

PENNSYLVANIA CITIZENS
CONSUMER COUNCIL

P.O. BOX 736
EDINBORO, PA 16412-0736

OFFICE OF THE SECRETARY
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Dear Mr. McNulty:

I am receiving several copies of notices from the Commission relative to various dockets concerning electric restructuring. In order to eliminate confusion and save the PUC money, I would appreciate your office eliminating all organizations and addresses for me and use only the following:

Dr. Louis S. Meyer
PA Citizens Consumer Council
PO Box 736
Edinboro, PA 16412-0736

I am presently receiving mail from your office which comes to my home in Cambridge Springs but addressed to PO Box 736 which is in Edinboro, not Cambridge Springs. The latest item, notice of the Order for consumer education, is addressed to Louise S. Meyer, PhD, close but inaccurate. I will appreciate your taking care of this matter. Certified mail is expensive and there is no reason to receive three mailings when one will suffice. Many thanks!!

DOCKETED
MAY 13 1998

Sincerely,

Louis S. Meyer
President

LOUISE S MEYER PHD
PRESIDENT
PA CITIZENS CONSUMER CNSL
P O BOX 736
EDINBORO PA 16412-0736

NO

**DOCUMENT
FOLDER**

LOU MEYER
PA INST FOR COMM SERVS
BOX 723 RD 2
CAMBRIDGE SPRINGS PA 16403

NO

RECEIVED M-00981036

MAY 07 1998

PA PUBLIC UTILITY COMMISSIC
PROTHONOTARY'S OFFICE

-Tel. 814/398-4759; FAX 814/398-2081-

R- 974149
R- 973953
R- 973954
R- 973975
R- 973981
R- 974008
R- 974009
R- 974101
M-00981036
P-981325



SCOTT J. RUBIN
Public Utility Consulting

3 Lost Creek Drive
Selinsgrove, PA 17870-9357

(717) 743-2233 (Voice)
(717) 743-8145 (Fax)
e-mail: sjrubin@ptd.net

May 5, 1998

RECEIVED

James McNulty, Prothonotary
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

MAY 5 1998

DOCUMENT
FOLDER

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

KJR

Dear Mr. McNulty:

Enclosed for filing please find an original and nine (9) copies of the Reply Exceptions of the International Brotherhood of Electrical Workers, Local 1600, in the above-referenced proceeding. A copy of this document has been served on Administrative Law Judge Kashi and all parties of record, as shown on the attached certificate of service. In addition, a copy has been served on the Office of Special Assistants, with a diskette version of the Reply Exceptions, as requested by the Commission.

I am also enclosing a copy of the Reply Exceptions that I would appreciate having time stamped and returned to me in the enclosed envelope. Thank you for your prompt attention to this filing.

Sincerely,


Scott J. Rubin, Esq.

Enclosures

cc: Hon. George Kashi, ALJ
Office of Special Assistants (with diskette)
All parties of record

ORIGINAL

30

BEFORE THE
COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

RECEIVED

MAY 5 1998

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

APPLICATION OF PENNSYLVANIA POWER AND :
LIGHT COMPANY FOR APPROVAL OF ITS :
RESTRUCTURING PLAN UNDER SECTION 2806 :
OF THE PUBLIC UTILITY CODE :

DOCKET No. R-00973954

REPLY EXCEPTIONS
OF
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,
LOCAL 1600

DOCUMENT
FOLDER

DOCKETED
MAY 07 1998

SCOTT J. RUBIN
3 LOST CREEK DRIVE
SELINGROVE, PA 17870
(717) 743-2233

DATED: MAY 7, 1998

COUNSEL FOR:
IBEW LOCAL 1600

Introduction and Summary of Reply Exceptions

These Reply Exceptions are submitted on behalf of International Brotherhood of Electrical Workers, Local 1600 (“IBEW”). IBEW is the bargaining representative for more than 4000 employees of Pennsylvania Power and Light Company (“PP&L”). IBEW St. 1 at 1. In this proceeding, IBEW is representing the interests of its current members as well as approximately 2000 retirees, both as employees of PP&L and as consumers of electricity within PP&L’s service territory. *Id.*

