested. I will not attempt to dictate specific editorial changes in this Motion; however, the Staff should revise this language in light of this concern.

In summary, the recommendation of the staff should be modified as set forth above; **THEREFORE, I MOVE THAT:**

1. The staff recommendation be accepted in part and rejected in part, as set forth in the body of this Motion.
2. The Commission issue a Tentative Order and give the parties 20 (twenty) days to file comments.
3. The Bureau of Fixed Utility Services, Bureau of Consumer Services, and the Law Bureau make the necessary revisions in accordance with this Motion.

Date: March 6, 2003

Terrance J. Fitzpatrick
TERRANCE J. FITZPATRICK
COMMISSIONER



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

IN REPLY PLEASE
REFER TO OUR FILE

April 8, 2003

R-00027870; M-00001418

DOCKETED

APR 21 2003

DOCUMENT

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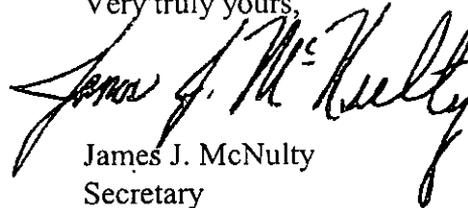
PECO Energy Company's Petition for expedited approval of Consensus Modifications to
PECO Energy Company's Universal Service Program and Associated Tariff Changes

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on March 6, 2003
has adopted a Tentative Order in the above entitled proceeding.

A Tentative Order has been enclosed for your records.

Very truly yours,



James J. McNulty
Secretary

Tab
Encls
Cert. mail

See Attached List for Additional Parties

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**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA. 17105-3265**

Public Meeting held March 6, 2003

Commissioners Present:

Glen R. Thomas, Chairman
Robert K. Bloom, Vice Chairman
Aaron Wilson, Jr.
Terrance J. Fitzpatrick
Kim Pizzingrilli

DOCKETED

APR 21 2003

PECO Energy Company's Petition for Expedited
Approval of Consensus Modifications
to PECO Energy Company's
Universal Service Program
and Associated Tariff Changes

Docket Nos:
R-00027870
M-00001418

TENTATIVE ORDER

DOCUMENT

BY THE COMMISSION:

On October 1, 2002, PECO Energy Company (PECO or the Company) filed the above-captioned petition with the Commission. In its petition, PECO is requesting approval of consensus modifications to its Universal Service Program to establish a "Special Needs" program applicable to low-income customers. Additionally, the petition seeks approval of proposed tariff changes to implement this new program. By means of the instant petition, PECO addresses issues identified by the Commission in its Order at Docket No. M-00001418, entered September 29, 2000, ("September 29 Order") relating to whether PECO's CAP Rate is affordable. PECO's petition also fulfills several PECO

obligations from Docket No. A-110550F0147, “Joint Petition for Settlement,” dated March 24, 2000 (Merger Settlement) pertaining to a “special needs” plan, and other specified issues identified with respect to the Company’s Universal Services Programs.

I. Background

The Electricity Generation Customer Choice and Competition Act (Act), 66 Pa. C.S. §§ 2801-2812, includes several provisions to ensure that electric service remains universally available to all customers in the state. The universal service provisions of the Act, among other things, requires at 66 Pa. C.S. § 2804(9) that the Commission ensure that universal service programs are appropriately funded and available in each EDC territory. In addition, the Act provides that full recovery of universal service costs be permitted through a nonbypassable rate mechanism. 66 Pa. C.S. § 2802(7). Finally, 66 Pa. C.S. § 2804(9) requires the Commission to provide administrative oversight of these programs to ensure that the programs operate in a cost-effective manner.

Pursuant to the Commission’s Final Restructuring Order, entered May 14, 1998, PECO established a LIURP (Low-Income Usage Reduction Program) Advisory Committee and a subcommittee to deal with the requirement that the Joint Petitioners review and consider any recommendations from the CAP Rate evaluation conducted by an independent evaluator.

