

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PA Public Utility Commission : Docket No.
v. PECO Energy Company : R-0038102

RE: PECO ENERGY COMPANY
NDCA Supplement No. 44

DOCUMENT
FOLDER

PRE-HEARING MEMORANDUM
ERIC JOSEPH EPSTEIN, *Pro se*
4100 Hillsdale Road
Harrisburg, PA 17112

2003 APR 28 AM 9:43
SECRETARY'S BUREAU
P.U.C.

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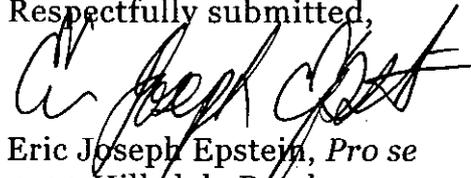
The Honorable Marlene R. Chestnut
Administrative Law Judge
Pennsylvania Public Utility Commission
1302 Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130

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The Honorable Marlene R. Chestnut:

Enclosed please find an original and three (3) copies of Eric Joseph Epstein's Pre-Hearing Memorandum in the Above-Captioned Complaint pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333.

Respectfully submitted,



Eric Joseph Epstein, *Pro se*
4100 Hillsdale Road
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(717)-541-1101 Phone
(717)-541-5487 Fax
eepstein@igc.apc.org

DATED: April 25, 2003

I. BACKGROUND

Eric Joseph Epstein, (“Mr. Epstein” or “Epstein”), was an active participant and a signatory to the Joint Petition for Settlement: Application of PECO Energy Company, Pursuant to Chapters 11, 19, 21, 22, & 28 of the Public Utility Code, for Approval of (1) A Plan of Corporate Restructuring, Including the Creation of A Holding Company and (2) The Merger of the Newly Formed Holding Company and Unicom Corporation: Docket No: A-110550F0147 (1).

Mr. Epstein actively participated in Settlement Negotiations conducted in Philadelphia. Epstein advocated for resolution of the following issues: nuclear decommissioning; planned operating life of PECO’s nuclear generating stations; Spent Fuel Isolation; “Low-Level” Radioactive Waste Isolation; rate payer equity; and, community investment in south central Pennsylvania (2).

The Agreement explicitly deals with nuclear decommissioning and nuclear waste isolation and is in force until 2005.

Clearly, Eric Joseph Epstein has a stake in any proceeding related to the Settlement Agreement and nuclear power production.

¹ As part of the Negotiated Settlement, Mr. Epstein and PECO Energy stipulated **Appendix B: Nuclear Monitoring and Waste Storage Agreement**. Appendix B is currently in force and being implemented.

² Please refer to Eric Joseph Epstein’s Petition in Support of the Negotiated Settlement, and Eric Joseph Epstein’s Testimony Statement No. 1, Regarding Nuclear Decommissioning, Planned Operating Life of PECO’s Nuclear Generating Stations, Spent Fuel Isolation, Low-Level Radioactive Waste Isolation and Rate payer Equity & Community Investment. Both documents were entered into Evidence at the Evidentiary Hearing held on May 10, 2000.

II. HISTORY of the PROCEEDING

Eric Joseph Epstein filed a Complaint in this Proceeding on February 28, 2003;

The Pennsylvania Public Utility Commission consolidated this Proceeding on March 21, 2003;

Mr. Epstein filed Interrogatories, Set I on March 24, 2003;

On March 26, 2003, PECO withdrew its Unopposed Motion to Consolidate;

Administrative Law Judge Marlene R. Chestnut issued an Initial Prehearing Conference Order on March 28, 2003;

PECO Energy responded to Mr. Epstein's and OCA Interrogatories on March 31 and on April 10, 2003;

Mr. Epstein was also involved in follow-up telecommunications with Mr. Kent Murphy, esquire, PECO Business Services, as well as a subsequent dedicated teleconference with Mr. Adam Levine, Manager, Spent Fuel and Decommissioning Strategy, Exelon Generation Company on April 8, 2003 (3);

Mr. Epstein participated in an informal meeting with All Active parties on April 4, 2003;

Administrative Law Judge Marlene R. Chestnut issued an Initial Prehearing Conference Order on March 28, 2003;

On April 21, PECO Energy responded to Informal Data requests posed at the April 4, 2003 meeting at the OCA, as well as clarifications to certain questions posed in Epstein's Informal Set I. Mr. Epstein filed a follow-up data request on April 24, 2003.

