

Regulatory Analysis Form		This space for use by IRRC
(1) Agency  Public Utility Commission		<p>RECEIVED</p> <p>2000 MAY -8 AM 10:21</p> <p>IRREGULATORY REVIEW COMMISSION</p> <p>IRRC Number: 1945</p>
(2) I.D. Number (Governor*s Office Use)  L-980132/ 57-195		
(3) Short Title  Establishment of Competitive Safeguards for the Pennsylvania Electric Industry		
(4) PA Code Cite  52 Pa.Code §§ 54.121-54.122	(5) Agency Contacts & Telephone Numbers  Primary Contact: John Levin, Assistant Counsel, (717) 787-5978  Secondary Contact: Sherri DelBiondo, Regulatory Coordinator (717) 772-4597	
(6) Type of Rulemaking (check one)  <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached?  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor
(8) Briefly explain the regulation in clear and nontechnical language.  This regulation establishes competitive safeguards for interaction between electric distribution utilities, electric generation suppliers and customers in the competitive market in electric generation to be established pursuant to the provisions of 66 Pa.C.S. §2801-2812, the Electricity Generation Customer Choice and Competition Act.		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions.  66 Pa.C.S. §501, 2801-2812		

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The creation of a new competitive market in electric generation requires the adoption of competitive rules to regulate disputes between market participants and to resolve complaints filed with the Commission by such market participants pursuant to 66 Pa.C.S. §2811(f).

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Market failure as a result of uncontrolled anticompetitive behavior could result in control of the Pennsylvania competitive generation market by one or a few participants, greatly raising prices to electric generation end users.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Nearly every consumer of electricity will depend upon a full, fair and open competitive market for electric generation supply after January 1, 2001, pursuant to the provisions of the Electricity Generation Customer Choice and Competition Act. The creation of a working market will benefit nearly every consumer of electricity, as competition increases industry efficiency, results in new market products and improves overall efficiency and productivity.

### Regulatory Analysis Form

- (14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

Market participants which wish to engage in anticompetitive behavior, or otherwise violate the specific terms of the proposed regulations will be adversely affected.

- (15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Electric distribution utilities and electric generation suppliers will be required to comply. No specific headcount of individuals is available.

- (16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Commission initiated a Competitive Safeguards Working Group during the summer and fall of 1997. Over 25 representatives from various stakeholder groups participated. These proposed regulations are largely drawn from the consensus recommendations of that working group. A copy of the final report of the working group is available upon request.

- (17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

No such estimate exists. However, the costs of industry restructuring required pursuant to the enactment of Chapter 28 are believed to be substantial. The legislature has declared that "Competitive market forces are more effective than economic regulation in controlling the cost of generating electricity" 66 Pa.C.S. §2802(5).

### **Regulatory Analysis Form**

**(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.**

No costs anticipated.

**(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.**

No specific costs anticipated.

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government						
Total Costs						
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

No estimate available.

### Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
None.				

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

No cost-benefit information available.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

No nonregulatory alternatives were considered.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative regulatory schemes were considered.

### **Regulatory Analysis Form**

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No federal standards exist.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

These provisions are somewhat less prescriptive than those of other states which have considered and enacted electric generation deregulation provisions. No.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

A series of meetings, open to the public, were held during working group deliberations in the summer and fall of 1997. No additional meetings are planned.

### **Regulatory Analysis Form**

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No specific forms are required to be kept.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Not applicable.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The rules will be effective at the time full direct access to the generation network is provided. Pursuant to law, that date is January 1, 2001.

(31) Provide the schedule for continual review of the regulation.

No specific schedule is prescribed. However, as the Commission gains experience, changes and modifications to these rules may be promulgated.

**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

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LEGISLATIVE  
REVIEW COMMISSION

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Copy below is hereby approved as to form and legality- Attorney General.

BY \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

\_\_\_\_\_  
DATE OF APPROVAL

☐ Check if applicable  
Copy not approved. Objections attached

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania Public Utility Commission  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. L-00980132/57-195

DATE OF ADOPTION April 27, 2000

BY James J. McNulty  
James J. McNulty

TITLE ( SECRETARY)

Copy below is hereby approved as to form and legality. Executive or independent Agencies.

BY Bohdan R. Pankiw  
Bohdan R. Pankiw  
Chief Counsel

4-27-00  
DATE OF APPROVAL

☐ Check if applicable. No Attorney General approval or objection within 30 days after submission.

L-00980132/57-195  
Final Rulemaking  
Establishment of Competitive Safeguards  
for the Pennsylvania Electric Industry  
52 Pa. Code, Chapter 54

The Pennsylvania Public Utility Commission on April 27, 2000, adopted a final rulemaking order establishing competitive safeguards for interaction between electric distribution companies, electric generation suppliers and customers in the competitive electric industry. The contact person is John Levin, Law Bureau, 787-5978.

## **EXECUTIVE SUMMARY**

**L-980132/57-195  
Final Rulemaking  
Competitive Safeguards for the  
Pennsylvania Electric Industry  
52 Pa. Code §54.121-54.122**

With the passage of the Electricity Generation and Customer Choice Act (Act), 66 Pa.C.S. §2801, et seq., the General Assembly amended the Public Utility Code and established a comprehensive scheme for the restructuring of the Pennsylvania Electric Industry. This rulemaking establishes competitive safeguards for interaction between electric distribution companies, electric generation suppliers and customers in furtherance of the Act's provisions directing the establishment of a new, vibrant and effective competitive retail market in electricity generation in this Commonwealth by January 1, 2001.

The contact person is John A. Levin, Assistant Counsel, Law Bureau (717) 787-5978

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

Public Meeting held April 27, 2000

**Commissioners Present:**

John M. Quain, Chairman  
Robert K. Bloom, Vice Chairman  
Terrance J. Fitzpatrick  
Nora Mead Brownell  
Aaron Wilson, Jr.

