

ORIGINAL

PRESTON GATES ELLIS &
ROUVELAS MEEDS, LLP
ATTORNEYS

September 24, 1997

Via Hand Delivery

Mr. James McNulty, Prothonotary
Pennsylvania Public Utility Commission
North Office Building
North Street and Commonwealth Avenue
Harrisburg, PA 17105-3265

DOCUMENT
FOLDER

PA P.U.C.
PROTHONOTARY'S OFFICE

97 SEP 24 AM 9:39

RECEIVED
KJR

Re: Application of PP&L, Inc. For Approval of Its Restructuring Plan Under
Section 2806 of the Public Utility Code, Docket No. -00973954;
Objection of PP&L, Inc. to Petition to Intervene of QST Energy Inc.

Dear Mr. McNulty:

Enclosed for filing in the above-captioned proceeding are an original and
three (3) copies of the Objection of PP&L, Inc. to Petition to Intervene of QST
Energy Inc.

Upon receipt of this filing, please date and time-stamp the extra copy of this
letter to reflect a filing date of September 24, 1997. If you have any questions
regarding this filing, please call.

Respectfully submitted,



Donald A. Kaplan
Counsel for PP&L, Inc.

Enclosures

cc: Certificate of Service

62

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of PP&L, Inc. For Approval of Its :
Restructuring Plan Under Section 2806 of :
the Public Utility Code :

Docket No. R-00973954

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OBJECTION OF PP&L, INC. TO
PETITION TO INTERVENE OF QST ENERGY INC.

DOCKETED

SEP 24 1997

Pursuant to 52 Pa. Code § 5.66, PP&L, Inc. ("PP&L")¹ hereby objects to the
Petition to Intervene of QST Energy Inc. ("QST") and as grounds therefor states:

1. PP&L filed an application for approval of its Restructuring Plan on
April 1, 1997. Pursuant to the April 29, 1997 Interim Order of Administrative Law
Judge Kashi, evidentiary hearings in this proceeding began on August 18, 1997
and concluded on August 29, 1997. The record in this proceeding closed on
September 9, 1997.

2. QST filed its Petition to Intervene on September 4, 1997, five
months after PP&L filed its application for approval of its Restructuring Plan and
after the conclusion of the evidentiary hearings in this proceeding.

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¹ Pennsylvania Power & Light Company amended its Articles of Incorporation on
September 12, 1997, to change the name of the corporation to PP&L, Inc.

3. Under the Rules of Administrative Practice and Procedure of the Pennsylvania Public Utility Commission (“Commission”), “[i]ntervention will not be permitted once an evidentiary hearing has concluded absent extraordinary circumstances.” 52 Pa. Code § 5.74(a). QST has failed to allege extraordinary circumstances that would warrant the granting of its intervention at such a late stage in this proceeding.

4. In support of its petition to intervene, QST alleges that it filed an application with the Commission for approval to furnish electricity and electric generation services as a marketer within Pennsylvania and that it is “uniquely” qualified to comment in this proceeding from the perspective of a power marketer who has participated in electric restructuring in another state. Petition to Intervene of QST Energy Inc. at 2. However, the same can be said of several other parties who filed timely petitions to intervene and have been active participants in this proceeding. QST’s interest are thus adequately protected by the parties that filed timely petitions to intervene.

5. Given that the record in this proceeding is closed and that QST has asserted that it “raises no issues regarding the record in this proceeding to date,” Petition to Intervene of QST Energy Inc. at 3, it appears unlikely that QST will be harmed if the Commission denies its petition to intervene. On the other hand, granting QST’s petition will at best complicate and at worse delay the resolution of this proceeding without any stated benefit to the public interest or to any specifically identified interest.

WHEREFORE, PP&L respectfully requests that the Commission deny
QST's petition to intervene.

Dated: September 24, 1997

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul E. Russell", written over a horizontal line.