³ Discussion dealt with FAS standards, PNL comparative decommissioning formula, and the possibility for potential reference reactors to assess the full cost of decommissioning Peach Bottom-1. 3

III. ISSUES

(I) - First and foremost is the absence of site-specific decommissioning studies for Peach Bottom 1, 2 & 3, Limerick 1 & 2 and Salem 1 & 2. PECO simply adjusted the NDCA based on January 1, 1998 calculations which were grossly inadequate five years ago. Furthermore, Attachments 2 & 4 do not qualify as "studies" (4).

Historically, PECO Energy has submitted inaccurate decommissioning assessments. For example, the data from the Negotiated Settlement revealed the following discrepancies about the plants currently in play:

<i>Generating Station(s)</i>	<i>1985.Study/1995.Study</i> (5)	<i>\$ Increase</i>
Limerick 1 & 2	\$272m/\$986m	\$714m
Peach Bottom 2 & 3	\$273m/\$947m	\$674m
Salem 1 & 2	\$271m/\$701m	\$430m

(These figures were omitted from (a) (11).)

The Company added that, "The original [1985] and current [1995] mode of decommissioning funding is geared toward a DECON method of decommissioning" (PECO's Response to EE-I-4, d.) However, since there is no permanent nuclear waste isolation site for spent fuel, SAFSTOR is the most likely decommissioning mode available when PECO's nuclear plants come off-line.

⁴ PECO Energy has represented to the Active Parties that Site Specific Studies will be concluded and available by Midsummer, 2003.

⁵ All of the above referenced studies were conducted by TLG Industries (TLG). ComEd's net nuclear decommissioning costs **have almost doubled** from \$3,089 million in 1990 to \$5,426 million in 1999. (PECO Energy's Response to EE-I-4.)

(II) - PECO Energy erroneously advocated for an increase based on “recovery of increased nuclear decommissioning costs related to the Company’s ownership interest in Nuclear Generation 12/31/99 (Tariff).”

Mr. Epstein believes that this interpretation is factually incorrect, and in legal variance with the spirit and substance of the PECO Merger Settlement.

(III) - Based on the Restructuring Settlement, the Commission needs to address how PECO Energy will “voluntarily” forego recovery of: (1) \$50 million of its total decommissioning cost obligations plus (2) 5% of any additional increase in the annual accrued level above the base \$29.162 million annual accrual level.”

(III. Terms and Conditions, Paragraph 13.)

It is Mr. Epstein’s contention that the \$50 million clause wipes out the \$19.8 million rate increase, and that this proceeding is essentially Revenue Neutral until PECO Energy shareholders have expended an additional \$30.2 million. Simply put, the Company is not eligible to recover any additional revenues through rate relief, i.e. Tariff(s). (6)

3. Recovery of Nuclear Costs.

“PECO will not seek to recover through Pennsylvania retail distribution, the costs associated with the ownership and operation of any nuclear generating plants which PECO did not hold on December 31, 1999”;

6 Please note the initial discussions with PECO Energy’s and the Active parties and have been positive and bode well for a possible workable accommodation on this issue.

(IV) - The rate recovery formula failed to incorporate up-rates and increased capacity factors at Peach Bottom 2 & 3, Limerick 1 & 2 and Salem 1 & 2.

For example, at Peach Bottom 2 & 3, the capacity factor for both units is now 1,159 MW. At the time of the last TLG study, the capacity factor was 1,035 MW. Similarly, the last TLG study at Limerick, gross MW capacity increased from 1,055 MW to 1,163 MW at each unit. Moreover, the Company issued numerous press releases in December, 2002, publicizing its 2002 capacity factors, i.e., Limerick 1 (94.24%), Limerick 2 (101.56%), Peach Bottom 2 (89.46%), Peach Bottom 3 (97.47%), Salem 1 (88.26%) and Salem 2 (85.76%).

(V) - The rate recovery formula failed to account for the impact of Peach Bottom 2 & 3's relicensing and proposed license extensions for Limerick 1 & 2 and Salem 1 & 2.

The Nuclear Regulatory Commission (NRC) has established the following milestones towards anticipated approval of license extensions for Peach Bottom 2 & 3. Final Inspection Report (December, 2002); Final Safety Evaluation Report (December, 2002); Final Environmental Impact Statement (February, 2003); Safety Analysis Report (March, 2003); Staff Review (April, 2003); Nuclear Reactor Regulation, Director's Decision (April, 2003).