Rulemaking Regarding the Establishment of  
Competitive Safeguards for the  
Pennsylvania Electric Industry

Docket No. L-00980132

**FINAL RULEMAKING ORDER**

**BY THE COMMISSION:**

This final rulemaking order establishes competitive safeguards in furtherance of the Electricity Generation and Customer Choice Act ("Electric Competition Act"), 66 Pa.C.S. §2801, et seq. On February 13, 1998, we entered a notice of proposed rulemaking, published at 28 Pa. Bulletin 2139 (May 9, 1998) proposing competitive safeguards for the restructured electric power industry, and intended to assure the provision of direct access to all Pennsylvania retail electric generation market participants at comparable rates, terms and conditions as well as to forestall the exercise of unlawful market power which would have

the effect of inhibiting the development and continuation of that market. We invited comments from the public to be filed on or before June 8, 1998.

Comments were received from West Penn Power Company t/d/b/a/ Allegheny Power ("WPP"), joint comments from the Associated Builders and Contractors Inc. and the Pennsylvania Petroleum Association ("ABC"), the Office of the Consumer Advocate of Pennsylvania ("OCA"), Enron Energy Services, Inc. ("Enron"), the Clean Air Council, Environmental Defense Fund and the Pennsylvania Campaign for Clean Affordable Energy (an ad hoc group calling itself the "Environmentalists"), Electric Clearinghouse, Inc. ("ECT"), Horizon Energy Company ("Horizon", an affiliate of PECO Energy Company), the Independent Regulatory Review Commission ("IRRC"), the Honorable William R. Lloyd, Jr., formerly member of the Pennsylvania House of Representatives, the Mid-Atlantic Power Supply Association ("MAPSA"), NEV East, LLC ("NEV"), the Pennsylvania Electric Association ("PEA"), the Pennsylvania Gas Association ("PGA"), PP&L Inc. ("PP&L"), and the Pennsylvania Rural Electric Association jointly with Allegheny Electric Cooperative, Inc. ("PREA").

The fifteen sets of comments, by interest, include representation from local electric distribution companies and their generation affiliates (4), independent power marketers (5), LDC competitors in alternate and non-fuel markets (2), electric cooperatives (1), other governmental agencies (2), environmental interests (1) and elected representatives (1).

Additionally, a number of other jurisdictions have considered or promulgated code of conduct provisions similar to those proposed at this docket. To the extent relevant here, those provisions are discussed here.

The form and structure of these rules is as follows:

§54.121 outlines the purpose of these provisions.

§54.122(1) prohibits an electric distribution company from giving any electric generation supplier any preference or advantage in processing requests for retail electric service.

§54.122(2) requires fair dissemination of nonprivate customer information by distribution companies to generation suppliers.

§54.122(3) prohibits false or deceptive advertising.

§54.122(4) establishes dispute resolution procedures.

§54.122(5) prohibits illegal tying of any goods or services or limitations on dealing as a requirement for obtaining electric distribution service.

§54.122(6) prohibits distribution companies from providing any preference or advantage to any generation supplier in the provision of information about the operational status and availability of the distribution system.

§54.122(7) requires distribution companies to supply all regulated services and apply all tariffs on a non-discriminatory manner.

§54.122(8) requires formal adoption of these rules by distribution companies and affiliated or divisional generation suppliers, and to train and instruct employees in them.

§54.122(9) requires that customer requests for information about generation suppliers made to distribution companies be handled fairly and impartially.

§54.122(10) forbids misrepresentation by a distribution company, affiliate or division that generation service bundled with the distribution service of the distribution company is superior solely on the basis of affiliation. It also requires that advertising by such affiliated companies contain a suitable disclaimer.

§54.122(11) requires functional separation of affiliated or divisional generation, distribution and transmission functions.

§54.122(12) provides that substantial, good faith compliance with these provisions will constitute a substantial factor in mitigation of any penalties that might otherwise be applied for a violation.

## **COMMENTS AND DISCUSSION**

As noted above, fifteen sets of comments were received from the public and from representatives of government entities. It should be observed that members of the same industry do not always agree with each other, and where significant disagreement occurs in the comments, it is noted.

Additionally, and as we noted in our notice of proposed rulemaking in 1998, the first ten provisions of this rulemaking, 52 Pa.Code §54.122 (1) – (10) were the product of

a consensus based Competitive Safeguards Working Group, which made its report to the Commission on October 5, 1997. We have made some modifications to these consensus provisions<sup>1</sup>, in response to the comments and our experience with interim settlement Code of Conduct provisions, as noted below. Most of the comments submitted on the proposed rules involved generalized policy considerations or focussed on the provisions proposed at §54.122(11) – (12).

The most significant changes in the “consensus” provisions are as follows: Section 54.122(4) was revised to prescribe a uniform state-wide mediation procedure to address grievances. Section 54.122(10) was revised to provide for standard disclaimer language when an electric distribution company engages in joint marketing with a divisional or affiliated electric generation supplier.

With respect to Subsections (11) – (12), dealing with functional separation of affiliated generation and non-generation lines of business by regulated utilities, we have made some modifications in order to simplify subsection (11) and have deleted subsection (12) in response to comments.

### **General Comments**

Horizon Energy Company, a generation marketing affiliate of PECO Energy Company, observes that some restrictions on joint marketing may be appropriate, but that all market participants should be subject to the same rules (i.e., that non-affiliated generation suppliers should also be prohibited from engaging in the same kind of joint

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<sup>1</sup> / Modifications have been made to §54.122(4) and (10) 5

marketing.) Horizon asserts that market share evaluations are not necessary, that separation of generation, distribution and transmission functions is not required under Pennsylvania law and should not be considered by the Commission, and that an “emergency suspension” provision should be considered<sup>2</sup>.