In this Reply, IBEW will respond to the Exceptions of Enron Power Marketing, Inc. (“Enron”). Enron argues that billing and metering for utility services should be provided by anyone. It does not propose any standards for the provision of such services by non-utilities and it does not provide any legal authority for the Commission to permit non-utilities to perform these essential utility functions. Moreover, Enron fails to provide any rational basis for the Commission to depart from its consistent position on these issues: that only utilities should be permitted to bill for utility (distribution) services and that utilities must be responsible for all physical work involving the utility meter.

These issues were addressed in detail in IBEW’s Main Brief (pages 3-22) and Reply Brief (pages 2-4). IBEW will not attempt to repeat that analysis here, but will summarize the reasons why the Commission’s previous decisions on these issues are correct and should not be changed in this case.

Reply to Exceptions of Enron

Response to Enron Exception G:

The ALJ Correctly Recommended that Only PP&L Should be Permitted to Render a Bill for PP&L's Distribution Charges and Perform Physical Metering Services within PP&L's Distribution Territory

After explaining at length why it is necessary for the Commission to be consistent with its decision in the PECO restructuring case¹ (Enron Exceptions at 1-5), Enron then suggests a dramatic departure from the PECO decision. In its Exception G, Enron argues that the Commission should conduct an experiment with PP&L's customers regarding the billing for utility services. Specifically, Enron proposes that that the Commission should allow non-utilities to bill for utility services "as an interim measure, pending promulgation of final rules." Enron Exceptions at 33. Enron recently made the identical argument in Duquesne Light Company's restructuring case. According to the Motion adopted by the Commission in that case on April 30, 1998, the Commission has again rejected Enron's quest to give non-utilities the ability to provide regulated billing and metering services. Motion of Chairman John M. Quain to Dispense with Non-binding Polling, *Application of Duquesne Light Company for Approval of its Restructuring Plan*, Docket No. R-00974104, adopted by vote of 5-0 (April 30, 1998), at 30.

Enron does not explain why it is necessary for the Commission to depart from its very clear ruling in the PECO case, where the Commission held that the distribution utility must provide all billing services, unless a customer exercises its right to receive a separate bill for generation services from the generation supplier. PECO, slip op. at 139. Indeed, in this case, ALJ Kashi relied on the PECO decision and properly held that PP&L must continue to provide

¹ *Application of PECO Energy Co. for Approval of its Restructuring Plan*, 181 PUR4th 517 (Pa. PUC 1997).

all billing for distribution services and all physical metering services. Recommended Decision at 187-88.

In arguing for the Commission to change its position on this issue, Enron asserts that there is “no longer any question that the Commission has the legal authority” to allow non-utilities to bill for utility services. Enron Exceptions at 32. This is not correct. There is a very serious question about the Commission’s legal authority to permit non-utilities to issue bills for utility services. IBEW discusses these legal issues in its Main Brief at pages 3-10. Rather than repeating its legal analysis here, IBEW would note that there are numerous provisions of the Public Utility Code and the Commission’s regulations that would need to be modified or repealed in order for Enron’s position to be adopted.

Enron next asserts that no party has offered “persuasive reasons” why non-utilities should not be allowed to bill for utility services. Enron Exceptions at 32. Once again, this is not correct. IBEW demonstrated that there is no benefit to allowing non-utilities to bill for utility services and that substantial harm could result in terms of the reliability, accuracy, and quality of customer service. As IBEW explained in its Main Brief, Enron’s proposal would not result in customer choice; rather, it would permit *the generation suppliers* to choose the billing option. IBEW Main Brief at 13-14.

Moreover, the Enron proposal would result in unwarranted discrimination among customers and higher costs for those customers who the non-utilities choose not to serve. This would leave PP&L to provide billing services to those customers who are harder and more expensive to serve. It also could lead to significant customer confusion and other consumer protection concerns. IBEW Main Brief at 15-21.