Moreover, PECO’s Merger Settlement at Docket No. A-110550F0147 (Merger Settlement) includes provisions dealing with PECO’s CAP Rate. The Merger Settlement includes a provision at Paragraph No. 31 for PECO and the LIURP Advisory Committee to determine whether PECO should add a “special needs” component to the CAP Rate. In particular, the Merger Settlement provides for PECO to contract with H. Gil Peach & Associates (Peach), an independent program evaluator, to determine if the CAP Rate is affordable for households whose incomes are below 50% of the federal

poverty guidelines and whether PECO should add a “special needs” component to its CAP Rate program. The Commission’s Order at Docket M-00001418 reinforced and raised additional issues relating to “special needs”.

II. Peach Evaluation Findings and Recommendations

Under the provisions of the Merger Settlement, PECO contracted with Peach to conduct an analysis of its CAP Rate to determine its affordability for households whose incomes are below 50% of the federal poverty guidelines. The Peach analysis was also to address whether PECO should add a “special needs” component to its CAP Rate program. On June 10, 2002, Peach submitted its analysis and recommendations for consideration by PECO and the LIURP Advisory Committee. The evaluation is available for review in the Commission’s file at this docket.

The Peach analysis concluded that payments are not affordable for PECO’s CAP Rate customers whose incomes are below 50% of the federal poverty guidelines. Among other recommendations and findings, Peach recommended that PECO revise the CAP Rate payment plan for customers whose incomes are below 50% of federal poverty guidelines to be a percentage of income payment rather than the current rate discount.

III. Consensus Modifications

As a result of numerous meetings and consideration of the Peach analysis, PECO and the LIURP Advisory Committee developed a mutually satisfactory consensus agreement (Consensus Modifications) concerning the modifications needed to be made to PECO’s Universal Services Program. The LIURP Advisory Committee members that participated in developing the consensus proposal and support these modifications include the Pennsylvania Office of Consumer Advocate (OCA), the Consumer Education and Protective Association (CEPA), the Association of Community Organizations and Reform Now (ACORN), the Tenants Action Group (TAG), the Action Alliance of Senior

Citizens (Action Alliance), the Pennsylvania Utility Law Project (PULP), the Utility Emergency Service Fund (UESF), and the Pennsylvania Department of Public Welfare (DPW). The Philadelphia Area Industrial Energy Users Group participated in the collaborative effort and does not oppose the modifications. Eric Joseph Epstein filed comments supporting approval of the modifications predicated on two caveats. Mr. Epstein requests placement of a community representative from south central Pennsylvania on the LIURP Advisory Committee and inclusion in the monitoring and implementation process of the instant petition. PECO has agreed to include a representative from south central Pennsylvania on the LIURP Advisory Committee and to include Mr. Epstein on future correspondence relating to this issue. As a result of the consensus modifications, PECO proposes to implement the following new CAP rates.

A. The New CAP Rates

CAP A. CAP A provides minimum payments to customers whose household incomes are below 25% of the federal poverty guidelines and who have extenuating circumstances. CAP Rate A customers shall be limited to CAP Rate customers who otherwise demonstrate an inability to pay their bills as a result of unique circumstances such as those related to health (injury, illness, disability, high medical bills, medically related electric usage, death in the family), sudden loss of employment, the presence of high risk household members (children below 8 years of age, disabled individuals, or infirm elderly), an inability to comply with at least 2 non CAP A payment arrangements, or high non-discretionary electric usage related to shelter conditions not susceptible to mitigation through LIURP measures. PECO's CAP A proposal contains the following requirements:

- CAP A customers that take service under Rate R will be required to pay a total monthly bill of \$12 for all usage up to 1000 kWh. Monthly usage from 1001 kWh to 1500 kWh will receive a 50% discount and any consumption above 1500 kWh will be

billed at the full tariff rate.