To date, the NRC has approved every licensee application for license extension. This eventual certainty increases the ability of PECO Energy to recover decommissioning costs by at least 20 years. The licensing process typically averages \$18 million over a 24 month period. Extension requests are expected for Limerick 1 & 2 and Salem 1 & 2.

Two additional issues have to be fully addressed: 1) Peach Bottom's extended 20-year operating period; and, 2) The possibility that Limerick and Salem will likely apply and receive approval to extend their license **prior** to the next five-year nuclear decommissioning study;

(VI) - The rate recovery formula failed to account for the advent and implementation of new nuclear decommissioning regulations promulgated by the Nuclear Regulatory Commission, i.e. the Final Report to the Generic Environmental Impact Statement on the Decommissioning of Nuclear Facilities: Dealing with Decommissioning of Nuclear Power Reactors; U.S. N.R.C. Office of Nuclear Reactor Regulation (December 13, 2002).

In addition, Congress is considering amending Internal Revenue Code section 468A which denies tax deductions for decommission funds.

And, the NRC's Final Rule, 10 CFR Parts 2, 20 and 50, RIN 3150--AG56, "Releasing Part of A Power Reactor Site or Facility for Unrestricted Use Before the NRC Approves the License Termination Plan", was recently issued on April 22, 2003 (Federal Register, pp. 19711-19728, April 22, 2003).

The Parties need to explore the potential impact of this Rule on PECO Energy's filing in regard to funding for "Brownfield" or "Greenfield".

(These documents were omitted from (a) (11).

(VII) - The Exelon/AmerGen fleet of ten nuclear generation stations and seventeen nuclear units is now organized under an Amended and Restated Nuclear Decommissioning Master Trust Agreement approved by the NRC on October 16, 2001. The rate recovery formula failed to account for this economic consolidation.

(This document was omitted from (a) (11).

This arrangement provides for increased earnings potential, but also affects the sanctity of the externally segregated funding Agreements utilized in the Commonwealth of Pennsylvania. And as stated above, this arrangement has implications for the implementation of accelerated recovery under IRS 468A. Further complicating this situation is AmerGen's (50% Exelon/50% British Energy) proposed sale of Clinton, Oyster Creek, and Three Mile Island Unit -1.

The Commission and all interested parties need to fully investigate the potential impacts of this development.

(This document was omitted from (a) (7), (b) 91) & (b(2)).

(VIII) - High Level Radioactive Waste (HLRW) & Low Level Radioactive Waste (LLRW) challenges.

(a) HLRW: Currently, decommissioning estimates tied to the removal of HLRW have been subject to uncertainty on two fronts: 1) *Nevada v. U.S. DOE (02-1116)* was filed January, 2003, with the U.C. Court of Appeals by Nevada's Attorney General Brian Sandoval; and, 2) FY-04 Budget for civilian nuclear waste is currently underfunded by \$131 million. The Bush Administration is seeking a "discretionary spending cap adjustment" for the Yucca Project.

(These documents were omitted from (b) (1)).

(b) LLRW: Waste shipment issues to be dealt with Spring, 2002: Postponement of Diablo Canyon's decommissioning shipment, i.e. reactor vessel to Barnwell, and the resolution of Envirocare and the State of Utah in regard to isolation of Class "A", "B" and "C" waste byproducts in a private waste facility.

(These documents were omitted from (b) (1)).

(IX) - Resolution of a nuclear industry challenge to the PECO Energy/DOE Settlement. The deal with the Department of Energy would "allow PECO Energy Co. to defer up to \$80 million in nuclear waste fee payments for its Peach Bottom plant in Pennsylvania, to compensate for the Energy Department's failure to store its waste...The deal allows PECO to reduce the projected charges passed into the Nuclear Waste Fund to reflect costs reasonably incurred by the company due to the department's delay" (Press Release, U.S. Department of Energy. July 20, 2000.)

(These documents were omitted from (a) (7); (a) (11) (b) (1)).

IV. WITNESSES

Depending on circumstances and responses to Interrogatories, Mr. Epstein will most likely rely on his own Expert Nuclear Decommissioning Testimony.

Because this Proceeding is intricately bound to the outcome of license extension, Mr. Epstein reserves the right to call an expert witness from the Nuclear Regulatory Commission (NRC).

