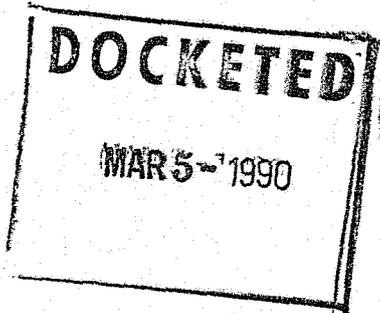
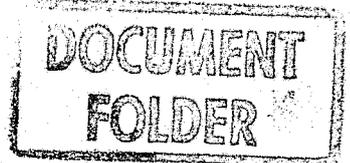


December 7, 1989

Alan L. Reed, Attorney
2000 One Logan Square
Philadelphia, PA 19103



R-850152, et al.
R-891364, et al.



Pennsylvania Public Utility Commission, et al.
v.
Philadelphia Electric Company

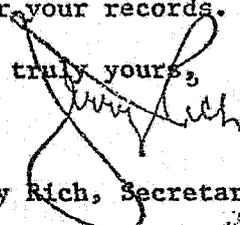
Pennsylvania Public Utility Commission, et al.
v.
Philadelphia Electric Company

To Whom It May Concern:

This is to advise you that an Order has been adopted by the Commission in public meeting held December 7, 1989.

An Executed Order has been enclosed for your records.

Very truly yours,


Jerry Rich, Secretary

lg
Encls.
Cert. Mail
OSA
ALJ
OTS
Mr. Patrick

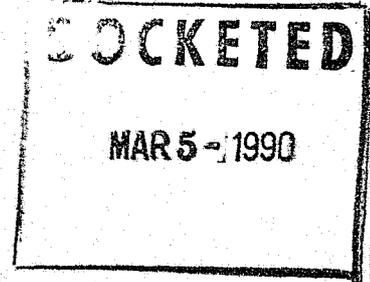
Similar letter to: See attached list.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Public Meeting held December 7, 1989

Commissioners Present:

Bill Shane, Chairman
William H. Smith, Vice Chairman
Joseph J. Rhodes, Jr., Commissioner
Frank Fischl, Commissioner



Pennsylvania Public Utility
Commission, et al.

v.

Philadelphia Electric Company

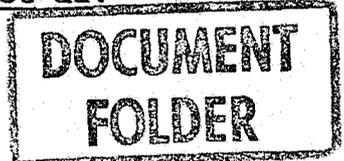
Docket No. R-850152,
et al.

Pennsylvania Public Utility
Commission, et al.

v.

Philadelphia Electric Company

Docket No. R-891364,
et al.



O R D E R

BY THE COMMISSION:

Before the Commission is a Joint Petition For Approval Of A Proposed Settlement Of Appellate And Remand Litigation filed December 6, 1989 by Philadelphia Electric Company (PECO), the Pennsylvania Office of Consumer Advocate (OCA), the University of Pennsylvania and the Utility Users Committee (UP/UUC) and the Philadelphia Area Industrial Energy Users Group (PAIEUG). The proposed settlement would resolve all appellate and remand litigation arising from the Commission's Limerick 1 rate order entered June 26, 1986 at Docket No. R-850152. The proposed settlement is also contingent upon approval by the presiding Administrative Law Judges and the Commission of a stipulation as to the issues that may be litigated in the current Limerick 2 rate proceeding at Docket No. R-891364. The pertinent history of this matter is described in paragraphs 1 through 9 of the joint petition, which is attached to this order.

Under the terms of the proposed settlement, the Commission, OCA, and UP/UUC will discontinue all actions pending in the Pennsylvania Supreme Court arising from the Commission's Limerick 1 rate order. These actions pertain to the Commission's decision regarding excess capacity issues and delay decision issues. PECO will, for its part, not pursue its right to a hearing and adjudication on the delay decision issues, thereby foregoing any additional revenues to which it may be entitled in the Limerick 1 rate proceeding on remand. PECO will also withdraw its

alternative claim in the Limerick 2 rate proceeding for recovery of the \$368.9 million rate base disallowance made by the Commission in the Limerick 1 rate case. The net effect of these settlement terms is to leave in place the Commission's Limerick 1 rate order, including the \$368.9 million rate base disallowance.