ABC represents a coalition of a trade association of builders and contractors engaged in the construction and the installation and maintenance of “electrical and mechanical systems,” and the Pennsylvania Petroleum Association, which is a trade association of marketers of oil, gas, propane and related equipment. ABC asks that we extend our competitive safeguards to protect industries other than the electric generation supply industry. We note that while the Public Utility Code gives us broad authority with respect to the regulation of the supply of electric generation and distribution services, we have no express authority with regard to other industries. To the extent that utilities engage, through a division or separate affiliate, in non-jurisdictional lines of business, the General Assembly has not given us authority to oversee the competitive health of such non-utility lines of business, nor have we the expertise or resources to so extend our supervision. To the extent that utilities enter non-utility businesses, they are subject to all existing regulations, including the competitive laws and regulations of the United States and Pennsylvania which apply to existing participants. We continue to enforce the ratemaking laws of the

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<sup>2</sup> / While we are not amending the proposed rules to include such a provision, we call the public’s attention to 52 Pa. Code §3.1-3.12 which provides for the issuance of ex parte emergency orders by the Commission.

Commonwealth, including laws and rules against forcing utility ratepayers to subsidize non-utility enterprises through cross-subsidization.

The Environmentalists urge the need for publicly available market share studies performed by an unbiased consultant to be hired by the Commission, as well as consideration of changing the method of evaluating stranded costs and including the issues of competitive safeguards in the ongoing statewide education campaign.

We intend to require that information regarding these safeguards be included in customer education programs. As to the Environmentalists' other suggestions, they are outside the scope of this rulemaking.

#### **52 Pa. Code §54.121**

This provision sets forth the general purpose of this rulemaking. IRRC suggests that open access be better defined. "Open access" is the same concept as "direct access" prescribed by statute. In order to avoid confusion, we have changed the wording to "direct" access.

PREA suggests language changes which would, in its opinion, clarify the broad statement of principles to more clearly establish the goals of the Code of Conduct. We decline to adopt most of these proposed language changes as they primarily involve matters of form or emphasis, rather than substance.

**52 Pa. Code §54.122 (1) – (10) (Consensus Provisions and General Comments)**

PEA submitted comments on behalf of seven of its members (Allegheny Power, Duquesne Light Company, GPU Energy, PP&L, Inc., Pennsylvania Power Company, PECO Energy Company, and UGI Utilities, Inc.). It also submitted comments by Alfred E. Kahn, a nationally known economist and former regulator who held posts in New York State and in the Federal Government under the administration of President Jimmy Carter. PEA states that it generally supports the proposed §§54.121(1) – (10), inasmuch as they were derived from the 1997 consensus working group process in which PEA participated. The proffered comments of Dr. Kahn also support those provisions. In general, the local distribution company commenters likewise support these principles.

PP&L echoes many of the comments offered by PEA. It supports subsections (1) through (10).

Enron, an independent electric generation supplier, urges the Commission both to adopt the “consensus” rules (subsections §54.122 (1) – (10)), but also to go beyond them in five respects.

First, Enron recommends that the Commission create “virtual” subsidiaries with no sharing of operational or managerial personnel, facilities and information and adopt detailed cost allocation rules for common costs shared between such “virtual” subsidiaries. We decline to take that step. We believe that the provisions of 52 Pa. Code

§54.122(11) as amended, provide sufficient direction against affiliate abuses. As to cross subsidization, local distribution utilities continue to be subject to negotiated or statutory rate caps, pursuant to 66 Pa.C.S. §2804(3). It appears unlikely that any of our jurisdictional local distribution companies will file a major rate case with us for several years. In the event that we discover that existing accounting and ratemaking rules and procedures are insufficient to deter cross subsidization, we may choose to revisit this topic.

Second, Enron suggests that we establish detailed rules to govern the use of generation assets by an affiliated distribution company. With the advent of competition not merely in Pennsylvania, but in neighboring states as well, the need for such rules seems less urgent than when Enron's comments were filed in 1998. With the exception of West Penn Power (presently trading and doing business as Allegheny Power), Duquesne Light and Penn Power, Pennsylvania utilities are members of a well formed independent system operator, PJM, Inc. LLC, which has established a strong self governance process, market rules and a market monitoring unit capable of investigating and deterring attempted exercises of market power by generation asset owners. We anticipate that the three Pennsylvania utilities which are not members of an ISO at present will be in compliance by the close of 2001 with the provisions of FERC Order 2000 requiring formation or membership in a regional transmission organization with identical or similar functions and other protections for market participants and end users. It is apparent to us

that a combination of self governed regional transmission organizations, market rules and monitoring by an independent RTO market monitor should be superior in deterring the sort of anticompetitive behavior Enron asks us to address through prescriptive Pennsylvania-only rules.

Third, Enron urges us to prohibit joint marketing between an EDC and its affiliated or divisional electric generation supplier. This issue was raised and extensively discussed in the Competitive Safeguards Working Group and rejected. While we are willing to revisit this issue in the future in the event that joint marketing is conducted in a manner that is deceptive or injurious to the public interest in a way that cannot be addressed on an ad hoc basis, we are unwilling to adopt this proposal at present. However, as noted below, we will amend these proposed regulations to improve affiliation disclosure requirements in 52 Pa. Code §54.122(10).

Fourth, Enron urges us to prohibit an EDC-affiliated generation supplier from using the utility name or logo, or in the alternative, to impose disclosure requirements to properly inform customers about such affiliation. Again, we are unwilling to flatly prohibit use of utility name or logo. While it may be that there is some initial customer confusion concerning retail competition and the role of utilities, their affiliates and competitors, we have adopted a strong and ongoing customer education program that we believe has been successful in acquainting Pennsylvanians with their retail options. Pennsylvania continues to have one of the highest retail electric generation shopping rates

in the nation. However, we do accept Enron's suggestion that we include disclosure language such as that adopted in the PECO settlement and have modified 52 Pa. Code §54.122(10) accordingly.

Fifth, we are urged to permit customers who have signed long-term contracts with a utility to "opt out" of such contracts and switch to a competitive energy supplier without incurring contractual penalties. This is assertedly necessary in order to permit customers locked into long term generation contracts to take advantage of retail competition, which commenced in 1998. We decline to do that. Retail competition has been discussed in public forums at least since 1994. Those signing long term contracts are, in general, reasonably sophisticated large commercial or industrial customers who have been aware of the changing nature of the market. We are generally reluctant to interfere in the provisions of such contracts, absent a convincing demonstration that such provisions were obtained by misrepresentation, fraud, coercion or other duress. A blanket cancellation of such contracts is therefore not warranted, especially since many of them will have already expired or will shortly expire.