Paul E. Russell
Associate General Counsel
PP&L, Inc.
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(610) 774-4254

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Lisa M. Helpert
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& Rouvelas Meeds LLP
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Washington, DC 20006
(202) 628-1700

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of PP&L, Inc. For Approval of Its :
Restructuring Plan Under Section 2806 of : Docket No. R-00973954
the Public Utility Code :
:

CERTIFICATION OF SERVICE

I hereby certify that on September 24, 1997, I served a true copy of the
Objection of PP&L, Inc. to the Petition to Intervene of QST Energy Inc. upon the
active participants listed below via U.S. mail in accordance with the requirements
of §1.54 (relating to service by a participant):

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Stephanie A. Sugrue, Esq.
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for QST Energy Inc.

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for Mid-Atlantic Power Supply Assoc.

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for PA Utility Law Project

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Metal Industries, Inc.*

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for Comm'n on Economic Opportunity

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Lisa M. Helpert

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September 25, 1997

VIA HAND DELIVERY

Mr. Jim McNulty
Acting Prothonotary
Pennsylvania Public Utility Commission
North Office Building - Room B20
Harrisburg, PA 17105-3265

KJR

PROTHONOTARY'S OFFICE
97 SEP 25 PM 3:35
RECEIVED

Re: Name Correction in Docket Nos. R-00973981, R-00974104, R-00973954, R-00974008, R-00974009, R-00973953, P-00971160, P-00971169, P-00971170, P-00971172, P-00971175, and P-00971183

Dear Prothonotary McNulty:

Enclosed for filing are an original and 3 copies of the Request for Change in Service List of QST Energy Inc. in the above-referenced proceedings. Please have the remaining 2 copies date stamped and returned to the messenger for delivery to us.

Thank you for your attention to this matter.

Very truly yours,

Stephanie A. Sugrue

Stephanie A. Sugrue
for DUANE, MORRIS & HECKSCHER LLP

SAS:hbj

DOCUMENT
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102

DUANE, MORRIS & HECKSCHER LLP

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September 25, 1997

VIA HAND DELIVERY

Mr. Jim McNulty
Acting Prothonotary
Pennsylvania Public Utility Commission
North Office Building - Room B20
Harrisburg, PA 17105-3265

Re: Request for Change in Service List

Dear Prothonotary McNulty:

On behalf of QST Energy, Inc., please make the following correction to the service list in Docket Nos. R-00973981, R-00974104, R-00973954, R-00974008, R-00974009, R-00973953, P-00971169, P-00971169, P-00971170, P-00971172, P-00971175, and P-00971183:

Vickiren S. Aeschleman is the correct name spelling of QST Energy Inc.'s contact.

Thank you for your attention to this matter.

Very truly yours,

Stephanie A. Sugrue
for DUANE, MORRIS & HECKSCHER LLP

SAS:bj

cc: All Parties of Record

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PROTHONOTARY'S OFFICE

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OCT 01 1997

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September 25, 1997

KJR

Paul E. Russell
Associate General Counsel
Pennsylvania Power & Light Company
Two North Ninth Street
Allentown, PA 18101

RE: Pennsylvania Public Utility Commission v. Pennsylvania Power & Light
Company - Application for Approval of its Restructuring Plan under Section 2806 of the
Public Utility Code at Docket No. R-00973954

Dear Paul:

Enclosed is an executed copy of the Interim Order regarding the Confidentiality
Agreement issued in the above-captioned proceeding. The agreement has been
executed by myself on behalf of the Center for Energy and Economic Development
(CEED). I have sent a copy of this executed agreement to all the individuals named on
the attached service list.

Sincerely,


Susan M. Shanaman

cc: Honorable George M. Kashi
James J. McNulty, Prothonotary (transmittal letter and Certificate of Service
only)
Cerificate of Service

DOCUMENT
FOLDER

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the following persons by first class mail, postage prepaid.