In other words, there are serious policy and factual concerns, in addition to the legal concerns raised by IBEW, with the billing for utility services by non-utilities. This is particularly true when the generation supplier would be able to pick and choose the customers that it would serve, leaving PP&L to pick up the pieces and provide bills for those customers that the non-utilities didn't feel they could serve at a profit.

This leads directly to Enron's last point on this issue: that the unbundling of billing "is crucial to the establishment of a competitive market." Enron Exceptions at 33. On this point as well, Enron is not correct. There is no evidence that the unbundling of billing services is necessary in order to have a competitive generation market. As IBEW discussed on pages 21-22 of its Main Brief, Ms. Day, a witness for New Energy Ventures (another generation supplier who advocated non-utility billing) exploded this myth in her direct testimony:

Q. Why is distribution service unbundling an essential element of the restructured energy services market?

A. The simple answer is *profitability*. Without the unbundling and competitive provision of distribution services, new market entrants will eventually be starved out of the market. This will be the inevitable result when the *margins on the sale of electricity are too small* to support the new market entrant's service delivery overheads. (NEV St. 2 at 2, emphasis added)

In other words, it will be hard for generation suppliers to make money by doing what the law allows them to do – sell electricity. Profit margins may be small and the market will be competitive. So, the suppliers want to provide other services; services that the law does not give them the right to provide; services that have nothing to do with the supply of electricity. And, in providing those services, they want to be able to pick and choose the customers that they serve, leaving the more difficult or more costly customers with PP&L.

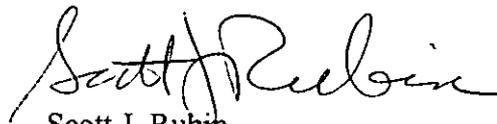
In addition, despite Enron's unsupported assertion to the contrary, the Commission already has determined that it is *not* necessary to allow non-utilities to bill for utility services in order to have a competitive generation market. *PECO*, slip op. at 139.

In summary, there is no reason for the Commission to depart from its decisions in *PECO* and *Duquesne* on this issue. The Commission properly and consistently has held that non-utilities should not be permitted to bill for utility (distribution) services. The Commission must reject Enron's proposal to conduct an experiment with PP&L's customers.

Conclusion

For the reasons set forth in these Reply Exceptions and in its other pleadings in this proceeding, International Brotherhood of Electrical Workers, Local 1600, respectfully requests the Pennsylvania Public Utility Commission to issue an order that prohibits any entity other than Pennsylvania Power and Light Company from providing and maintaining electric meters and from rendering bills for electric distribution service within the service territory of Pennsylvania Power and Light Company.

Respectfully submitted,



Scott J. Rubin
3 Lost Creek Drive
Selinsgrove, PA 17870
(717) 743-2233

Counsel for:
IBEW Local 1600

Dated: May 7, 1998

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In the Matter of Pennsylvania Power :
and Light Company's Restructuring : Docket No. R-00973954
Plan :
:

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Reply Exceptions of the International Brotherhood of Electrical Workers, Local 1600, upon the active participants, listed on the following pages, by first class mail in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).



Scott J. Rubin, Esq.

Counsel for:
International Brotherhood of Electrical Workers,
Local 1600

Dated: May 5, 1998

Paul E. Russell
Pennsylvania Power & Light Co.
Two North Ninth St.
Allentown, PA 18101

Johnnie E. Simms
Office of Trial Staff
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Billie E. Ramsey
ARIPPA
1300 Market St.
Lemoyne, PA 17043

Todd S. Stewart
Norman J. Kennard
Malatesta Hawke & McKeon
P.O. Box 1778
Harrisburg, PA 17120

Joan O. Brandeis
Schnader, Harrison, Segal & Lewis
1600 Market St., #3600
Philadelphia, PA 19103-4252

Attorney of Record
Environmental Energy Project
3700 Vartan Way
Harrisburg, PA 17110