The stipulation associated with the proposed settlement is intended to clarify the scope of issues to be litigated in the current Limerick 2 rate proceeding. The stipulation provides as follows:

- (1) the parties to the Limerick 2 Rate Proceeding will not seek to litigate or relitigate in the Limerick 2 Rate Proceeding the prudence of the 1976 and 1978 decisions to delay the in-service date of Limerick 1 and the Commission's resulting \$368.9 million rate base disallowance in the Limerick 1 Rate Proceeding;
- (2) the parties to the Limerick 2 Rate Proceeding may fully litigate all issues relating to the prudence of the 1976 and 1978 decisions to delay Limerick 2, and the effect, if any, of the 1976 and 1978 decisions, or any other decisions, to delay Limerick 1 and 2 on the cost and schedule of Limerick 2 and the second half of Limerick common plant, and (3) litigation in the Limerick 2 Rate Proceeding of the issues set forth in (2) above is not barred by the doctrines of res judicata or collateral estoppel.

Joint Petition, paragraph 10(f).

The stipulation was signed by those parties in the Limerick 2 rate proceeding with an active interest in construction prudence issues, that is, PECO, OCA, PAIEUG and Office of Trial Staff (OTS), and was approved by the presiding Administrative Law Judges on December 6, 1989.

Based upon the Commission's review of the joint petition, we find that approval of the proposed settlement and stipulation is in the public interest. Approval of the settlement will avoid the need for further appellate litigation regarding the Limerick 1 rate order and, further, will avoid the need to conduct any remand proceedings on delay decision issues or excess capacity issues. As such, the Limerick 1 rate order will remain in full force and effect as originally adopted and entered by the Commission in 1986. As to the stipulation, we find that it sets forth reasonable parameters for litigation of the 1976 and 1978 delay decisions in the context of the Limerick 2 rate proceeding and will avoid relitigation of issues previously decided in the Limerick 1 rate order. Lastly, the Commission wishes to commend PECO and OCA for reaching a settlement on the Limerick 1 appellate and remand litigation that will eliminate the expenditures of time, money and other resources that would otherwise have been expended to fully

litigate the delay decision and excess capacity issues to a conclusion; THEREFORE

IT IS ORDERED:

1. That the Joint Petition For Approval Of A Proposed Settlement Of Appellate And Remand Litigation filed December 6, 1989 by PECO, OCA, UP/UUC and PAIEUG is hereby granted.

2. That the settlement set forth in paragraph 10 of the joint petition is approved, including all of its terms and conditions.

3. That the stipulation set forth in paragraph 10(f) of the joint petition is also approved.

4. That the Law Bureau is authorized to discontinue the Commission's petition for allowance of appeal in accordance with paragraph 10(a) of the joint petition.

5. That a copy of this order be served upon PECO, OCA, UP/UUC, PAIEUG, OTS and all parties at Docket No. R-891364.

BY THE COMMISSION:


Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: December 7, 1989

ORDER ENTERED: December 7, 1989

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY :
COMMISSION, et al. :
: Docket No. R-850152, et al.
:
v. :
:
PHILADELPHIA ELECTRIC COMPANY :

JOINT PETITION FOR APPROVAL OF A PROPOSED
SETTLEMENT OF APPELLATE AND REMAND LITIGATION

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

The Joint Petitioners, Philadelphia Electric Company ("PECO" or the "Company"), the Pennsylvania Office of Consumer Advocate ("OCA"), the University of Pennsylvania and the Utility Users Committee ("UP/UUC"), and the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), hereby request the Pennsylvania Public Utility Commission (the "Commission") to approve a proposed settlement (the "Settlement") of all appellate and remand litigation arising out of the Commission's Order entered June 26, 1986 in the Limerick Nuclear Generating Station Unit 1 ("Limerick 1") Rate Proceeding, at the above-captioned docket (the "Limerick 1 Rate Order").

Under the terms of the Settlement, OCA, UP/UUC and the Commission will discontinue with prejudice all appeals pending in the Pennsylvania Supreme Court arising from the Commission's Limerick 1 Rate Order, and PECO will not attempt

to recover any additional revenues to which it may be entitled in the remand proceedings involving the Limerick 1 Rate Order as a result of the remand of part of that Order by the Pennsylvania Commonwealth Court. The Settlement is contingent upon the approval by the Commission of the Settlement and the approval by the Commission and the Presiding Administrative Law Judges in the Limerick 2 Rate Proceeding, Docket No. R-891364 (the "Limerick 2 Rate Proceeding"), of a Stipulation as to the issues which may be litigated in that Proceeding regarding the Company's 1976 and 1978 decisions to delay the in-service dates of the Limerick plant (the "Limerick 2 Rate Case Stipulation"). The effect of the Settlement is to leave intact the Limerick 1 Rate Order.