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Susan M. Shanaman

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Dated: September 25, 1997

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ROBERT A. WEISHAAR, JR.
DERRICK P. WILLIAMSON
JOHN A. WITHEROW, JR.
KATHLEEN A. WOLOWSKI
WILLIAM D. WRIGHT
SAMUEL S. YUN

KJR

October 6, 1997

Honorable George M. Kashi
Administrative Law Judge
Pennsylvania Public Utility Commission
Room G-08, North Office Building
Harrisburg, PA 17120

VIA HAND DELIVERY

**Re: Pennsylvania Public Utility Commission v. Pennsylvania Power & Light Company -
Application of Pennsylvania Power & Light Company for Approval of Its
Restructuring Plan under Section 2806 of the Public Utility Code;
Docket No. R-00973954**

011196

Dear Judge Kashi:

Our understanding is that the only remaining large customer active participants in the above-captioned proceeding are the PP&L Industrial Customer Alliance ("PPLICA") and the Department of Defense and Federal Executive Agencies ("DOD"). After conferring with counsel for DOD, we believe that all issues addressed in our respective cases can be briefed in 85 pages or less. PPLICA presented substantial direct, rebuttal, and surrebuttal testimony and accompanying exhibits. In order to adequately present this information in a meaningful and useful fashion for Your Honor, we believe that this page limit would be sufficient.

Very truly yours,

McNEES, WALLACE & NURICK

By *David M. Kleppinger*
David M. Kleppinger

DOCKETED

OCT 14 1997

RECEIVED
NOTHONOTARY'S OFFICE
97 OCT -7 AM 8:08

**DOCUMENT
FOLDER**

DMK/dt

c: All parties of record
James J. McNulty, Acting Secretary

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing Letter upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA FIRST CLASS MAIL

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Docket No. R-00973954

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Counsel to PP&L Industrial Customer Alliance

Dated this 6th day of October, 1997, at Harrisburg, Pennsylvania.

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VIA FEDERAL EXPRESS
James J. McNulty, Prothonotary
PA Public Utility Commission
North Office Building, Room B-20
Harrisburg, PA 17120

RE: **In the Matter of Pennsylvania Power & Light Company's Restructuring Plan; Docket No. R-00973954**

Dear Mr. McNulty:

Enclosed for filing are an original and 10 copies of *The Quaker Oats Company's and Mount Joy Wire Corporation's Supplemental Consolidated Exceptions to the Initial Decision of ALJ George Kashi Denying Their Petitions to Intervene*. Please time stamp one copy and return in the envelope provided. Thank you.

Very truly yours,

POWELL, TRACHTMAN, LOGAN, CARRLE,
BOWMAN & LOMBARDO, P.C.

By 
David W. Francis

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Enclosures
cc: Service List

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BEFORE THE PUBLIC UTILITY COMMISSION

IN THE MATTER OF PENNSYLVANIA POWER & LIGHT COMPANY'S RESTRUCTURING PLAN	DOCKET NO. 00973954 OCT 6 1997 PA PUBLIC UTILITY COMMISSION PROTHONOTARY'S OFFICE
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**THE QUAKER OATS COMPANY'S AND MOUNT JOY WIRE CORPORATION'S
SUPPLEMENTAL CONSOLIDATED EXCEPTIONS TO THE INITIAL DECISION OF
ALJ GEORGE KASHI DENYING THEIR PETITION TO INTERVENE**

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I. INTRODUCTION.

On August 18, 1997, from the bench, Administrative Law Judge George M. Kashi ("the ALJ") rendered an initial decision denying The Quaker Oats Company's ("Quaker") and Mount Joy Wire Corporation's ("Mount Joy") motions to intervene in PP&L's restructuring plan. Subsequently, on September 8, 1997 Quaker and Mount Joy filed timely exceptions to the ALJ's initial decision, specifically addressing each basis for the ALJ's denial. In response, on September 12, 1997 the ALJ rendered a *written* initial decision purportedly memorializing the decision. That decision, however, offered a new basis for denying Quaker's and Mount Joy's motions. Specifically, the ALJ found that the "interruptible problem" was adequately addressed by the other parties in the action in the following excerpt:

The parties concern that we will not look at the interruptible problem without them is unfounded. The parties that are concerned with interruptible power are well represented.