Finally, Enron urges us to change the proposed regulations to conform in several respects to the language of the PECO settlement code of conduct<sup>3</sup> with respect to replacing the term "comparable" with "equal and nondiscriminatory," to replace the term "unlawful discrimination" with "undue discrimination" or simply "discrimination," to

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<sup>3</sup> / Application of PECO Energy Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code, R-00973953, Joint Petition for Full Settlement, ¶39a, Appendix H.

replace the term “unlawful cross-subsidization” with “cross subsidization.” We agree that these proposed changes are appropriate and are in better accord with the intent of the Electric Competition Act. In any complaint under this code of conduct, we would in any event necessarily be called upon to determine whether a specific arrangement offered to an EGS was equal and nondiscriminatory. While we do not interpret “equal” to mean “identical” in every situation, the term “comparable” is overly ambiguous and does not sufficiently address the issues.

Several of IRRC’s comments suggest that portions of these rules dealing with requirements to be imposed on electric generation suppliers (specifically, portions of 52 Pa. Code §54.122 (3), (8) and (11)) are already covered in rules at 52 Pa. Code §54.43. IRRC appears to misunderstand the different scope of those provisions. Subsection 54.43 deals with consumer protection issues, that is, the relationship and communications between electric generation suppliers and end users. The instant provisions deal with competitive issues, more specifically, relationship and communications between competitors. It may be that competitors will seek to disadvantage other competitors through misleading or erroneous communications or behavior with respect to end users. Such issues are clearly to be dealt with through the licensing provisions of §54.43. Those provisions were not drafted, and are not intended to deal with competitive relationships or to forestall exercise of market power or gain unfair advantage from leveraging monopoly assets.

Accordingly, we believe that all competitive issues belong together in this section and we decline IRRC's suggestion that we remove EGS related provisions from the final rule and amend §54.43 to add such provisions.

IRRC also proposes a number of technical and language amendments, some of which we have adopted elsewhere or will adopt without further comment.

#### **52 Pa. Code §54.122(3)**

This provision prohibits false or deceptive advertising by generation suppliers or distributing companies. Representative Lloyd suggested that §54.122(3) be amended to include "misleading" advertising as a prohibited activity. We believe that "deceptive" advertising includes "misleading" advertising and thus decline to make the suggested change.

Horizon suggests that additional language be added to 54.122(3). Horizon's amendment would prohibit any EGS from competing "unfairly in the market through, inter alia, anticompetitive practices or cross subsidies from corporate affiliates." We decline to make the suggested revision. "Cross-subsidies" are a term of regulatory art, and are so defined in public utility ratemaking law because such subsidies involve forced ratepayers to subsidize (through unjust utility rates) the costs and profits of unregulated, competitive enterprises. We have full jurisdiction to investigate and ameliorate such abuses. Horizon's additional and somewhat vague suggestion that we prohibit "anticompetitive practices" lacks any specificity and Horizon does not explain in detail what it intends us to prohibit.

In general, these rules are intended to address the potential for anticompetitive actions or cross subsidization by regulated utilities subject to the Commission's jurisdiction. While we retain considerable authority over the rates, rules and practices of regulated distribution companies, and must continue to assure that such regulated rates, rules and practices are "just and reasonable" within the meaning of the Public Utility Code, we believe that the legislature did not intend us to apply regulated principles to unregulated entities wholly outside our jurisdiction. If Horizon believes that any electric generation supplier is violating the terms of its Pennsylvania license, it is free to file a complaint with the Commission to remedy such violation.

As to general "anticompetitive" behavior by unregulated entities, the Legislature has provided that Horizon may file a complaint, pursuant to 66 Pa.C.S. §2811(f), asking the Commission to remedy such behavior, insofar as it is within our power to do so. In any event, Horizon retains all remedies available to it or any other market participant to complain to a Federal District Court that such behavior is in violation of the competition laws of the United States, and to ask for remedies and damages. That is a far more effective remedy than any we can fashion in the context of the present rulemaking.

**52 Pa. Code §54.122(4)**

This provision establishes dispute resolution procedures. Representative Lloyd suggested that §54.122(4) be deleted as it improperly allows parties to negotiate compromises among themselves concerning appropriate dispute resolution procedures. We

note that it is our policy to encourage negotiated arrangements of the sort permitted, but have amended the provision to clarify the procedural steps of informally resolving such disputes.

OCA recommends that we adopt the PECO Energy Interim Code of Conduct provisions regarding dispute resolution process. We have had some experience with those provisions and agree that they are better suited to dispute resolution than the draft provisions and have amended 52 Pa. Code §54.122(4) accordingly. This will have the additional benefit of making dispute resolution procedures under this Code of Conduct uniform throughout the Commonwealth.

**52 Pa. Code §54.122(5)**

This provision prohibits illegal tying of goods and services as a requirement for obtaining electric distribution service. Representative Lloyd recommended that §54.122(5) be amended to delete the word “illegally.” This provision is based upon negotiated stakeholder language and was intended to reach and prohibit only illegal tying arrangements. Accordingly, we decline to make the suggested editorial change.

**52 Pa. Code §54.122(6)**

Representative Lloyd recommended that we add the phrase “affiliated or division electric generation supplier” to §54.122(6), which prohibits distribution companies from providing any advantage to a generation supplier in the provision of information about the operational status and availability of the distribution system. The language as presently

drafted is “any electric generation supplier,” which includes but is not limited to affiliated and divisional suppliers. This language was intentional, and was intended to prevent preference being given to any electric generation supplier, whether or not affiliated with a distribution company. Businesses often enter into joint ventures or other contractual arrangements that may advantage the contracting parties to the disadvantage of others.