Hon. George M. Kashi
Office of Administrative Law Judge
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Harry S. Geller
Pa. Utility Law Project
118 Locust St.
Harrisburg, PA 17101

Bernard M. Ryan
Office of Small Business Advocate
300 North Second St. #1102
Harrisburg, PA 17101

Michael L. Kessler
American Energy Solutions, Inc.
111 South Alfred St.
Alexandria, VA 22304

Lisa M. Helpert
Preston Gates Ellis & Rouvelas Meeds, LLP
1735 New York Ave., NW, #500
Washington, DC 20006

David M. Kleppinger
McNees, Wallace & Nurick
P.O. Box 1166
Harrisburg, PA 17108

Robert Longwell
Wolf, Block, Schorr and Solis-Cohen
212 Locust Street, Suite 300
Harrisburg, PA 17101-1236

Craig G. Goodman
Equitable Resources
3333 K St., NW, #425
Washington, DC 20007

Robert P. Haynes, III
Mette, Evans & Woodside
3401 North Front St.
Harrisburg, PA 17110-0950

Eric J. Epstein
2308 Brandywine Dr.
Harrisburg, PA 17110

Paul E. Nordstrom
Verner & Lipfert, Bernhard, McPherson &
Hand
901 15th St., NW
Washington, DC 20005

Terrance J. Fitzpatrick
Ryan Russel Ogden and Seltzer
800 N. Third St. #101
Harrisburg, PA 17102

Michael Vough
Vough and Assoc.
126 South Main St.
Pittston, PA 18040

David W. Francis
Powell, Trachtman, Logan, Carrle, Bowman &
Lombardo, PC
114 N. Second St.
Harrisburg, PA 17101

Irwin A. Popowsky
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Harrisburg, PA 17101-1921

Elizabeth R. Benson
Energy Associates
7303 Timber Lane
Falls Church, VA 22046-2735

Richard L. Caplan
Caplan & Lubner, LLP
40 Darby Road
Paoli, PA 19301

David A. McCormick
Department of the Army
Office of the Judge Advocate General
901 North Stuart St.
Arlington, VA 22203-1837

J. Kennedy and Associates, Inc.
35 Glenlake Parkway #475
Atlanta, GA 30328

Stephen L. Huntton
PECO Gas Supply Co.
2301 Market St.
Philadelphia, PA 19101-8699

John L. Munsch
Allegheny Power
800 Cabin Hill Dr.
Greensburg, PA 15601

William Schmitt
IBEW Local 1600
P.O. Box 470
Trexlerstown, PA 18087

Craig A. Doll
214 State St.
Harrisburg, PA 17101

Gary A. Jeffries
CNG Energy Services Corp.
P.O. Box 15746
Pittsburgh, PA 15224-0746

Rhonda Hendrickson
100 North 10th St.
Harrisburg, PA 17108

Michael Stosser
Heller Ehrman White & McAuliffe
815 Connecticut Ave., NW Suite 200
Washington, DC 20006-4004

David Boonin
New Energy Ventures, Inc.
200 S. Broad St., Suite 800
Philadelphia, PA 19102

Joseph Dworetzky
Hangley Aronchick Segal & Pudlin
One Logan Square, 12th Floor
Philadelphia, PA 19103-6933

Robert Knecht
Industrial Economics, Inc.
2067 Massachusetts Ave.
Cambridge, MA 02140

Randall Griffin, Esq.
Delmarva Power & Light Co.
P.O. Box 231
Wilmington, DE 19899

Andrew Altman
Clean Air Council
135 South 19th St., Suite 300
Philadelphia, PA 19103

Fred Zalcman
78 N. Broadway
White Plains, NY 10603

Robert F. Young
Allegheny Electric Cooperative, Inc.
P.O. Box 1266
Harrisburg, PA 17108-1266

Linda Smith
Dilworth, Paxson, Kalish & Kauffman LLP
305 N. Front St., Suite 403
Harrisburg, PA 17101-1236

Gordon Smith
John & Hengerer
1200 17th St., NW Suite 600
Washington, DC 20036-3006