(Op. at 2).

Quaker and Mount Joy take exception to this finding. Accordingly, we submit the following Supplemental Exceptions.

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II. SUPPLEMENTAL EXCEPTIONS

A. The hearings did not examine PP&L's proposal to modify the language of the 500 MW cap.

Contrary to the ALJ's findings, Quaker's and Mount Joy's concern that the active participants would not examine PP&L's proposal to modify the 500 MW cap without their participation was extremely well founded. In fact, this concern has been borne out by the record. Specifically, the active parties to the proceeding did not address any aspect of PP&L's proposal to modify the 500 MW cap. This record, which speaks for itself, reveals the following:

- Not a single question was asked of any witness regarding PP&L's proposal to modify the language of the 500 MW cap, or its justification for doing so.
- No evidence was introduced to challenge PP&L's proposal to modify the language of the 500 MW cap, or its justification for doing so.

In summary, PP&L's proposal was entirely unchallenged. Quaker and Mount Joy respectfully request the Commission review the record and draw its own conclusions.

Moreover, the record also reveals that in the absence of Quaker and Mount Joy, the active participants ignored compelling evidence which flatly contradicts PP&L's claim that it has always calculated interruptible power according to its preferred method.¹ This evidence, which is described in the Quakers' and Mount Joy's consolidated exceptions filed on September 8, 1997 reflect that PP&L has calculated the 500 MW cap according to the method set forth in the tariff, and informed Caradon Mideast Aluminum that it was below the 500 MW cap in February, 1996.²

¹This comment is not meant to cast aspersions upon all of the active participants, many of which have no interest in how the 500 MW cap is calculated.

²According to PP&L's preferred method of calculating interruptible power, it would have been above the 500 MW cap in February, 1996.

None of this evidence was addressed in the hearings before the ALJ. Accordingly, it appears that in the absence of Quaker and Mount Joy, the active participants certainly did not consider PP&L's proposal in a substantive way.

B. Quaker's and Mount Joy's interests were not well represented.

The ALJ erred in concluding that "The parties that are concerned with interruptible power are well represented." As an initial matter, the ALJ does not define who the parties concerned with interruptible power are. If this was meant to include Quaker and Mount Joy, the discussion above reflects that their interests were not well represented. If the ALJ meant to exclude Quaker and Mount Joy for the parties concerned with interruptible power, this exclusion only proves the point that Quaker and Mount Joy's interests were not represented.

Even assuming the Quaker and Mount Joy are among those parties concerned with interruptible power, the ALJ does not define who allegedly represents them well. The two most obvious parties would be PPLICA and the Office of Small Business Advocate; however as pointed out in *The Quaker Oats Company's and Mount Joy Wire Corporations Motion to Reconsider the Denial of Their Petitions to Intervene*, neither of those parties intended to cross examine PP&L on the 500 MW cap issue. This is set forth at paragraph 26 as follows:

Quaker Oats and Mount Joy's interest will not be adequately protected by the current parties. Pursuant to the comments made by the Honorable ALJ George M. Kashi at the third prehearing conference regarding the need for "lead counsel," counsel for Quaker and Mount Joy telephoned counsels for PPLICA and the Office of Small Business Advocate to ascertain whether they would perform any cross-examination relating to the proposed change to the 500 MW cap. It was mutually agreed that Quaker Oats and Mount Joy would perform this cross-examination.

(See *Appendix* at Exhibit K). Thus it is unclear who the ALJ is referring to as representing those

interested in interruptible power.