- Mr. Epstein may call upon Mr. David B. Matthews of the NRC's, Nuclear Reactor Regulation's Division of Regulatory Improvement Programs. Mr. Matthews has assisted other Public Utility Commissions with coordinating decommissioning rate making policies with anticipated NRC regulations and mandates or approvals.

- Mr. Epstein may also utilize an expert witness who can provide insight into the proposed tariff from an outside decommissioning firm. As such, Mr. Epstein reserves the right to call Mr. Ed Abbott President of ABZ who can assess the proposed Tariff through a Decommissioning Cost Analysis System.

V. DISCOVERY

Mr. Epstein has served initial discovery questions on the Complainants relating to all aspects of **II. ISSUES** identified in Epstein's Pre-Hearing Memorandum. Mr. Epstein filed Set I of Interrogatories on March 24, 2003;

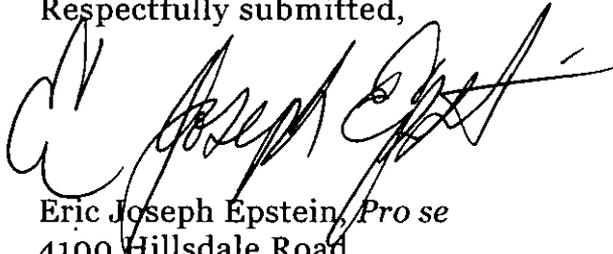
Please note that Mr. Epstein reserves the right to file additional Interrogatories as the Case evolves.

VI. CONCLUSION

The filing should remain in abeyance until the Parties can resolve the outstanding issues through negotiated Settlement or the Presiding Judge issues an Initial and Final Decision.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Respectfully submitted,



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4100 Hillsdale Road
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(717)-541-5487 Fax
eepstein@igc.apc.org

DATED: April 25, 2003

Enclosure

ORIGINAL

ExelonSM

Legal Department

Exelon Business Services Company
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P.O.Box 8699
Philadelphia, PA 19101-8699

Telephone (215) 841-5544
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www.exeloncorp.com

Business Services
Company

Direct Dial: 215 841 4941

April 28, 2003

Via FedEx

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APR 28 2003

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

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

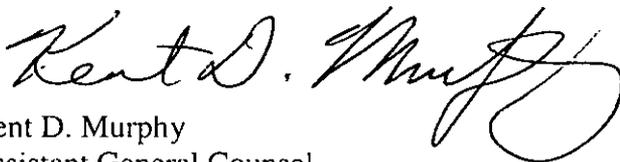
RE: Pennsylvania Public Utility Commission v. PECO Energy Company
Docket Nos. R-00038102 et al.

Dear Secretary McNulty:

Enclosed for filing with the Commission are an original and three (3) copies of
Prehearing Memorandum of PECO Energy Company in the above referenced matter.

As proof of filing, please date stamp and return the extra copy of this cover letter in the
enclosed return envelope.

Sincerely,



Kent D. Murphy
Assistant General Counsel

KDM/zr

Enclosures

cc: Certificate of Service

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APR 28 2003

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

**PENNSYLVANIA PUBLIC UTILITY
COMMISSION** :

v. :

Docket Nos. R-00038102 et al.

PECO ENERGY COMPANY :

**PREHEARING MEMORANDUM OF
PECO ENERGY COMPANY**

TO ADMINISTRATIVE LAW JUDGE MARLANE R. CHESTNUT:

PECO Energy Company ("PECO Energy" or "Company") hereby submits this Prehearing Memorandum in response to your March 28, 2003 Initial Prehearing Conference Order (Prehearing Order No. 1) and 52 Pa. Code § 5.342(c).

**DOCUMENT
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I. Background

This matter involves PECO Energy Company's December 31, 2002 Nuclear Decommissioning Cost Adjustment Clause ("NDCAC") filing in which the Company proposed to recover an incremental \$19.8 million through the NDCAC tariff mechanism set forth at page 33 of PECO Energy's Electric Service Tariff. ("Supplement No. 44"). PECO Energy proposed that Supplement No. 44 be allowed to become effective on January 1, 2004 as permitted under Joint Petition for Settlement approved by the Commission at Docket No. A-110550F0147 ("PECO Merger Settlement").