In support of the Settlement, the parties represent as follows:

Introduction

1. On June 26, 1986, the Commission entered its final Order in the Limerick 1 Rate Proceeding, granting the Company \$351 million of a requested \$682 million rate increase.
2. The Company appealed to the Pennsylvania Commonwealth Court the Commission's finding that the Company's decisions to delay completion of Limerick 1 in 1976 and 1978 were imprudent and the Commission's associated

\$368.9 million rate base disallowance (the "Delay Decision Issues"). Docket No. 2279 C.D. 1986.

3. The OCA and UP/UUC appealed to the Pennsylvania Commonwealth Court the Commission's findings that Section 1323 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §1323, was not applicable to Limerick 1, and even if Section 1323 were applicable, Limerick 1 did not constitute excess capacity (the "Excess Capacity Issues"). Docket Nos. 2248 and 2269 C.D. 1986.

4. By Opinion and Order entered March 31, 1988, the Commonwealth Court affirmed the Commission's decision on the Excess Capacity Issues, and remanded to the Commission for hearing and adjudication of the Delay Decision Issues. Barasch v. Pa. P.U.C., 115 Pa. Cmwlth. 147, 540 A.2d 966 (1988).

5. On May 2, 1988, the OCA and UP/UUC filed Petitions for Allowance of Appeal to the Pennsylvania Supreme Court on the Excess Capacity Issues. Nos. 427 and 435 E.D. Allocatur Docket 1988.

6. On April 29, 1988, the Commission filed a Petition for Allowance of Appeal to the Pennsylvania Supreme Court on the Delay Decision Issues. No. 425 E.D. Allocatur Docket 1988.

7. On March 7, 1989, the Pennsylvania Supreme Court agreed to hear the appeals by the OCA and UP/UUC on the Excess Capacity Issues (Nos. 30 and 33 E.D. Appeal Docket

1988). That Court has not yet acted on the Commission's Petition for Allowance of Appeal on the Delay Decision Issues.

8. On July 21, 1989, PECO filed for a base rate increase of approximately \$549 million, at Docket No. R-891364 (the "Limerick 2 Rate Proceeding"). The principal purpose of the proposed increase is to reflect in rates the Limerick Nuclear Generating Station Unit 2 ("Limerick 2") and the second half of Limerick common plant.^{1/}

9. In the Limerick 2 Rate Proceeding, the OCA and other parties have proposed substantial disallowances to reflect the alleged effect of the 1976 and 1978 delay decisions on the cost and schedule of Limerick 2 and the second half of Limerick common plant. PECO is contending in the Limerick 2 Rate Proceeding that: (1) the 1976 and 1978 decisions to delay the Limerick plant were prudent and reasonable; (2) the separate decisions to delay Limerick 2 in 1976 and 1978 were prudent and reasonable; and (3) the delay decisions did not increase the cost or extend the schedule of Limerick 2 and the second half of Limerick common plant. In addition, in order to preserve its rights in the pending appeals from the Limerick 1 Rate Order, PECO presented a claim to include in rate base the \$368.9 million rate base disallowance associated with Delay Decision Issues.

^{1/} The first half of Limerick common plant was included in rate base as part of the Limerick 1 Rate Proceeding.

The Settlement

10. The Joint Petitioners hereby agree to the following Settlement subject to the conditions and contingencies set forth elsewhere in this Joint Petition:

a. The Commission will, immediately after the entry of an Order by the Commission approving the Settlement and the Limerick 2 Rate Case Stipulation, discontinue with prejudice its Petition for Allowance of Appeal to the Pennsylvania Supreme Court on the Delay Decision Issues (No. 425 E.D. Allocatur Docket 1988). Should the Pennsylvania Supreme Court grant the Commission's Petition for Allowance of Appeal before it is formally discontinued, the Commission will immediately discontinue with prejudice its appeal as to the same issues.

b. The OCA will, immediately after the entry of an Order by the Commission approving the Settlement and the Limerick 2 Rate Case Stipulation, discontinue with prejudice its appeal to the Pennsylvania Supreme Court on the Excess Capacity Issues (No. 33 E.D. Appeal Docket 1988).

