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1996 Decisions

Opinions of the United  
States Court of Appeals  
for the Third Circuit

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10-1-1996

## Kurz v. Phila Elec Co

Precedential or Non-Precedential:

Docket 95-1795,95-1796

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UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

No. 95-1795 and 95-1796

DONALD R. KURZ; WILLIAM ANDERSON; JAMES E.W.  
BECK; WILLIAM T. BERGEN; CHARLES W. BOWDEN;  
WILLIAM H. BROWN; RICHARD CAHILL; ARMANDO L. CAPOFERRI;  
ROBERT C. DEMARCO; JAMES J. DILOLLE, SR.; VINCENT J.  
DIMAGGIO; JOHN J. DIVALENTINO, JR.; WILLIAM E. DRUMEL;  
VICTOR J. GIBIALANTE; FRANCIS T. GOLDEN; JAMES J.  
GRANGER; ELMER D. GREIM, JR.; JAMES H. HAIR; JOHN M.  
HOOPES; BENJAMIN J. KILIAN; GEORGE C. LINTHICUM;  
HUBERT A. MCKOWN, JR.; HENRY P. MCNAMEE;  
OLIVER K. MESSNER; ROBERT E. MILLER; JOHN A. MORSE;  
SAMUEL J. MULLEN; JOHN A. MUNLEY; STANLEY B. MYERS;  
JOHN J. NUSSPICKEL; JAMES W. PATTERSON; ALFRED B.  
SCHUMANN; JOSEPH C. SHARKEY; WILLIAM H. SMOYER;  
WOODROW E. SNYDER; JAMES D. SUTLIFF; EDWARD J. VETNER;  
DOMINIC C. VIGLIANESE; G. EARLE WATT; FREDERICK  
W. WINTERLING; JOHN R. YOUNG

v.

PHILADELPHIA ELECTRIC COMPANY; SERVICE ANNUITY  
PLAN OF PHILADELPHIA ELECTRIC COMPANY; CHARLES L.  
FRITZ; J.L. EVERETT, III; JOHN H. AUSTIN, JR.

JOHN J. DIVALENTINO, JR., WILLIAM E. DRUMEL;  
JOHN A. MORSE; SAMUEL J. MULLEN; STANLEY B. MYERS;  
DOMINIC C. VIGLIANESE; JAMES J. DILOLLE; BENJAMIN  
J. KILIAN; CHARLES W. BOWDEN; ELMER D. GREIM, JR.;  
FREDERICK W. WINTERLING; JAMES W. BECK; JAMES H. HAIR;  
ROBERT C. DEMARCO; ALFRED G. SCHUMANN; RICHARD CAHILL;  
JAMES W. PATTERSON; JOHN M. HOOPES; HUBERT A. MCKOWN,  
JR.; ROBERT E. MILLER; JAMES D. SUTLIFF; HENRY P.  
MCNAMEE; FRANCIS T. GOLDEN; WILLIAM T. BERGEN;  
GEORGE C. LINTHICUM; WILLIAM W. ANDERSON; JOHN R.  
YOUNG; VINCENT J. DIMAGGIO; SHIELDS L. DALTROFF;  
RICHARD O. FOLKMAN; ALFRED E. STAVOLA; ROBERT H.C.  
LESS; SAMUEL E. BELL; DONALD F. WASHINGTON; FRANK  
J. GALLAGHER; MAURICE M. PEITZMAN; HARRY G. TURNER,  
JR.; ROBERT I. FRIEND; DONALD C. ROBINSON;  
WILLIAM J. LEAMAN, JR.; AUGUSTUS W. O'MALLEY; DALLAS  
S. SCOTT, JR.; JOHN S. STILLWAGON; ROBERT C. HECKESSER;  
WILLIAM R. TRAVETTI; WILLIAM B. HORLOCK; JAMES STATES;  
THOMAS W. RAYER; JOHN H. VONRHINE; WALTER ALLWOERDEN;  
GEORGE C. WIEDERSUM, JR.; JAMES R. MCCARRON; SALVATOR  
J. DESTEFANO; JOHN C. GARVIN; A. WILLIAM LANCASTER;  
JOSEPH A. FOCHT; ROBERT MITCHELL; JOSEPH P. SUBRANNI;

JOHN F. CRAWFORD; WILLIAM G. TAYLOR; KENNETH R. SEDGLEY,  
JR., IRWIN G. BLACKBURN; CHARLES R. CAREY; JOHN R. YOUNG;  
JESSEE E. GRAY, JR.; JAMES D. DERSTINE; ALLEN H. BRAID;  
PAUL L. THOMAS; STEPHEN MICKLOSH, JR.; WILLIAM L. GIBBONS;  
RUSSELL B. MURRAY; ROLAND J. MARKUN; ERNEST W. BEAM;  
RAYMOND W. SCHOLL, JR.; JOHN F. PARKER; JOSEPH F. MCBRIDE;  
VINCENT S. BOYER; MARTIN M. MORGAN and DAVID MONZO,

Appellants in 95-1795

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DONALD R. KURZ; WILLIAM ANDERSON; JAMES E.W.  
BECK; WILLIAM T. BERGEN; CHARLES W. BOWDEN;  
WILLIAM H. BROWN; RICHARD CAHILL; ARMANDO L. CAPOFERRI;  
ROBERT C. DEMARCO; JAMES J. DILOLLE, SR.; VINCENT J.  
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PHILADELPHIA ELECTRIC COMPANY; SERVICE ANNUITY  
PLAN OF PHILADELPHIA ELECTRIC COMPANY; CHARLES L.  
FRITZ; J.L. EVERETT, III; JOHN H. AUSTIN, JR.

Peco Energy Company, formerly  
Known as Philadelphia Electric  
Company, Service Annuity Plan of  
Philadelphia Electric Company,  
Charles L. Fritz, J.L. Everett,  
III and John H. Austin, Jr.

Appellants in 95-1796.

On Appeal from the United States District Court  
for the Eastern District of Pennsylvania  
(D.C. Civil Action No. 91-cv-02771)

Argued April 29, 1996

Before: COWEN and ROTH, Circuit Judges  
and CINDRICH, District Judge

ORDER AMENDING SLIP OPINION

IT IS ORDERED that the slip opinion in the above case,  
filed on October 1, 1996, be amended as follows:

On page 5, line 13, add an "s" to the word "defendant"  
and delete the name "PECo".

On page 18, Section III, delete the last sentence and  
replace it with the following sentence:

We will therefore reverse the district  
court's judgment and enter judgment on behalf  
of all defendants.

By the Court,

/s/ Jane R. Roth  
Circuit Judge

Dated: October 1, 1996