Two formal complaints have been filed in this proceeding. On February 21, 2003, the Pennsylvania Office of Consumer Advocate filed a formal complaint, to which the Company

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responded by Answer on March 18, 2003. On February 28, 2003, Eric J. Epstein filed a formal complaint, to which the Company responded by Answer also on March 18, 2003.

On March 21, 2003, the Commission suspended the effective date of Supplement No. 44 until July 1, 2004, unless permitted by the Commission to become effective at an earlier date.

As of this date, the only other parties to this proceeding, of which the Company is aware, are the Philadelphia Area Industrial Energy Users Group ("PAIEUG") and the Commission's Office of Trial Staff.

II. Service List

PECO wishes to have the following individual included on the service list in this proceeding:

Kent D. Murphy, Esq.
Ward L. Smith, Esq.

Exelon Business Services Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia PA 19101-8699
Telephone: (215) 841-4941
Facsimile: (215) 568-3389
e-mail: kent.murphy@exeloncorp.com
ward.smith@exeloncorp.com

III. Issues

The overarching issue in this proceeding is whether the Company's proposal to institute a \$0.0006 per kwh NDCAC charge, to recover an annual amount of \$19.8 million of nuclear decommissioning costs, is just and reasonable. As such, the result must be dictated by a review of subsidiary issues, including whether or not the amount proposed for recovery is calculated in a

manner that is consistent with the provisions of the NDCAC tariff language (PECO Energy Electric Service Tariff Page No. 33), policies of the United States Nuclear Regulatory Commission, the PECO Merger Settlement, and other reasonable ratemaking principles.

IV. Proposed Schedule

After discussions with the various parties, PECO Energy proposes the schedule set forth in Attachment 1 hereto and believes that it is acceptable to all parties.

V. Company Witnesses

In the event evidentiary hearings are deemed necessary, the Company most likely will submit direct testimony and exhibits sponsored by the following witnesses:

William J. Patterer,
Senior Rate Analyst,
Governmental and Regulatory Affairs
PECO Energy Company
2301 Market Street
15th Floor
Philadelphia PA 19101
(215) 841-4526

Subject Matter: NDCAC Formula, the NDCAC tariff language, and proposed rate.

Adam H. Levin, Manager
Spent Fuel and Decommissioning Strategy
Exelon Generation Company, LLC
4300 Winfield Rd
Warrenville, Illinois 60555
(630) 657-2193

Subject Matter: Calculation of nuclear decommissioning costs and annual cost accruals by unit.

Direct testimony and exhibits of the witnesses will be designed largely to explain and incorporate the information submitted in the Company's December 31, 2002 NDCAC filing, with updates to recognize the affect of intervening events that could affect the magnitude of the proposed rate. These witnesses will also submit any necessary rebuttal testimony. PECO Energy reserves the right to present additional witnesses, testimony and exhibits on all matters arising during the course of the proceeding, including all issues raised by other parties.

VI. Discovery

The Company to date has received three written sets of data requests, two from Mr. Epstein and one from the OCA as well as certain oral requests for information made by the various parties at the first settlement conference on April 3, 2003. PECO has responded to all data requests received to date except for Mr. Epstein's follow-up set dated April 24, 2003. The Company intends to respond to those unanswered questions by no later than May 2, 2003.

The parties have treated discovery to date on an informal basis. With the prehearing conference, the Company believes that it would be appropriate to treat those responses as having been submitted formally. All future requests and responses thereto also will be treated on a formal basis.

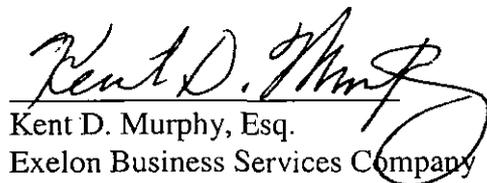
PECO Energy proposes a ten (10) business day response time deadline for all discovery propounded after the prehearing conference.

VII. Possibility of Settlement

As noted above, the parties have held one settlement conference to date, on April 3, 2003. At that conference, the parties made some progress towards identifying issues that could be

addressed through a full settlement of this proceeding. At this time, the Company is preparing a settlement proposal for the parties to consider. As noted on Attachment 1 hereto, the parties contemplate holding two settlement conferences prior to the submission of the Company's direct testimony. The Company is optimistic that a full settlement of this proceeding may be reached before the hearing scheduled for November 2003.