Finally, even if the Commission were to find that Quaker's and Mount Joy's interests were represented by some entity, these interests were clearly not represented well. As pointed out above, PP&L's proposal to modify the language for calculating the 500 MW cap went completely unchallenged.

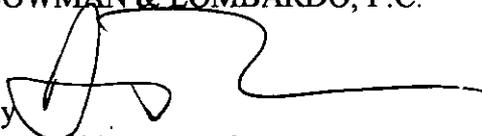
Moreover, and much more troubling, is that the ALJ knew that PP&L's proposal had gone entirely unchallenged by any other party when denied Quaker's and Mount Joy's motions for reconsideration, and knew that PPLICA and the Office of Small Business Advocate had agreed that Quaker and Mount Joy would perform the cross examination of PP&L's witnesses on this point. As of August 28, 1997, the cross examination of PP&L's witnesses had concluded without any questioning on the 500 MW cap issue. Thus, by denying Quaker's and Mount Joy's motions, the ALJ virtually ensured that PP&L would be successful in its proposal because it was uncontested.

III. CONCLUSION

Based upon the arguments presented in Quaker's and Mount Joy's original exceptions, and these supplemental exceptions, the Commission should reverse the Initial Decision of ALJ Kashi, and grant the Petitions to Intervene. In addition, the matter should be remanded to the Office of Administrative Law Judge for further hearings.

Respectfully Submitted

POWELL, TRACHTMAN, LOGAN, CARRLE,
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I hereby certify that on October 6, 1997, a copy of the within document was served upon the following person(s) by first class U.S. Mail, postage prepaid.

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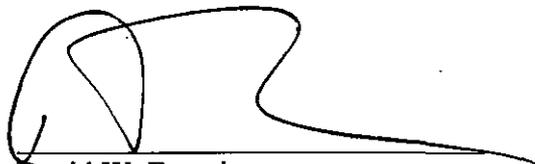
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PA PUBLIC UTILITY COMMISSION
PROTHONOTARY'S OFFICE

**Re: Pennsylvania Power & Light Company
Restructuring Plan
Docket No. R-00973954**

Dear Mr. McNulty:

Enclosed for filing in the above-referenced proceeding are an original and three copies of the Petition of PP&L, Inc. to Amend the Procedural Schedule.

As shown below and on the attached Certificate of Service, a copy of this petition has been served via facsimile on Administrative Law Judge George M. Kashi and on all active parties in the proceeding.

If you have any questions regarding this matter, please call.

Very truly yours,

Paul E. Russell
Paul E. Russell *by BAK*

Enclosure

cc: The Honorable George M. Kashi
Certificate of Service

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44

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Pennsylvania Power & Light :
Company For Approval of Restructuring : Docket No. R-00973954
Plan Under Section 2806 of the Public Utility :
Code :

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PETITION OF PP&L, INC.
TO AMEND THE PROCEDURAL SCHEDULE

OCT 15 1997

PA PUBLIC UTILITY COMMISSION
PROTHONOTARY'S OFFICE

Pursuant to 52 Pa. Code § 5.41, PP&L, Inc. ("PP&L" or the "Company")

hereby requests that the Commission extend the date by which the Commission will accept, modify, or reject PP&L's Restructuring Plan in the above-captioned proceeding as set forth and explained herein. The effect of this amendment would be to change the date for a final Commission order in this proceeding from February 5, 1998, to March 26, 1998. In support of this request, PP&L states as follows:

1. At a prehearing conference in this matter, the parties agreed to a procedural schedule that provided for a Commission final order in this matter on January 8, 1998. As part of that agreement, the Company specifically waived the requirement in Section 2806(F) of the Electricity Generation Competition and Customer Choice Act ("Act") that the Commission issue an order accepting, modifying, or rejecting a restructuring plan no later than nine months after its

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filing. On April 29, 1997, the presiding Administrative Law Judge issued an order in this proceeding adopting this procedural schedule.

