

## Pennsylvania PUC Approves Merger Between PECO Parent Exelon and N.J.'s PSEG

The Pennsylvania Public Utility Commission voted unanimously to approve the merger between PECO Energy's parent Exelon Corporation and New Jersey's Public Service Enterprise Group Inc. (PSEG), finding that the combination "is in the public interest and provides substantial affirmative benefits." PECO had already secured support last September from many of the consumer, business, environmental and low-income advocates who had intervened in the case.

Upon closing, PECO said the merger will bring local consumers \$120 million over four years in rate discounts and provides rate certainty through the end of 2010. PECO also pledged substantial funding for alternative energy and environmental projects, economic development, and expanded outreach and assistance for low-income customers. The company further made commitments for enhanced customer service and reliability, and pledges for maintaining its Philadelphia headquarters, charitable giving, and employment.

President Denis O'Brien said PECO has a solid history of keeping its commitments with the community and looks forward to realizing the benefits of this merger. "We are very pleased the commission recognized this merger will be good for PECO customers and good for Pennsylvania, and consumers are assured of sharing in the savings realized from the merger," he said.

O'Brien said PECO remains steadfastly committed to improving its quality of service to customers as well as maintaining its longtime civic involvement across the Philadelphia region. "I've been active in the Philadelphia region my entire life, and I know firsthand the important role that PECO plays as an employer, as a provider of essential services, and as a long-time supporter of many worthy civic causes," he said.

PUC Chairman Wendell Holland said, "This is a big deal and a good deal, and I find it to be in the public interest. There is no rate increase and reliability and service should be enhanced."

The PUC accepted the recommendation of administrative law judge Marlane Chestnut, who conducted formal hearings and reviewed the case last year. In her recommendation late last year, ALJ Chestnut outlined 10 PECO commitments as "very real and substantial." Additionally, she cited Exelon's unprecedented plan for divesting 6,600 megawatts of power generating capacity in the MidAtlantic region to ensure wholesale electric power markets remain competitive.

A settlement that was reached last September involved the state Department of Environmental Protection, the PUC's Office of Trial Staff, the state Office of Consumer Advocate, the state Office of Small Business Advocate, state Sen. Anthony Williams, the Action Alliance of Senior Citizens, the Association of Community Organizations for

Reform Now (ACORN), the Philadelphia Area Industrial Energy Users Group, the Reinvestment Fund/Sustainable Development Fund, and Citizens for Pennsylvania's Future (PennFuture).

PECO already serves more low-income customers than any other utility program in the Commonwealth and agreed to make improvements to its universal service programs. In particular, the merger will provide:

- expanded outreach to increase participation in the company's special Customer Assistance Program (CAP) for low-income households,
- an additional discount on electric usage to make utility costs more affordable for customers enrolled in the CAP program, which discounts electric rates by 25 to 80 percent currently for about 102,500 qualified households.
- an annual contribution to the Energy Coordinating Agency to be directed to community-based organizations that provide consumer referrals to the PECO CAP program, and
- an increased contribution to PECO's Matching Energy Assistance Fund (MEAF) for use to assist local customers, in addition to reimbursement of administrative costs incurred by MEAF agencies, and commitments to promote public contributions to MEAF and match any contributions.

Other provisions include:

- a contribution paid over four years to the Pennsylvania Energy Development Authority (PEDA), an agency formed to promote and finance advanced clean energy and energy efficiency projects, and a four-year contribution to the Sustainable Development Fund to support environmental projects,
- a contribution to PEDA for energy-related economic development projects that benefit PECO's southeastern Pennsylvania service territory, and
- a commitment to maintain current employment levels in PECO field forces, the company's Philadelphia headquarters, and the company's charitable giving and civic involvement.

PECO also pledged its support for a PUC-sponsored investigation into issues related to Philadelphia Gas Works and potential benefits from a consolidation of PGW into the new Exelon Electric & Gas. In a separate motion, the commission authorized a "fact-finding investigation" after the Exelon-PSEG merger is consummated.

The merger awaits a regulatory decision in New Jersey and is still being reviewed by the U.S. Department of Justice. The two companies expect to complete the regulatory reviews and close on the merger late in the second quarter of 2006, but it may occur earlier if a settlement is reached and accepted by the New Jersey Board of Public Utilities.

The merger was announced December 20, 2004, and shareholders of both companies approved the transaction last July. The merger also received approval from regulatory agencies in New York Texas, and Connecticut, in addition to approval from Federal Energy Regulatory Commission (FERC) in June 2005.

## Draft of State Specific Mercury Rules Could Be Circulated in Next Few Weeks; House Environmental Committee to Hold Hearings

The first look at a state specific mercury reduction regulation proposed by the Department of Environmental Protection could be in the offing for business and organized labor groups, who have come out in opposition to the plan. A Department spokesman said that the timing for 'stakeholder' review of the draft rules is still uncertain, but that it could come within the next few weeks.