Respectfully submitted,



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e-mail: kent.murphy@exeloncorp.com
e-mail: ward.smith@exeloncorp.com

Counsel for PECO Energy Company

Dated: April 28, 2003

Attachment 1

Pennsylvania Public Utility Commission et al.
v.
PECO Energy Company, Docket No. R-00038102 et al.

PROPOSED SCHEDULE

April 29, 2003	Prehearing Conference
Week of May 5, 2003	Second Settlement Conference
Week of July 14, 2003	Third Settlement Conference
July 30, 2003	PECO Direct Testimony
August 29, 2003	Complainant/OTS/Intervenor Direct Testimony
September 26, 2003	PECO Rebuttal of 8/29/03 Testimony
October 22, 2003	Complainant/OTS/Intervenor Surrebuttal Testimony
October 29, 2003	Outline of PECO Oral Rejoinder
November 13-14, 2003	Hearings (anticipate one day but may need two)
December 5, 2003	Main Brief
December 19, 2003	Reply Brief
June 30, 2004	End of Suspension Period

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of PECO Energy Company's Prehearing Memorandum in the above matter upon all interested parties by mailing a copy thereof First Class mail, properly addressed and postage prepaid to:

Eric Joseph Epstein
4100 Hillsdale Road
Harrisburg, PA 17112

Marlane R. Chestnut, ALJ
302 Philadelphia State Office Bldg.
1400 West Spring Garden Street
Philadelphia, PA 19130

Tanya J. McCloskey
James A. Mullins
Office of Consumer Advocate
Forum Place - 5th Floor
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David M. Kleppinger
Charis Burak
McNees Wallace & Nurick
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Harrisburg, PA 17108

Kenneth L. Mickens
Office of Trial Staff
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17102

Carol F. Pennington
Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101

Dated at Philadelphia, Pennsylvania, April 28, 2003.



Kent D. Murphy

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Philadelphia, PA 19101-8699
215/841-4941



McNees Wallace & Nurick LLC
attorneys at law

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SECRETARY'S BUREAU

April 28, 2003

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

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VIA HAND DELIVERY

**Re: Pennsylvania Public Utility Commission v. PECO Energy Company;
Docket No. R-00038102**

Dear Secretary McNulty:

Enclosed please find an original and three (3) copies of the Prehearing Memorandum of the Philadelphia Area Industrial Energy Users Group ("PAIEUG") in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with a copy of this filing. Please date stamp the extra copy of this transmittal letter and kindly return it to our messenger for our filing purposes. Thank you.

Very truly yours,

MCNEES WALLACE & NURICK LLC

By *Charis M. Burak*

David M. Kleppinger
Charis M. Burak

Counsel to the Philadelphia Area Industrial
Energy Users Group

Enclosures
CMB/lhe

c: Administrative Law Judge Marlane Chestnut (via e-mail and first class mail)
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY
COMMISSION :

v. :

Docket No. R-00038102

PECO ENERGY COMPANY :

**PREHEARING MEMORANDUM OF THE PHILADELPHIA AREA
INDUSTRIAL ENERGY USERS GROUP**

As requested by Administrative Law Judge Marlane Chestnut, the Philadelphia Area Industrial Energy Users Group ("PAIEUG") hereby submits this Prehearing Memorandum.

I. HISTORY OF THE PROCEEDING

On December 31, 2002, PECO Energy Company ("PECO" or "Company") filed Electric Tariff Supplement No. 44, which proposes to increase the Company's Nuclear Decommissioning Cost Adjustment ("NDCA") from \$0.0000 per kWh to \$0.0006 per kWh, as of January 1, 2004. The purpose of this increase is to provide for the recovery of nuclear decommissioning costs related to PECO's interest in nuclear generation as of December 31, 1999. On March 5, 2003, PAIEUG filed a Petition to Intervene in this proceeding. PAIEUG was a party to previous proceedings involving PECO, and a description of PAIEUG is set forth in Paragraph 4 of PAIEUG's Petition to Intervene. PAIEUG's Petition to Intervene is outstanding and awaits ALJ disposition.

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II. ANTICIPATED ISSUES AND SUB-ISSUES

PAIEUG is concerned with the impact that PECO's proposed filing will have on member rates. PAIEUG members utilize substantial volumes of electricity in their manufacturing and operational processes, and these electric costs are a significant element of their respective costs of operation. PECO's proposal to recover an additional \$19.8 million dollars per year from customers will obviously have an impact on PAIEUG member costs. Accordingly, PAIEUG seeks to determine whether PECO's proposed NDCA adjustment is just, reasonable, and in the public interest. PAIEUG anticipates pursuing these issues during this proceeding, and PAIEUG also reserves the right to raise further issues and to respond to issues raised by other parties.