2. In accordance with that procedural schedule, evidentiary hearings were held in this matter between August 18 and August 29, 1997. During the course of the hearings, the presiding Administrative Law Judge directed the intervening parties to meet and attempt to develop a consolidated settlement proposal.

3. On September 10, 1997, the intervening parties presented a joint settlement proposal to PP&L. Thereafter, PP&L met individually with several of the intervening parties sponsoring that proposal, and held a joint meeting with all of the active intervening parties on October 9, 1997.

4. On September 10, 1997, with the support of several active intervening parties, PP&L requested that the procedural schedule in this proceeding be extended by thirty days "to provide sufficient time for PP&L to review any settlement proposal and develop counter proposals as appropriate." That extension was granted on September 12, 1997.

5. A further extension of the schedule is now appropriate to permit the parties to discuss fully alternative settlement proposals that are before them and to consider carefully the possibility of reaching a broad settlement that addresses the interests of all active parties.

6. At the October 9, 1997 settlement meeting, all participants agreed that it would be appropriate to extend the procedural schedule for approximately 45 days to permit further settlement discussions. The attached schedule is designed to accomplish such an extension within the limits of the calendar.

7. To the extent necessary to accommodate such a schedule extension, PP&L waives the requirement of Section 2806(F) of the Act that the Commission issue an order accepting, modifying, or rejecting a restructuring plan no later than nine months after its filing.

8. The proposed extension of the procedural schedule is in the public interest because it will facilitate discussions that could lead to a full or partial settlement of this matter. Because of the breadth and complexity of the issues and positions of the parties in this proceeding, substantial resources must be devoted to the settlement discussions if there is any possibility that they will be successful. This may not be possible if the parties must focus their attention on the drafting post-hearing briefs and reply briefs.

9. In addition, as the Commission is aware, the parties have been devoting substantial resources to the implementation of PP&L's Pilot Program at Docket No. P-00971183. Numerous critical details of implementation are being addressed — a situation that will continue for several weeks and beyond. These critical details have included the development, jointly with the Commission, of a plan to provide retail transmission service to participating customers. That plan

was filed with the Federal Energy Regulatory Commission on Friday, October 3, 1997.

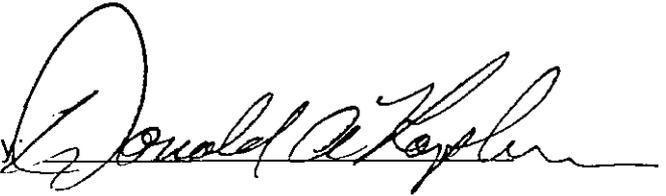
10. PP&L recognizes that, if its request is granted, interim deadlines in the procedural schedule would need to be adjusted. Accordingly, the Company has developed a proposed revised schedule as set forth in Attachment A. That schedule follows, as closely as possible, the design of the procedural schedule originally established in this proceeding. Accordingly, if the Commission grants the Company's request to extend the date by which the Commission will accept, modify, or reject its Restructuring Plan and related procedural dates by 45 days, the Company further requests that the presiding Administrative Law Judge adopt the proposed revised procedural schedule set forth in Attachment A.

WHEREFORE, PP&L respectfully requests that the Commission extend the date by which it will accept, modify, or reject PP&L's Restructuring Plan in the above-captioned proceeding as set forth herein.

Respectfully submitted,

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(610) 774-4254

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By 

Dated: October 15, 1997.