- CAP A customers that take service under Rate RH will be required to pay a total monthly bill of \$30 for all usage up to 2000 kWh billed in the months of October through June and 1000 kWh in the months of July, August and September. Usage in excess of those kWh thresholds per month will be billed at the CAP D rate.

- CAP A enrollment will be limited to no more than 7,500 “extenuating circumstances” customers.

- Additionally, CAP A customers and PECO CARES representatives shall work in a cooperative effort to maximize the amount of government or private financial assistance available to the customer.

- CAP A customers subject to Rate R will also receive assistance from PECO Energy to restore service by other vendors of heating energy so as to reduce usage of electric space heating.

- CAP A customers will not be eligible to shop for generation service provided by a competitive electric generation supplier.

- Finally, CAP A customers will be required to re-certify their eligibility for service under CAP Rate A on an annual basis. In this respect, PECO Energy will evaluate whether a customer’s receipt of a LIHEAP grant would constitute adequate proof of income.

CAP B. For customers whose incomes are below 25% of the poverty guidelines who do not have extenuating circumstances, CAP B provides an 85% discount on the first 500 kWh of usage per month throughout the year. CAP B provides an additional 30% discount on the 500-600 kWh block of usage during the months of July, August and September. PECO’s CAP B proposal may be accurately summarized as follows:

CAP B will be established for customers with annual household gross income that is equal to or less than 25 percent of federal poverty income guidelines. For

service billed in the months of July, August and September, eligible customers will be provided an 85 percent rate discount on the first 500 kWh, and a 30 percent discount on the next 100 kWh, of their Rate R or Rate RH service; during the months of October through June, the same customers will receive an 85 percent discount on the first 500 kWh of their bill. All other usage will be assessed the otherwise applicable tariff rate R and RH charges. CAP B customers will not be eligible to shop for generation service provided by a competitive electric generation supplier.

CAP C. For households whose incomes are between 26%-50% of the poverty guidelines, CAP C provides a 75% discount on the first 500 kWh of usage per month throughout the year. CAP C provides an additional 30% discount on the next 100 kWh during the months of July, August, and September. PECO's CAP C proposal may be accurately summarized as follows:

CAP C will be established for customers with annual household gross income between 26%-50% of the federal poverty guidelines. For service billed in the months of July, August and September, eligible customers will be provided a 75 percent rate discount on the first 500 kWh, and a 30 percent discount on the next 100 kWh of their Rate R or Rate RH service; for the months of October through June, the same customers will receive a 75 percent discount on the first 500 kWh of their bill. All other usage will be assessed the otherwise applicable tariff rate R and RH charges. CAP C customers will not be eligible to shop for generation service provided by a competitive electric generation supplier.

B. Enrollment Limits

The consensus modifications propose to provide for maximum total participation of 40,000 for CAP A, B and C groups. CAP A will be limited to 7,500 customers with extenuating circumstances.

C. Miscellaneous

PECO also proposes to implement the following miscellaneous CAP program changes:

- Income and Medical Certificate Verification - PECO will place a customer in the most advantageous CAP rate if a customer becomes ineligible for CAP A. PECO will expand the monthly medical certificate verification to be a 6-month verification requirement.
- LIURP – PECO will place customers, whose income is equal to or below 50% of the federal poverty level, with average monthly usage in excess of 1000 kWh, in the highest priority population eligible for LIURP measures.
- CARES – PECO will establish an in-house CARES program that includes at least three CARES representatives and will finalize a detailed work plan for CARES staff by May 30, 2003.
- Low Income Outreach – PECO will develop, in cooperation with the LIURP Advisory Committee, a written and detailed consumer education and outreach strategy for its low income customers.
- Commitment to Matching Energy Assistance Funds (MEAF) – PECO agrees to implement specific measures to support local MEAF agencies to improve ratepayer contributions to PECO's MEAF hardship funds.