**52 Pa. Code §54.122(9)**

This provision requires that customer requests for information about generation suppliers be handled fairly and impartially by distribution companies. Representative Lloyd recommended that §54.122(9) be amended to state that the customer, not the electric distribution company, has the right to determine how the list of electric generation customers will be provided (i.e., whether over the telephone, in writing or by some other means). We have licensed approximately 125 electric generation suppliers in the Commonwealth, many with limited geographical areas or which serve only certain kinds of retail customers. Electric generation suppliers are constantly changing their conditions of service or service areas. We believe that it is best to permit some managerial discretion in the mode of provision of such list information.

**52 Pa. Code §54.122(10)**

This provision prohibits a distribution company affiliate or division from claiming that generation bundled with distribution service is superior solely on the basis of the affiliation. Representative Lloyd recommended deleting from this provision the phrase

“solely on the basis of their affiliation with the electric distribution company,” as he believes that distribution companies should be forbidden from stating or implying that purchasing power from affiliates or divisions is inherently superior under any circumstances. 52 Pa. Code §54.6(3)(c) requires any claims about power be based upon available information substantiating such claims. Likewise, it is not our intent that distribution companies be prohibited from making any advertising claim which is truthful and not misleading to the public. The recommendation would effectively ban any advertising or customer relations regarding a distribution company’s generation affiliate, a result that is extreme, in our judgment. Also, we note that the language sought to be amended was a product of the collaborative working group process. We therefore decline to make the proposed amendment.

However, we believe that it is appropriate to impose a disclosure requirement similar to that suggested by Enron, and have adopted language similar to that adopted in the PECO interim code of conduct, as suggested by OCA.

**52 Pa. Code §54.122(11) and (12)**

The provision at §54.122(11) requires functional separation of affiliated or divisional generation, distribution and transmission functions. Section 54.122(12) provides that an adequate functional separation would be a substantial factor in the mitigation of penalties in an action brought against a distribution company under Section 2811(f) of the Competition Act.

OCA calls our attention to California and Massachusetts Codes of Conduct which, in OCA's opinion, "ensure that functional separation between the monopoly distribution function and any retail sales operation is real and complete." In effect, OCA believes that these rules should be amended to require complete physical separation of the retail generation and distribution functions. OCA would also prohibit (as does the PECO interim settlement code of conduct) joint marketing or packaging of regulated distribution services with the generation services of an affiliate or division. While those are theoretically "purer" approaches, they are also far more prescriptive and we do not adopt them.

WPP warns that the proposed Section 54.122(11) "has an ominous quality" and unreasonably regulates "speech" in that it prevents employees engaged in generation supply activities from private discussions with employees of related distribution or transmission businesses concerning current or future operations. It also argues that the provision would cover conduct "well beyond" FERC regulations at 18 CFR Part 37.4, which restricts only the interchange of competitive information about the transmission system. WPP argues that it is "absolutely necessary for Allegheny's affiliated EGS to provide information to Allegheny Power's power control center transmission staff to allow the staff to operate the control area reliability (sic)." WPP argues as well that communications are also necessary between Allegheny Power's transmission and distribution center and its power control center with respect to outages and performance conditions.

PEA opposes adoption of the provisions of §54.121(11) and (12), asserting that they contravene the provisions of 66 Pa.C.S. §2804(5) which states (in its entirety) “The Commission may permit, but shall not require, an electric utility to divest itself of facilities or to reorganize its corporate structure.”

In effect, PEA argues that in addition to the plain language of that provision, which forbids the Commission from ordering divestment of facilities or corporate reorganization (structural reorganization), the General Assembly also intended to forbid the Commission from regulating anticompetitive utility behavior through a non-structural remedy.

It is a hard stretch to interpret this language to prohibit the Commission from directing that monopoly utilities arrange their internal operations so as to prevent them from unfairly disadvantaging competitors or potential competitors. The statute, as stated, simply prohibits the Commission from directing that structural corporate changes be made, leaving such restructuring to the judgment of utility management.

The Pennsylvania Gas Association, in a single page letter, supports PEA’s opposition to 52 Pa. Code §54.121(11)(ii) – (v) and (12).

PP&L opposes subsections (11) and (12). PP&L makes the same point as does WPP, that regulated distribution companies must coordinate operations with transmission systems and should not be barred from communicating in the ordinary course of business.

ECI suggests a number of minor language changes that we decline to accept, as they consist mainly of changes in emphasis, rather than substance. However, we accept

ECI's suggestion that "related" should be changed to "affiliate or division" for 52 Pa.C.S. §54.122(11)(i)-(vi), in parallel with language proposed elsewhere in these rules. In addition to other editorial changes, we have modified this provision to apply to affiliates and divisions.

ECI recommends that electric distribution companies be obligated to include the provisions of this regulation in their tariffs. The only substantial advantage to tariff publication is that it might, in theory, provide a more general notification to the public, as tariffs required to be available at company offices and to be posted on company internet web sites and are often more widely available for customer review.

In reality, electric generation suppliers and large end-use customers can be expected to be well aware of the obligations of the Electric Competition Act and this Code of Conduct. For less sophisticated consumers, direct customer education programs, as implemented by this Commission from the outset of restructuring, are far more effective in conveying the rules, rights and obligations of retail electric competition. It should also be noted that all of Pennsylvania's regulations are now available to the public at no charge on the internet at <http://www.pacode.com>. In addition, we require that information about direct access and electric competition be disclosed in all bills, pursuant to 52 Pa.Code §54.1-54.7. Accordingly, we decline to require that this code be filed as part of electric distribution company tariffs.

MAPSA faults the proposed regulations (in criticizing 52 Pa.C.S. §54.122(11) and (12) as not going far enough) for not barring joint marketing by affiliated generation suppliers and distribution companies. It also asks that we mandate physical separation between affiliated or divisional electric generation suppliers and electric distribution utilities. As noted elsewhere in this order, we decline to adopt either suggestion. MAPSA also asks that we include a provision which would regulate the transfer of non-power goods and services between an affiliated or divisional distribution company and generation supplier. We decline to do that, too.