The draft language comes after four stakeholder meetings, where representatives from the generating and coal industries, and from organized labor voiced support for federal EPA regulations over a state specific plan.

"We still have yet to hear any compelling information to date that would alter our view that a state-specific mercury rule that imposes regulatory requirements beyond those of the federal requirements is warranted, or would have any hope of producing measurable incremental environmental benefits for Pennsylvania," said Douglas L. Biden, President of the Electric Power Generation Association.

Meanwhile, the House Environmental Resources and Energy Committee has announced it will hold an informational hearing on the proposed Pennsylvania rules on February 23 in Harrisburg. An agenda for that meeting is still being developed.

The next stakeholder meeting on the mercury regulations will be held after the draft rules are circulated and reviewed. The language then moves on to the Environmental Quality Board before being submitted to the federal EPA. The Department faces a November, 2006 deadline from the EPA.

From the beginning of the development of the rules late last summer, industry and organized labor objected to the need for the plan, citing its potential impact on jobs.

For one, the coal industry in Pennsylvania would suffer a major setback in production and jobs if the state adopts mercury emission regulations more stringent than federal standards, a representative of the United Mine Workers of America (UMWA) told a mercury stakeholders meeting in Harrisburg.

"Pennsylvania coal has the highest mercury content of any coal in the country," said Eugene Trisko, an environmental attorney representing the UMWA. "A number of utilities will be looking at large scale displacement of Pennsylvania coal if this rule goes into effect."

The UMWA, the coal industry, the generating industry and the International Brotherhood of Electrical Workers (IBEW) also note that a state specific rule brings nothing in terms of added environmental or health protection for Pennsylvania residents.

“We’re not looking at added safety just added costs,” said Don Siegel, International Vice President of the IBEW. “Since our members work at power plants that operate in the largest and one of the most competitive power markets in the world – PJM – we simply cannot be subject to more stringent environmental operating standards than our competitors without paying a price. And that price will be paid in the form of reduced output at our plants, reduced employment, and higher energy costs for industry and consumers.”

The federal rules, known as the Clean Air Mercury Rule or CAMR, require a phase one reduction of 64 percent in mercury emissions in Pennsylvania by 2010, and an 86 percent reduction by 2018. “The emission reductions required of Pennsylvania under CAMR are not only very challenging, they are the steepest reductions required of any state in the U.S.,” said Biden.

The UMWA recommends that DEP adopt phase one of CAMR, and then reconvene a stakeholders group in two years to assess the impact and gauge the cost and effectiveness of control technologies needed to remove the mercury, technologies that are developing rapidly.

In the meantime, installation of pollution controls by Pennsylvania power plants over the next several years pursuant to the recently finalized Clean Air Interstate Rule (CAIR) will also result in reduced mercury emissions, yielding a “co-benefit” effect. It is this combination of the federal CAIR and CAMR requirements that will drive down emissions of a number of pollutants, including mercury, over the next decade. David Cannon, Vice President, Environment, Health and Safety for Allegheny Energy and a member of the PaDEP Mercury Workgroup stated: “We simply have not seen any evidence in these meetings suggesting a Pennsylvania mercury rule would yield measurable health or environmental benefits not already provided for by CAIR and CAMR.”

## Legislation Blocking Strict California Car Emission Standards Moves Out of Senate Committee

Legislation that would block new vehicle emission rules proposed by the Department of Environmental Protection recently moved from the Senate Transportation Committee to the floor. Floor action on the legislation, SB 1025, is expected before the Senate breaks in February for month-long budget hearings. A companion bill awaits action in the House Environmental Resources and Energy Committee.

The move by the Senate Committee takes the increasingly heated fight over the standards from one that has been waged in the press and memos between lawmakers and Department officials to a public forum.

The fight is over whether Pennsylvania should continue to adhere to a federal emissions standard or a much more stringent California standard, a standard that opponents say could add as much as \$3,000 to the cost of a new car. It pits a powerful bipartisan group of lawmakers against the Rendell Administration's Department of Environmental Protection.

The Department warns that repealing the Clean Vehicle Program presents potentially serious consequences for Pennsylvania.

"It is a federally enforceable element of the Commonwealth's State Implementation Plan under the U.S. Clean Air Act. If the Commonwealth changes its Clean Vehicles Program so that fewer emission reductions are required of automakers and dealers, additional regulation on factories, power plants or other entities will be required. Meeting the federal clean air standards is not optional," stated a recent DEP memo.

Both legislative initiatives, however, received a boost recently when the Regional Administrator for the Environmental Protection Agency, Donald Welsh, said that Pennsylvania faces no risk of losing federal highway dollars if it doesn't adopt the stricter standard. The Department had been arguing that the state would indeed lose the funding.