IV. Disposition

The Commission commends PECO and the LIURP Advisory Committee for their diligence and good-faith efforts to develop consensus modifications that are consistent with the CAP Policy Statement at 52 Pa. Code § 69.265(2)(i)(B) and 66 Pa. C.S. § 2802(10).

PECO has approximately 90,458 households whose incomes are below 50% of poverty. (Peach evaluation p.x.7). In 2000 and 2001, PECO reported an average of 32,543 CAP customers whose incomes are below 50% of the poverty guidelines. Based on the enrollment levels for the last two years, it appears that the proposed maximum enrollment levels of 40,000 customers are consistent with the requirement at 66 Pa. C.S. § 2804(9) that the Commission ensure that universal service is appropriately funded and available in each electric distribution territory.

Therefore, we will approve the proposed enrollment levels since they are consistent with 66 Pa. C.S. § 2804(9). This approval, however, does not limit the Commission's ability to determine future enrollment levels based on evaluation findings, universal service plan submissions, and universal service data. (52 Pa. Code § 54.76, 52 Pa. Code § 54.74-75.)

As part of the consensus modifications, PECO will perform an evaluation to measure and report on the impact of the Universal Service program modifications approved above.

PECO requests a waiver of 52 Pa. Code § 54.74 filing requirement so that it may "focus its energy on implementing the program changes" in its Petition. PECO submits that other than the program changes proposed in the instant Petition, its universal service programs are unchanged from the 2000 plan submission. The pertinent regulation

at 52 Pa. Code § 54(a)(1) required PECO to submit a three-year universal service plan for Commission approval on February 28, 2003. Because PECO is proposing program design changes to its CAP, LIURP, and CARES programs, PECO will need to reflect those changes in a revised universal service plan. The regulations at 52 Pa. Code § 54.74 also require PECO to submit a projected needs assessment, projected enrollment levels, and a program budget for each universal service program component. On February, 21, 2003, the Commission issued a Secretarial Letter granting an extension of time for the submission of the universal service plan to no later than October 1, 2003.

V. Staff Recommendations

The Commission's Bureau of Consumer Services (BCS) has reviewed a sample of BCS cases to determine whether the consensus modifications will result in CAP payments that are consistent with 66 Pa. C.S. § 2802(10) and 52 Pa. Code § 69.265(2)(i)(C). The BCS review shows that although the proposed consensus modifications are an improvement from the current CAP Rate payment design, it is clear that using this modified design to determine payments does not always result in payments that are affordable or consistent with 52 Pa. Code § 69.265(2)(i)(C). For this reason, the Commission's BCS met with PECO to discuss these concerns. As a result, PECO has agreed to implement four additional modifications to administer its CAP design. Because the parties to the consensus modifications have not had an opportunity to comment on the four additional staff recommendations, we will provide the parties with the opportunity to submit comments within twenty days of the date of this tentative order. The four recommendations are described below:

A. Identification and determination of reasons for high usage. Without a rational method to address high usage, a utility faces either unaffordable CAP payments for its customers or high CAP credits due to excessive usage.

To address the issue of high usage, PECO has agreed to determine how many nonheating customers who receive CAP B and CAP C bills have usage that exceeds 1000 kWh per month, with priority given to accounts that have monthly CAP bills that exceed \$200. PECO will also determine how many heating accounts that receive CAP B and CAP C billings have usage that exceeds 2500 kWh per month. After identifying these accounts, PECO will determine the reasons for their high usage. PECO shall make these determinations within six months of the date of this order. Prior to terminating service to any customers whose usage exceeds the parameters in this paragraph, PECO has agreed to complete a review and determination of the reasons for high usage. Upon determining the reasons for high usage of the customers identified by this paragraph, PECO shall meet with the Commission's BCS to determine how to resolve these issues. Resolution should include consideration of a maximum bill for defacto heating customers, correcting inappropriate rates, and consumer education and usage reduction services when appropriate.