ATTACHMENT A

PENNSYLVANIA POWER & LIGHT COMPANY
DOCKET NO. R-00973954

PROPOSED REVISED PROCEDURAL SCHEDULE

Current Date	Proposed Date	Day	Extension	Current Response Interval	Proposed Response Interval	Activity
October 24	December 3	Wednesday	40			Initial Post-Hearing Briefs
November 13	December 23	Tuesday	40	20	20	Post-Hearing Reply Briefs
December 12	January 26	Monday	45	29	34	Recommended Decision
December 23	February 6	Friday	45	11	11	Exceptions
January 6	February 20	Friday	45	14	14	Replies to Exceptions
January 22	March 12	Thursday	49	16	20	Commission Polling
February 5	March 26	Thursday	49	14	14	Commission Order

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Pennsylvania Power & :
Light Company For Approval of Its : Docket No. R-00973954
Restructuring Plan Under Section 2806 :
of the Public Utility Code :

CERTIFICATION OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing documents upon the participants, listed below, in accordance with the requirements of §1.54 (relating to service by a participant):

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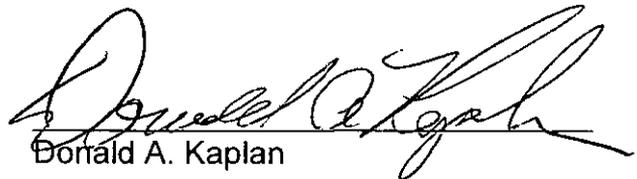
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Dated: October 15, 1997



Donald A. Kaplan



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Pennsylvania Power & Light Company

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Paul E. Russell
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KJR

DOCUMENT
FOLDER

October 16, 1997

FEDERAL EXPRESS

James J. McNulty, Prothonotary
Pennsylvania Public Utility Commission
North Office Building
North Street and Commonwealth Avenue
Harrisburg, PA 17105-3265

RECEIVED

OCT 16 1997

PA PUBLIC UTILITY COMMISSION
PROTHONOTARY'S OFFICE

**Re: Pennsylvania Power & Light Company
Restructuring Plan
Docket No. R-00973954**

Dear Mr. McNulty:

Enclosed for filing on behalf of PP&L, Inc. are an original and three (3) copies of "Reply of PP&L, Inc. to Supplemental Consolidated Exceptions of the Quaker Oats Company and Mount Joy Wire Corporation to the Initial Decision of ALJ George Kashi Denying Their Petitions to Intervene."

As indicated on the attached certificate of service, I have served copies of the enclosed documents by first class mail on all active parties in this proceeding.

Pursuant to 52 Pa. Code § 1.11, the enclosed document is to be deemed filed on October 16, 1997, which is the date it was deposited with an overnight express delivery service as shown on the delivery receipt attached to the mailing envelope.

In addition, please date and time-stamp the enclosed extra copy of this letter and return it to me in the envelope provided.

59

James J. McNulty, Esquire

- 2 -

October 16, 1997

If you have any questions regarding this matter, please call.

Very truly yours,

A handwritten signature in cursive script that reads "Paul E. Russell".

Paul E. Russell

Enclosures

cc: The Honorable George M. Kashi
Certificate of Service

RECEIVED

OCT 16 1997

PA PUBLIC UTILITY COMMISSION
PROTHONOTARY'S OFFICE

ORIGINAL RECEIVED

OCT 16 1997

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
PROTHONOTARY'S OFFICE

Re: Restructuring Plan of
Pennsylvania Power &
Light Company :
: Docket No. R-00973954
:

REPLY OF PENNSYLVANIA POWER & LIGHT COMPANY
TO SUPPLEMENTAL CONSOLIDATED EXCEPTIONS OF
THE QUAKER OATS COMPANY AND MOUNT JOY WIRE CORPORATION
TO THE INITIAL DECISION OF ALJ GEORGE KASHI
DENYING THEIR PETITIONS TO INTERVENE

I. INTRODUCTION

On August 18, 1997, Administrative Law Judge ("ALJ") George M. Kashi issued a decision on the record denying the Petitions of The Quaker Oats Company ("Quaker Oats") and Mount Joy Wire Corporation ("Mount Joy") to Join as a Party to the Interventions of Caradon Mideast Aluminum and Metal Industries, Inc.¹ On August 19, 1997, Quaker Oats and Mount Joy filed a Motion to Reconsider the Denial of their Joinder Petitions. ALJ Kashi denied the Motion to Reconsider on August 28, 1997.