The issue is over whether Pennsylvania can meet air quality standards designated by the federal Clean Air Act using the current federal Tier II standards. The sponsors of the bills Rick Geist, R-Blair and Keith McCall, D-Carbon in the House, and Mary Jo White, R-Venango, and Roger Madigan, R-Venango in the Senate, insist it can. While much more costly to implement, the California rule, they maintain, brings little extra over the federal standards in terms of cleaner air.

## Sens. White & Madigan memorandum on PA Clean Vehicle Emission Program.

Text of Jan. 26 memorandum.

To: All Senators

From: Senator Mary Jo White, Chairman, Senate Environmental Resources & Energy Committee and Senator Roger Madigan, Chairman, Senate Transportation Committee

Date: January 26, 2006

Re: Senate Bill 1025 (PA Clean Vehicle Emission Program)

Your office recently received a press release from Pennfuture opposing Senate Bill 1025. We introduced this legislation to establish the Clean Vehicle Emission Program in statute and maintain the federal vehicle emission standards in Pennsylvania.

Unfortunately, Pennfuture continues to intentionally spread misinformation and make statements it knows to be false to mislead legislators and the public about this important subject. Please bear in mind this organization's relative credibility when considering SB 1025 and other issues affecting our environment and economy.

We again stress the following points:

The Ridge Administration did not adopt and endorse the California vehicle emission standard in 1998. In fact, the Department of Environmental Protection (DEP) expressed its intent to utilize the federal Tier II standard. Any statements to the contrary are indisputably false.

Pennsylvania currently utilizes the federal Tier II standards, crafted by the Clinton-Gore Administration. Approximately 40 other states also use the federal standards.

Under federal law, states must choose either the California vehicle emission standard, or the federal standards. There is no "customizing" of the vehicle emission standards.

DEP has repeatedly submitted air quality improvement strategies to the Environmental Protection Agency (EPA) which state that the Commonwealth will bring almost all counties into attainment utilizing the federal vehicle emission standards.

EPA has cautioned states to not overstate the benefits of the California standards, advising that there may be only a 1-2% added benefit.

Letting California set our emission standards would in fact prohibit the sale of numerous vehicle models, including many diesel models. Furthermore, the Commonwealth would be susceptible to further vehicle choice limitations depending on what California chooses to do in the future to address its own unique air quality needs.

Cars designed to meet the California standards cost more to manufacture, slowing down fleet turnover. For example, estimates to meet the pending California carbon dioxide standard range from \$1,000 - \$3,000 per vehicle. Design modifications include:

- \* Redesigning V-6 engines to in-line 5 cylinder engines
- \* Installing low rolling resistant tires (to reduce friction/grip with road surface)
- \* Developing new automated-manual transmissions
- \* Reconfiguring the alternator and electric power systems

If there were no difference in manufacturing costs, logic dictates that manufacturers would simply make one model that can be certified in all 50 states.

Pennfuture's support for ensuring that DEP does not adopt more stringent emission limitations on stationary sources is noteworthy. However, DEP's own submissions to EPA indicating the Commonwealth can achieve and maintain its air quality attainment obligations using the federal standards contradicts this argument. If Pennfuture is so concerned, some may question why it is seeking to increase energy costs by hundreds of millions of dollars and threaten coal mining jobs by initiating a state-specific mercury rulemaking above and beyond the 86% reduction required by the federal government.

Our air is cleaner today than at any point in over a century. The federal standards now in place will produce cars 95% cleaner than those on the road just six years ago.

We did not make this assertion - former President Bill Clinton did.

Finally, regardless of a legislator's position on this issue, each of us should object to repeated characterizations that supporters of the federal vehicle emission standards are "anti-clean car". Reasonable people can disagree, but an assertion that any of us support dirty air that threatens the health of children is simply irresponsible.

## Another in Series of Long Term Energy Strategy Hearings Held in Harrisburg

Small business energy efficiency and alternative fuels were a few of the topics discussed at hearing on Wednesday, January 25 in Harrisburg before the House Environmental Resources and Energy Committee. The hearing was part of a series of meetings being held by the committee to map out a long term energy strategy for Pennsylvania. Another hearing is scheduled for February 14 in Harrisburg, where testifiers will include the President of the Energy Association of Pennsylvania, J. Michael Love, the Pennsylvania Consumer Advocate, Irwin "Sonny" Popowsky, and Liz Robinson, from the Energy Coordinating Agency of Philadelphia.

At the January 25 hearing, Christopher J. Lynch, Director of the Environmental Management Assistance Program at The Wharton School of the University of Pennsylvania, noted that in the aggregate small businesses account for 74 percent of all commercial electricity consumption. Lynch said that his office offers a step-by-step procedure to help guide educate small businesses in energy saving steps, but many lack the resources to make the necessary changes.

"Most of the small businesses we work with do not have the up-front capital needed to make energy efficiency improvements," Lynch said. "Or they need a little extra incentive to make the investment."

Lynch added that his office is working with the Department of Environmental Protection to create a micro-grant program for environmental and energy improvements at small businesses.