However, that does not mean that the effect of and terms of such transfers between related entities will be ignored for ratemaking purposes. Cross-subsidization of non-utility enterprises by utility customers has been unlawful under the Public Utility Code for many years. Transfers of goods and services made between a utility and an affiliated or divisional entity which constitute a cross-subsidy may not be recovered from utility ratepayers. Moreover, such transactions, to the extent they are made between affiliated interests within the meaning of 66 Pa.C.S. §2101, must follow the rules of Chapter 21 of the Public Utility Code, at the risk of being disallowed or voided pursuant to those statutory provisions.

Accordingly, we decline to adopt MAPSA's additional provisions and will rely upon existing law to provide safeguards to the public interest. NEV also proposes joint marketing prohibitions, goods and services transfer rules and physical separation of

related electric generation suppliers and electric distribution utilities. We decline, for the reasons stated above.

After consideration of comments on subsections 11 and 12, we have decided to amend subsection (11) and delete subsection (12). We are troubled by the attempt at proscription in Paragraph 11. We are not even sure that this attempt succeeds and covers every possible permutation of inter-employee contacts and information sharing. It appears that subsection 11, in attempting to capture every possible element of the independence required to be observed, has also become too procedurally complex.

While we do not agree that Paragraph 11 amounts to *de facto* divestiture, the proposed regulation is unnecessarily complicated and should be simplified. Further, as a state commission with jurisdiction over intrastate facilities we do not wish to exceed our jurisdiction by attempting to dictate the actions of transmission company affiliate employees. FERC has primary jurisdictional authority over the actions of transmission utilities, and Order No. 888 and its successive orders should be invoked by complaining market participants if they believe that the rates, terms and conditions of transmission service have been the subject of any anti-competitive acts by the transmission owner.

As edited, subsection (11) now simply declares that affiliated or divisional entities covered under these provisions shall ensure that their employees act independently of each other. We have deleted subsection (12) to further simplify these rules. It should be noted that we agree with comments that suggest that it appears pointless to accord a

regulated company any mitigation of penalties for compliance with lawful regulations. In any case before the Commission, a utility may argue mitigation however it chooses.

Accordingly, pursuant to 66 Pa. C.S. §§501, 502, 504, 505, 506, 508, 701, 1301, 1304, 1501, 1502, 1505, 1701-1705, 2101-2107, and 2801-2811, the Commonwealth Documents Law, 45 P.S. §§1201, et seq., and the regulations promulgated thereunder at 1 Pa.Code §§7.1-7.4, we adopt the rules as set forth above and in the manner set forth in Annex A; **THEREFORE,**

**IT IS ORDERED:**

1. That the rules and regulations set forth in Annex A hereto are hereby adopted as final rules.
2. That the Secretary shall submit this order and Annex A for review by the designated standing committees of both Houses of the General Assembly, and for review by the Independent Regulatory Review Commission.
3. That a copy of this order and Annex A shall be served upon all commenters to our proposed rulemaking at this docket, including the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, all members of the Competitive Safeguards Working Group, all jurisdictional electric companies, all licensed electric providers, and the Pennsylvania Electric Association.

4. That the Secretary shall submit this order and Annex A to the Office of the Attorney General for approval as to legality, and to the Governor's Budget Office for review of fiscal impact.

5. That this order shall become effective upon final publication in the Pennsylvania Bulletin.

6. The contact person is John Levin, Assistant Counsel, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, telephone (717) 787-5978.

BY THE COMMISSION

A handwritten signature in dark ink, appearing to read "James J. McNulty". The signature is fluid and cursive, with the first name "James" and last name "McNulty" clearly distinguishable.

James J. McNulty  
Secretary

(SEAL)

**ORDER ADOPTED:** April 27, 2000

**ORDER ENTERED:** APR 28 2000

ANNEX A  
TITLE 52. PUBLIC UTILITIES  
PART I. PENNSYLVANIA PUBLIC UTILITY COMMISSION  
SUBPART C - FIXED SERVICE UTILITIES  
CHAPTER 54 – ELECTRIC GENERATION CUSTOMER CHOICE

Subchapter E. COMPETITIVE SAFEGUARDS

§54.121 Purpose.

The purpose of these competitive safeguards is to assure the provision of open DIRECT access on ~~comparable~~ EQUAL AND NON-DISCRIMINATORY terms to all customers and generation suppliers, prevent ~~unlawful~~ discrimination in rates, terms or conditions of service by electric distribution ~~utilities~~ COMPANIES, prevent the ~~unlawful~~ cross subsidization of service amongst customers, customer classes or between related electric distribution ~~utilities~~ COMPANIES and electric generation suppliers, to forbid unfair or deceptive practices by electric generation ~~utilities~~ COMPANIES and electric generation suppliers, and to establish and maintain an effective and vibrant competitive market in the purchase and sale of retail electric energy in the Commonwealth.

§54.122 Code of Conduct

All electric generation suppliers and electric distribution ~~utilities~~ COMPANIES shall comply with the following requirements:

(a)(1) An electric distribution company shall not give any Electric Generation Supplier, including without limitation its affiliate or division, any preference or advantage

over any other electric generation supplier in processing a request by a distribution company customer for retail generation supply service.

(b)(2) Subject to customer privacy or confidentiality constraints, an electric distribution company shall not give an electric generation supplier, including without limitation its affiliate or division, any preference or advantage in the dissemination or disclosure of customer information and any such dissemination or disclosure shall occur at the same time and in a comparable AN EQUAL AND NONDISCRIMINATORY manner. "Customer information" means all information pertaining to retail electric customer identity and current and future retail electric customer usage patterns, including appliance usage patterns, service requirements or service facilities.

(c)(3) No electric distribution company or electric generation supplier shall engage in false or deceptive advertising to customers with respect to the retail supply of electricity in the Commonwealth.