B. IT Resources- Subparagraph F. The Peach evaluation found that essential demographic and poverty data are not consistently saved in the computer system and that routine billing and payment information is not available. Without this basic data for CAP Rate participants, it is impossible for PECO to determine whether these customers are eligible for continued participation in the program or whether these customers are assigned the correct CAP rate.

Therefore, in addition to the enhancements proposed by PECO, the Commission directs PECO to correct the IT deficiencies relating to demographics and poverty in the CAP database within nine months of the entry date of this order. For evaluation and auditing purposes, the Commission directs PECO to store the final computed amount the customer is asked to pay each month, current amount due, past

amount due, preprogram arrearage, and a monthly CAP indicator for the rate rider code and participation status.

C. Program Evaluation – Subparagraph G. In order to provide continuity of analysis, PECO has agreed to include in the next evaluation a study that includes a determination if the CAP rates provide an affordable payment that is consistent with the CAP Policy Statement at 52 Pa. Code § 69.265(2)(i)(C). The study should consider and build on the findings and recommendations from the Peach analysis. Moreover, the party conducting the evaluation should be directed to continue to analyze energy burdens (expressed as percent of household income) for individual customers, as well as review the effects of the modifications in program design that result from the instant petition and Commission order.

The study should also determine if the funding level agreed to in the settlement at Docket A-110550F0147 could support future modifications to make the CAP design more consistent with the payment guidelines in the CAP Policy Statement. If not, when the rate caps expire PECO should revisit its payment plan to ensure that its design is consistent with 66 Pa. C.S. § 2802(10) and 52 Pa. Code § 69.265(2)(i)(C).

D. Budget billing for CAP customers. PECO does not routinely place CAP Rate customers on budget billing because of computer system programming issues. PECO must take steps to resolve this issue. One basic premise of a cost-effective CAP is that participants will have a *fixed*, affordable, monthly payment. Requiring a fixed bill each month makes it easier for low-income households to budget for utility payments. A budget bill is also easier for customers to understand.

The consensus modifications for different rates and eligibility criteria for CAP A through CAP C is a return to a more complex program that may be confusing to

customers. The Peach analysis finds that CAP customers in the *current* program do not understand how their bill is calculated. It seems unlikely that CAP customers will understand how PECO will calculate their bills under the proposed rates. With budget billing, PECO need only explain the amount of the customer's monthly bill and instruct the customer to keep their usage the same to keep their bill the same.

The Commission, therefore, directs PECO to place CAP A, B, and C customers on budget billing. PECO shall make whatever computer programming changes are necessary to accommodate budget billing for CAP customers.

VI. Conclusion

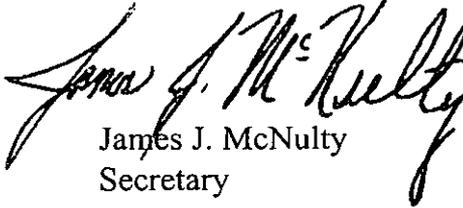
The Commission approves PECO's CAP Universal Service program modifications provided under sub-paragraphs III.A through III.F of PECO's petition. The consensus modifications are a step toward making CAP payments consistent with 66 Pa. C.S. § 2802(10) and 52 Pa. Code § 69.265(2)(i). THEREFORE,

IT IS ORDERED:

1. That PECO Energy's Petition for Expedited Approval of Consensus Modifications to PECO Energy Company's Universal Service Program and Associated Tariff Changes is granted as modified by this Tentative Order.
2. That copies of this Order be provided to all parties of PECO's Low-Income Usage Reduction Program Advisory Committee.
3. That comments on the modifications recommended by this Tentative Order shall be filed within twenty (20) days of the entered date of this Tentative Order.

4. That, if no comments are filed in opposition to this Tentative Order by the end of the twenty (20) day period, this Tentative Order shall become a Final Order.

BY THE COMMISSION,



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: March 6, 2003

ORDER ENTERED: **APR 08 2003**