III. PROPOSED WITNESSES

PAIEUG is in the process of evaluating whether it will sponsor testimony in this proceeding. In the event that PAIEUG decides to sponsor testimony, it will inform the parties and the ALJ as soon as possible of the intended witness and topics of testimony. PAIEUG also intends to participate in this proceeding through the submission of discovery, cross-examination of other parties' witnesses, and the submission of briefs, exceptions and reply exceptions, if necessary.

IV. PROPOSED SCHEDULE AND DISCOVERY RULES

PAIEUG will cooperate with the ALJ and the parties at the Prehearing Conference to develop an appropriate procedural schedule and discovery rules in accordance with the Commission's regulations and any ALJ directives.

V. POSSIBILITY OF SETTLEMENT

PAIEUG is willing to participate in discussions with the other parties to amicably resolve the issues in this proceeding.

Respectfully submitted,

McNEES, WALLACE & NURICK

By Charis M. Burak

David M. Kleppinger

Charis M. Burak

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Phone: (717)232-8000

Fax: (717)237-5300

e-mail: cburak@mwn.com

Counsel to the Philadelphia Area Industrial
Energy Users Group

Dated: April 28, 2003

CERTIFICATE OF SERVICE

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

VIA E-MAIL AND FIRST-CLASS MAIL

Tanya McCloskey, Esq.
James A. Mullins, Esq.
Office of Consumer Advocate
555 Walnut Street, Forum Place, 5th Floor
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Carol Pennington, Esq.
Office of Small Business Advocate
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Eric J. Epstein
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Kenneth L. Mickens, Esq.
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Kent D. Murphy, Esq.
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Philadelphia, PA 19101-8699

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SECRETARY'S BUREAU



Charis M. Burak

Dated this 28th day of April, 2003 in Harrisburg, Pennsylvania.

OALJ Hearing Report

Please Check Those Blocks Which Apply

Docket No.:	R-00038102		YES	NO
Case Name:	Pennsylvania Public Utility Commission v. PECO Energy Company	Prehearing Held:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Location:	Philadelphia	Hearing Held:	<input type="checkbox"/>	<input type="checkbox"/>
Date:	April 29, 2003	Testimony Taken:	<input type="checkbox"/>	<input type="checkbox"/>
ALJ:	Mariane R. Chestnut	Transcript Due:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Reporting Firm:	Commonwealth Reporting	Hearing Concluded:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<div style="font-size: 2em; font-weight: bold; opacity: 0.5;">DOCKETED</div> <div style="font-size: 1.5em; font-weight: bold;">MAY 09 2003</div>		Further Hearing Needed:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Estimated Add'l Days:		
		RECORD CLOSED:	<input type="checkbox"/>	<input type="checkbox"/>
		DATE:		
		Briefs to be Filed:	<input type="checkbox"/>	<input type="checkbox"/>
		DATE:		
		Bench Decision:	<input type="checkbox"/>	<input type="checkbox"/>
		REMARKS:	<div style="font-size: 1.2em; font-family: cursive;">Please schedule - Harrisburg - Nov. 18 & 19, 2003</div>	

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PLEASE PRINT CLEARLY - Incomplete Information may result in delay of processing.

Name and Telephone Number	Address	Who are you representing?
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Charis M. Burak, Esq.	McNees, Wallace & Nurick LLC 100 Pine Street P.O. Box 1166 <small>City Harrisburg State PA Zip 17108-1166</small>	PAIEUG
	Telephone: 717-237-5437 E-mail Address: cburak@mwn.com Fax Number: 717-237-5300	
Kenneth Mickens, Esq.	P.O. Box 3265 <small>City Harrisburg State PA Zip 17105-3265</small>	PUC Office of Trial Staff
	Telephone: 717-787-1976 E-mail Address: kmickens@state.pa.us Fax Number: 717-772-2677	

Check this box if additional parties or attendees appear on back of form.

Reporter's Signature

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.

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Name and Telephone Number	Address			Who are you representing?
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	City	State	Zip	
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	City	State	Zip	
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	City	State	Zip	
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