(d)(4) ~~An EACH electric distribution company shall, in cooperation with all stakeholders, establish and file with the Commission dispute resolution procedures to address alleged violations of this Code of Conduct~~ ADOPT THE FOLLOWING DISPUTE RESOLUTION PROCEDURES TO ADDRESS ALLEGED VIOLATIONS OF THIS CODE OF CONDUCT:

(I) REGARDING ANY DISPUTE BETWEEN AN ELECTRIC DISTRIBUTION COMPANY AND/OR A RELATED SUPPLIER AND AN ELECTRIC

GENERATION SUPPLIER (EACH INDIVIDUALLY REFERRED TO AS A  
"PARTY" AND COLLECTIVELY REFERRED TO AS "PARTIES"),  
ALLEGING A VIOLATION OF ANY OF THESE CODE OF CONDUCT  
PROVISIONS, THE ELECTRIC GENERATION SUPPLIER MUST PROVIDE  
THE ELECTRIC DISTRIBUTION COMPANY AND/OR RELATED  
SUPPLIER, AS APPLICABLE, A WRITTEN NOTICE OF DISPUTE WHICH  
INCLUDES THE NAMES OF THE PARTIES AND CUSTOMER(S), IF ANY  
INVOLVED AND A BRIEF DESCRIPTION OF THE MATTERS IN DISPUTE.

(II) WITHIN FIVE DAYS OF RECEIPT OF SUCH NOTICE BY THE  
ELECTRIC DISTRIBUTION COMPANY AND/OR RELATED SUPPLIER, A  
DESIGNATED SENIOR REPRESENTATIVE OF EACH OF THE PARTIES  
SHALL ATTEMPT TO RESOLVE THE DISPUTE ON AN INFORMAL BASIS.

(III) IN THE EVENT THE DESIGNATED REPRESENTATIVES ARE  
UNABLE TO RESOLVE THE DISPUTE BY MUTUAL AGREEMENT  
WITHIN THIRTY DAYS OF SUCH REFERRAL, THE DISPUTE SHALL BE  
REFERRED FOR MEDIATION THROUGH THE COMMISSION'S OFFICE OF  
ADMINISTRATIVE LAW JUDGE. A PARTY MAY REQUEST MEDIATION  
PRIOR TO THAT TIME IF IT APPEARS THAT INFORMAL RESOLUTION IS  
NOT PRODUCTIVE.

(IV) IF MEDIATION IS NOT SUCCESSFUL, THEN THE MATTER SHALL BE CONVERTED TO A FORMAL PROCEEDING BEFORE A COMMISSION ADMINISTRATIVE LAW JUDGE, AND THE PROSECUTING PARTIES SHALL BE DIRECTED TO FILE A FORMAL PLEADING IN THE NATURE OF A COMPLAINT, PETITION OR OTHER APPROPRIATE PLEADING WITH THE COMMISSION WITHIN 30 DAYS OR THE MATTER WILL BE DISMISSED FOR LACK OF PROSECUTION. ANY PARTY MAY FILE SUCH A COMPLAINT, PETITION OR OTHER APPROPRIATE PLEADING CONCERNING THE DISPUTE UNDER ANY RELEVANT PROVISION OF THE PUBLIC UTILITY CODE.

~~(e)~~(5) An electric distribution company shall not illegally tie the provision of any electric distribution service within the jurisdiction of the Pennsylvania Public Utility Commission: (a) to the purchase, lease or use of any other goods or services offered by the electric distribution company or its affiliates; or, (b) to a direct or indirect commitment not to deal with any competing electric generation supplier.

~~(f)~~(6) An electric distribution company shall not provide any preference or advantage to any electric generation supplier in the disclosure of information about operational status and availability of the distribution system.

(g)(7) An electric distribution company shall supply all regulated services and apply tariffs to non-affiliated electric generation suppliers in the same manner as it does for itself and its affiliated or division electric generation supplier, and shall uniformly supply all regulated services and apply its tariff provisions in a non-discriminatory manner.

(h)(8) Every electric distribution company and its affiliated or divisional electric generation supplier shall formally adopt and implement these provisions as company policy and shall take appropriate steps to train and instruct its employees in their content and application.

(i)(9) In the event that an electric distribution company customer requests information about electric generation suppliers, the electric distribution company shall provide the latest list as compiled by the Public Utility Commission to the customer over the telephone, or in written form or by other ~~comparable~~ EQUAL AND NONDISCRIMINATORY means. In addition, an electric distribution company may provide the address and telephone NUMBER of an electric generation supplier if specifically requested by the customer by name. To enable electric distribution companies to fulfill this obligation, the Commission shall maintain a written list of licensed electric generation suppliers. The Commission shall regularly update this list and provide such updates to electric distribution companies as soon as reasonably practicable. The Commission shall compile the list in a manner that is fair to all electric generation

suppliers and that is not designed to provide any particular electric generation supplier with a competitive advantage.

(j)(10) An electric distribution company or its affiliate or division shall not state or imply that any delivery services provided to an affiliate or division or customer of either are inherently superior, solely on the basis of their affiliation with the electric distribution company, to those provided to any other electric generation supplier or customer or that the electric distribution company's delivery services are enhanced should supply services be procured from its affiliate or division. WHEN AN ELECTRIC DISTRIBUTION COMPANY'S AFFILIATED OR DIVISIONAL SUPPLIER MARKETS OR COMMUNICATES TO THE PUBLIC USING THE ELECTRIC DISTRIBUTION COMPANY'S NAME OR LOGO, IT SHALL INCLUDE A DISCLAIMER STATING THAT THE AFFILIATED OR DIVISIONAL SUPPLIER IS NOT THE SAME COMPANY AS THE ELECTRIC DISTRIBUTION COMPANY, THAT THE PRICES OF THE AFFILIATED OR DIVISIONAL SUPPLIER ARE NOT REGULATED BY THE COMMISSION AND THAT A CUSTOMER IS NOT REQUIRED TO BUY ELECTRICITY OR OTHER PRODUCTS FROM THE AFFILIATED OR DIVISIONAL SUPPLIER IN ORDER TO RECEIVE THE SAME QUALITY SERVICE FROM THE ELECTRIC DISTRIBUTION COMPANY. WHEN AN AFFILIATED OR DIVISIONAL SUPPLIER ADVERTISES OR COMMUNICATES THROUGH RADIO, TELEVISION OR OTHER ELECTRONIC MEDIUM TO THE PUBLIC USING THE

ELECTRIC DISTRIBUTION COMPANY'S NAME OR LOGO, THE AFFILIATED OR DIVISIONAL SUPPLIER SHALL INCLUDE AT THE CONCLUSION OF ANY SUCH COMMUNICATION A DISCLAIMER THAT INCLUDES ALL OF THE DISCLAIMERS LISTED IN THIS PARAGRAPH.