c. UP/UUC will, immediately after the entry of an Order by the Commission approving the Settlement and the Limerick 2 Rate Case Stipulation, discontinue with prejudice its appeal to the Pennsylvania Supreme Court on the Excess Capacity Issues (No. 30 E.D. Appeal Docket 1988).

d. PECO will not pursue its right to a hearing and adjudication on the Delay Decision Issues

pursuant to the Commonwealth Court's remand of the Limerick 1 Rate Order, thereby foregoing any additional revenue to which it may be entitled in the Limerick 1 Rate Proceeding.

e. PECO agrees to withdraw its claim in the Limerick 2 Rate Proceeding to include in rate base the \$368.9 million associated with the Delay Decision Issues.

f. The Settlement is expressly conditioned upon approval by the presiding Administrative Law Judges in the Limerick 2 Rate Proceeding and the Commission of the following Stipulation as to the issues which may be litigated in the Limerick 2 Rate Proceeding: (1) the parties to the Limerick 2 Rate Proceeding will not seek to litigate or relitigate in the Limerick 2 Rate Proceeding the prudence of the 1976 and 1978 decisions to delay the in-service date of Limerick 1 and the Commission's resulting \$368.9 million rate base disallowance in the Limerick 1 Rate Proceeding; (2) the parties to the Limerick 2 Rate Proceeding may fully litigate all issues relating to the prudence of the 1976 and 1978 decisions to delay Limerick 2, and the effect, if any, of the 1976 and 1978 decisions, or any other decisions, to delay Limerick 1 and 2 on the cost and schedule of Limerick 2 and the second half of Limerick common plant, and (3) litigation in the Limerick 2 Rate Proceeding of the issues set forth in (2) above is not barred by the doctrines of res judicata or collateral estoppel. A copy of the Limerick 2 Rate Case Stipulation is attached hereto as Exhibit A.

11. The Joint Petitioners agree, and therefore submit, that granting the Joint Petition and approving the Settlement is in the public interest for the following reasons:

a. Approval of the Settlement will avoid the need for further appellate litigation regarding the Limerick 1 Rate Order, both current appeals and future appeals arising out of any Commission orders on remand, and the attendant expenditures of time, money and other resources by the Joint Petitioners and the Commission.

b. Approval of the Settlement will avoid the need to conduct remand proceedings on the Delay Decisions Issues and Excess Capacity Issues. Such remand proceedings would undoubtedly be lengthy and complex and would require substantial time and effort by the Joint Petitioners and the Commission.

c. Approval of the Settlement will eliminate any existing uncertainty as to the validity of the Commission's Limerick 1 Rate Order and avoid the possibility of refunds to or recoupment from customers of substantial revenues for prior electric service.

12. This Settlement is expressly conditioned upon the Commission approving, without modification, all the terms and conditions contained in paragraph 10 above and entry of appropriate Order regarding the same. If the Commission does not grant such approval and enter an

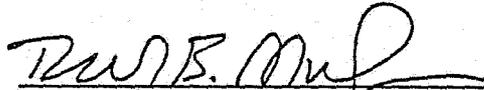
appropriate Order, this Settlement may be withdrawn by any Joint Petitioner fifteen days after filing with the Secretary of the Commission and serving upon the other Joint Petitioners a written Notice of Withdrawal. Withdrawal shall not be effective if, however, the Commission approves the Settlement as required herein prior to the expiration of the aforesaid notice. The Settlement is also expressly conditioned on the discontinuance of the appeals with prejudice as prescribed in paragraph 10 of this Joint Petition, and with the consent or approval of the Pennsylvania Supreme Court if such consent or approval is required.

THEREFORE, the Joint Petitioners, by their counsel respectfully request that the Commission enter an Order:

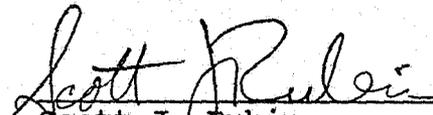
1. Granting this Joint Petition;
2. Approving this Settlement, including all the terms and conditions thereof;
3. Authorizing the Commission's Law Bureau to discontinue immediately with prejudice the Commission's Petition for Allowance of Appeal regarding the PUC's delay decision adjustment in the Limerick 1 Rate Proceeding; and

4. Approving the Limerick 2 Rate Case Stipulation
referenced in paragraph 10(f) of this Joint Petition.

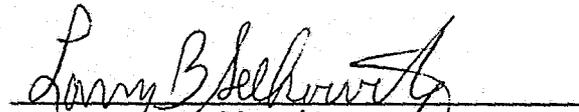
Respectfully submitted,



Alan L. Reed
David B. MacGregor
For Philadelphia Electric
Company



Scott J. Rubin
For David M. Barasch
Consumer Advocate



Larry B. Selkowitz
For the University of
Pennsylvania and Utility Users
Committee