DOCUMENT
FOLDER

DOCKETED
OCT 20 1997

¹ The Company refers collectively to Quaker Oats, Mount Joy, Caradon Mideast Aluminum and Metal Industries, Inc. as the "Interruptible Intervenors." It refers collectively to the Petitions of Quaker Oats and Mount Joy as the "Joinder Petitions."

On September 8, 1997, Quaker Oats and Mount Joy filed Consolidated Exceptions to the Initial Decision of ALJ Kashi Denying Their Petitions to Intervene ("Exceptions"). PP&L timely filed a Reply to the Exceptions on September 19, 1997.

In the interim, ALJ Kashi issued a written Initial Decision on September 12, 1997 ("September 12 Order") memorializing his August 18, 1997 decision stated on the record. On October 6, 1997, Quaker Oats and Mount Joy subsequently filed their Supplemental Consolidated Exceptions ("Supplemental Exceptions"), to which PP&L now responds.

II. DISCUSSION

In the Supplemental Exceptions, Quaker Oats and Mount Joy assert that ALJ Kashi's September 12 Order offers "a new basis" for ALJ Kashi's denial of their Joinder Petitions. Supp. Exceptions, p. 1. Specifically, they challenge the following portion of the September 12 Order:

The parties['] concern that we will not look at the interruptible problem without them is unfounded. The parties that are concerned with interruptible power are well represented.

Order, p. 2. Quaker Oats and Mount Joy contend that their interests were not well represented because none of the active participants addressed the specific issues of concern to Quaker Oats and Mount Joy at the hearings in this case. Supp. Exceptions, pp. 2-4.

PP&L respectfully submits that the September 12 Order correctly notes that the “parties that are concerned with interruptible power are well represented [in this proceeding].” Order, p. 2. Indeed, the PP&L Industrial Customer Alliance (“PPLICA”) includes several interruptible customers, and counsel for PPLICA extensively cross-examined PP&L witnesses during the hearings regarding several proposed changes to the interruptible service provisions of the Company’s tariff. See, e.g., Tr. 1052-1082.² The mere fact that counsel for other interested parties may have pursued a different strategic approach does not establish that the interests of Quaker Oats and Mount Joy were not well represented.

Moreover, as PP&L explained in its Exceptions, the Interruptible Intervenors had a full and fair opportunity to participate actively in this case. Instead, they elected to proceed in a manner that: (a) effectively denied PP&L any opportunity to submit written rebuttal testimony concerning the several issues they belatedly raised; and (b) circumvented the procedural schedule in this case and completely undermined the purposes for which ALJ Kashi adopted such a schedule. Rather than burden the record further, the Company incorporates its September 19, 1997 Reply to the Exceptions of Quaker Oats and Mount Joy.

² Quaker Oats and Mount Joy concede that “[t]he two most obvious parties would be PPLICA and the Office of Small Business Advocate[.]” Supp. Exceptions, p. 3.

III. CONCLUSION

Therefore, for the reasons stated above and in PP&L's September 19, 1997 Reply to the Exceptions of Quaker Oats and Mount Joy, the Company respectfully submits that ALJ Kashi's Initial Decision denying the Joinder Petitions of Quaker Oats and Mount Joy constitutes an appropriate exercise of judicial discretion, is fully supported by the record, and should be approved.

Respectfully submitted,



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Date: October 16, 1997

Counsel For Pennsylvania Power & Light
Company

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Pennsylvania Power & :
Light Company For Approval of Its : Docket No. R-00973954
Restructuring Plan Under Section 2806 :
of the Public Utility Code :

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OCT 16 1997

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PA PUBLIC UTILITY COMMISSION
PROTHONOTARY'S OFFICE

I hereby certify that I have this day served a true copy of the foregoing documents upon the participants, listed below, in accordance with the requirements of §1.54 (relating to service by a participant):

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Via First Class Mail

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