~~(4)(11)~~ Any electric distribution company which is related ~~by affiliation or by other form of control to~~ AS AN AFFILIATE OR DIVISION OF an electric generation supplier or transmission supplier (meaning any public utility that owns, operates, or controls facilities used for the transmission of electric energy) which serves any portion of the Commonwealth of Pennsylvania; and any electric generation supplier which is related ~~by affiliation or other form of control to~~ AS AN AFFILIATE OR DIVISION OF any electric distribution company or transmission supplier which serves any portion of the Commonwealth, shall insure that its employees function independently of such other related companies, as follows:

~~(1)(I) Employees of electric generation suppliers shall not conduct any transmission system or distribution system operations or system reliability functions.~~

~~(2)(II) Employees of electric generation suppliers shall not consult or discuss with employees of any related electric distribution company or transmission supplier with regard to current or future operations of their own or related companies.~~

~~except to the extent that such consultation is part of a process open to the public and expressly sanctioned by the Commission by written order.~~

~~(3)(III) Employees of electric distribution companies shall not consult or discuss with electric generation suppliers or transmission supplier with regard to current or future operations of their own or related companies, except to the extent that such consultation is part of a process open to the public and OR expressly sanctioned and supervised by the Commission by written order.~~

~~(4)(IV) Employees of electric generation suppliers shall not provide to, obtain from or accept information from any related transmission supplier, except such information as is comparably available to its competitors. No employee of an electric generation supplier shall have access to the system control center or similar facility of any related transmission supplier or electric distribution utility in any manner that differs from access available to other electric generation suppliers.~~

~~(5)(V) Electric distribution utilities subject to the jurisdiction of the Commission which are related to electric generation suppliers and transmission suppliers shall maintain books and records, communications systems, information systems and accounting systems separately from such related companies.~~

~~(6)(VI) Employees of related electric generation suppliers, electric distribution utilities or transmission suppliers shall not transfer between such functions so as to circumvent the provisions of this section.~~

~~(L) (12) In any complaint or other proceeding against a electric distribution utility or electric generation supplier brought under the provisions of 66 Pa.C.S. §2811(f) or any successor provision, it shall be a defense in mitigation of penalties to the extent relevant to the issues in the that the respondent has adequately and physically separated its offices, communications and accounting systems, information systems, lines of authority and operations from its related electric distribution company, electric generation supplier or transmission supplier in order to prevent such violation and that the respondent has actively and effectively enforced this subsection.~~



PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG, PENNSYLVANIA

THE CHAIRMAN

May 8, 2000

The Honorable John R. McGinley, Jr.  
Chairman  
Independent Regulatory Review Commission  
14th Floor, Harristown II  
333 Market Street  
Harrisburg, PA 17101

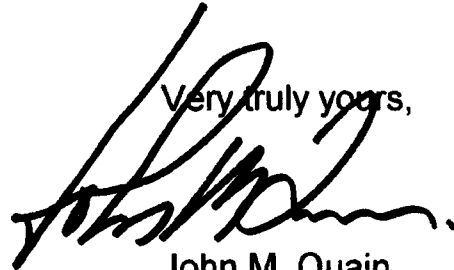
Re: L-980132/57-195  
Final Rulemaking  
Establishment of Competitive Safeguards for  
the Pennsylvania Electric Industry  
52 Pa. Code Chapter 54

Dear Chairman McGinley:

Enclosed please find one (1) copy of the regulatory documents concerning the above-captioned rulemaking. Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission, on April 28, 1998, submitted a copy of the Notice of Proposed Rulemaking to the House Committee on Consumer Affairs, the Senate Committee on Consumer Protection and Professional Licensure and to the Independent Regulatory Review Commission (IRRC). This notice was published at 28 Pa.B. 2139, on May 9, 1998. In compliance with Section 745.5(b.1) copies of all comments received were provided to your Commission and the Committees

In preparing this final form rulemaking, the Public Utility Commission has considered all comments received from the Committees, IRRC and the public.

Very truly yours,

A handwritten signature in black ink, appearing to read 'John M. Quain', written over the closing 'yours,'.

John M. Quain  
Chairman

Enclosures

cc: The Honorable Clarence D. Bell  
The Honorable Lisa Boscola  
The Honorable Chris R. Wogan  
The Honorable Keith McCall  
Legislative Affairs Director Perry  
Chief Counsel Pankiw  
Regulatory Coordinator DelBiondo  
Assistant Counsel Levin  
Mr. Zogby

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT  
TO THE REGULATORY REVIEW ACT

RECEIVED

2000 MAY -8 AM 10:21

ID Number: L-00980132/57-195

Subject: Establishment of Competitive Safeguards for the  
Pennsylvania Electric Industry

INDEPENDENT REGULATORY  
REVIEW COMMISSION

Pennsylvania Public Utility Commission

TYPE OF REGULATION

- ☐ Proposed Regulation
- ☐ Final Regulation with Notice of Proposed Rulemaking Omitted.
- ☒ Final Regulation
- ☐ 120-day Emergency Certification of the Attorney General
- ☐ 120-day Emergency Certification of the Governor

FILING OF REPORT

Date	Signature	Designation
5/8/00	<u>Suzanne Keph</u>	HOUSE COMMITTEE Consumer Affairs
5/8/00	<u>Tammy Weaver</u>	SENATE COMMITTEE Consumer Protection and Professional Licensure
5-8-00	<u>Jessica Vaillancourt</u>	Independent Regulatory Review Commission
		Attorney General
		Legislative Reference Bureau