David M. Kleppinger
For Philadelphia Area Industrial
Energy Users Group

Date: December 6, 1989

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY :
COMMISSION, et al. :
 : Docket No. R-891364, et al.
v. :
 :
PHILADELPHIA ELECTRIC COMPANY :

STIPULATION

The undersigned parties, Philadelphia Electric Company ("PECO" or the "Company"), the Office of Trial Staff ("OTS"), the Office of Consumer Advocate ("OCA") and the Philadelphia Area Industrial Energy Users Group ("PAIEUG") hereby agree to the following stipulation as to the issues which may be litigated in this proceeding regarding the Company's 1976 and 1978 decisions to delay the in-service dates of the Limerick Nuclear Generating Station ("Limerick"):

1. The parties to the Limerick 2 Rate Proceeding will not seek to litigate or relitigate in the Limerick 2 Rate Proceeding the prudence of the 1976 and 1978 decisions to delay the in-service date of Limerick 1 and the Commission's resulting \$368.9 million rate base disallowance in the Limerick 1 Rate Proceeding.

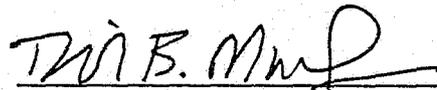
2. PECO agrees to withdraw its claim in the Limerick 2 Rate Proceeding to include in rate base the \$368.9 million disallowed by the Commission in the Limerick 1 Rate Proceeding, Docket No. R-850152.

3. The parties to the Limerick 2 Rate Proceeding may fully litigate all issues relating to the prudence of the 1976

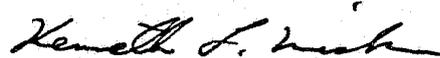
and 1978 decisions to delay Limerick 2, and the effect, if any, of the 1976 and 1978 decisions, or any other decisions, to delay Limerick 1 and 2 on the cost and schedule of Limerick 2 and the second half of Limerick common plant.

4. Litigation in the Limerick 2 Rate Proceeding of the issues set forth in (3) above is not barred by the doctrines of res judicata or collateral estoppel.

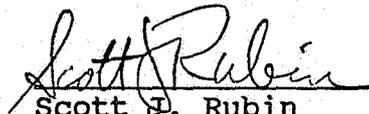
Respectfully submitted,



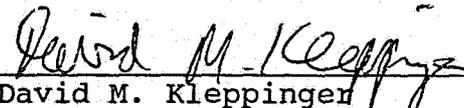
David B. MacGregor
For Philadelphia Electric
Company



Kenneth L. Mickens
For Office of Trial Staff



Scott J. Rubin
For David M. Barasch
Consumer Advocate



David M. Kleppinger
For Philadelphia Area Industrial
Energy Users Group

Date: December 6, 1989

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY :
COMMISSION, et al. :
 : Docket No. R-891364, et al.
v. :
 :
PHILADELPHIA ELECTRIC COMPANY :

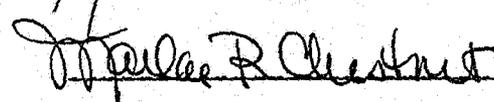
ORDER APPROVING STIPULATION

NOW this 6th day of December, 1989,

IT IS ORDERED:

The attached "Stipulation" is hereby approved and will be binding upon all parties to this proceeding.







Supreme Court of Pennsylvania

~~R-863696~~
~~R-863698~~
158 ANN

MARLENE F LACHMAN, ESQ
PROTHONOTARY
PATRICK TASSOS
DEPUTY PROTHONOTARY

Eastern District

468 CITY HALL
PHILADELPHIA, PA 19107
(215) 560-6370

January 23, 1990

FILE IN R-850152

Larry B. Selkowitz, Esquire
Scott J. Rubin, Esquire
WINDOFF, REAGER, SELKOWITZ & ADLER, P.C.
127 State Street
Harrisburg, Pa. 17101

DOCKETED
SEP-4 1990

PA. PUBLIC UTILITY COMMISSION
JAN 23 1990
Pa. P.U.C.
Law Bureau

RE: David M. Barasch, Consumer Advocate v. Pennsylvania—
Public Utility Commission and University of Pennsylvania
Utility Users Committee, Inc.
APPEAL OF: University of Pennsylvania/Utility Users Comm., Inc.,
NOS. 30 & 33 E.D. APPEAL DOCKET 1989

Dear Counsel:

Pursuant to the Notice of Discontinuance of Appeal, filed with this office on December 8, 1989, this is to advise you that the above captioned appeal has been discontinued of record and a Certificate of Order to that effect is being sent to Commonwealth Court at Numbers 2248 and 2269 C.D. 1986.

Very truly yours,

Patrick Tassos,
Deputy Prothonotary

DOCUMENT
FOLDER

/ma

cc: David M. Kleppinger, Esquire
Irwin A. Popowsky, Esquire
Alan R. Squires, Esquire
Bohdan R. Pankiw, Esquire
Michael L. Browne, Esquire
Bernard A. Ryan, Jr., Esquire
Roger E. Clark, Esquire
Richard J. Munsch, Esquire
Robert H. Young, Esquire
Kevin J. Moody, Esquire ✓
Jerry Rich, Secretary (Pa. Public Utility Comm.)

DER



Supreme Court of Pennsylvania

FILE IN R-850152

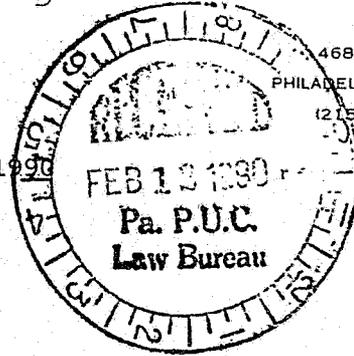
B-863099
BRP

MARLENE F. LACHMAN, ESQ
PROTHONOTARY
PATRICK TASSOS
DEPUTY PROTHONOTARY

Eastern District

468 CITY HALL
PHILADELPHIA, PA 19107
(215) 560-6370

February 8, 1990



Daniel P. Delaney, Esquire
Bohdan R. Pankiw, Esquire
PENNSYLVANIA PUBLIC UTILITY COMMISSION
G-28, North Office Building
Harrisburg, Pa. 17120



RE: Pennsylvania Public Utility Commission, Petitioner
v. Philadelphia Electric Company, David M. Barasch,
Consumer Advocate, Intervenor
NO. 425 E.D. Allocatur Docket 1988

Dear Counsel:

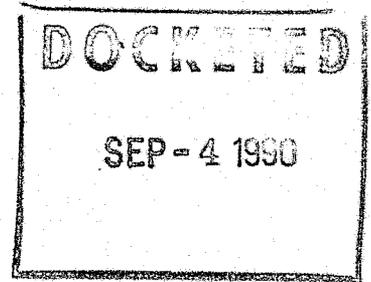
We acknowledge receipt of your Notice of Discontinuance of Appeal regarding the above captioned case.

This matter has now been marked "DISCONTINUED" on our docket.

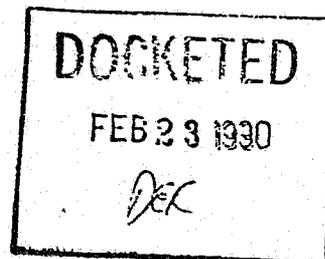
Very truly yours,

Patrick Tassos

Patrick Tassos,
Deputy Prothonotary



/ma
cc: Jack E. Jerrett, Esquire
David M. Kleppinger, Esquire
Alan R. Squires, Esquire
Michael L. Browne, Esquire
Roger E. Clark, Esquire
Richard J. Munsch, Esquire
Bernard A. Ryan, Jr., Esquire
Larry B. Selkowitz, Esquire
Scott J. Rubin, Esquire



COMMONWEALTH OF PENNSYLVANIA
**DECLARATION OF CAMERA
OPERATOR**

**PUBLIC UTILITY COMMISSION
RATE INVESTIGATIONS**

BEGIN: R-00842779 Doc Folder (File cont)

END: R-00850152 Doc Folder

THIS CERTIFICATE WAS FILMED ON 11/17/93

**THE RECORDS WERE FILMED IN ACCORDANCE WITH
PROCEDURES PRESCRIBED BY THE AGENCY
INDICATED ABOVE.**

Tiet Van Tran
**SIGNATURE OF MICROFILM
CAMERA OPERATOR**

TIET-VAN-TRAN
**PRINTED NAME OF MICROFILM
CAMERA OPERATOR**