Usher Fogel
Roland, Fogel, Koblenz & Carr, LLP
1 Columbia Place
Albany, NY 12207

Jerry Mendl
MSB Energy Associates
7507 Hubbard Ave., Suite 200
Middleton, WI 53562

Mid-Atlantic Power Supply Assoc.
620 Herndon Parkway, Suite 200
Herndon, VA 20170

Roger Clark
905 Denston Drive
Ambler, PA 19002

Bruce Connell
General Counsel
600 N. Dairy Ashford, ML-1034
Houston, TX 77079

David Cruthirds
Electric Clearinghouse, Inc.
100 Louisiana, Suite 5800
Houston, TX 77002-5050

Susan Shanaman
212 North Third St., Suite 203
Harrisburg, PA 17101-1505

James Steffes
Enron Corp.
P.O. Box 4428
Houston, TX 77002

James Norris
Eckert Seamans Cherin & Mellott
600 Grant St., 42nd Floor
Pittsburgh, PA 15219

Patricia Armstrong
Thomas, Thomas, Armstrong & Niesen
P.O. Box 9500
Harrisburg, PA 17108-9500

Sheila Hollis
Duane Morris & Heckscher LLP
1667 K Street, NW
Washington, DC 20006-1608

McMulty

WYETH-AYERST  LABORATORIES

P.O. BOX 304, MARIETTA, PA 17547 • (717) 426-1941

May 6, 1998

RECEIVED

JUN 30 1998

The Honorable John M. Quain, Chairman
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

DOCUMENT
FOLDER

PA PUBLIC UTILITY COMMISSION
PROTHONOTARY'S OFFICE

Dear Chairman:

In its Electricity Retail Access Restructuring Filing, Docket Number R-00973954, Pennsylvania Power & Light Company proposes an extension of its Industrial Development Incentive. Wyeth Laboratories supports this proposal.

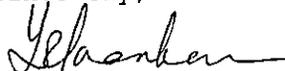
Wyeth is a large producer of influenza vaccine and other injectable medicines in Marietta, PA. During peak production at this facility, we have over 1,000 employees.

Wyeth is evaluating the economics of significant expansions at Marietta over the next few years. One of the positive factors in this evaluation is PP&L's Industrial Development Incentive (IDI). The continuance of this incentive will positively influence the long-term development of our industrial facility and the increase of jobs at Marietta.

We request you to approve PP&L's proposal to extend the IDI because it will produce industrial development and job increases for Pennsylvanians.

KJR

Sincerely,



WYETH-AYERST LABORATORIES
Y. Raj Loonkar, Ph.D.
Managing Director

DOCKETED

RL/psh

cc: Dr. Ronald Thiboutot
Mr. Chuck Blardone
Mr. Nick English



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

May 6, 1998

JAMES McNULTY SECRETARY
PA PUBLIC UTILITY COMMISSION
PO BOX 3265
HARRISBURG PA 17105-3265

KJR
98 MAY - 7 PM 12:23
RECEIVED
PA.P.U.C.
PROTHONOTARY'S OFFICE

DOCUMENT
FOLDER

Re: Pennsylvania Public Utility Commission
v.
Pennsylvania Power and Light Company
Docket No. R-00973954

Dear Secretary McNulty:

Enclosed please find an original and nine (9) copies of the Reply
Exceptions of the Office of Trial Staff for filing in the above-captioned proceeding.
Copies are being served upon all active parties of record.

Very truly yours,

Johnnie E. Simms
Prosecutor
Office of Trial Staff

JES:sjh

Enclosures

c: Honorable George Kashi
Parties of Record

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

DOCKETED

MAY 08 1998

REPLY EXCEPTIONS
OF THE
OFFICE OF TRIAL STAFF

RECEIVED
98 MAY - 7 PM 12:23
P.A.P.U.C.
PROTHONOTARY'S OFFICE

DOCUMENT
FOLDER

Johnnie E. Simms
Scott H. DeBroff
Prosecutors
Office of Trial Staff

P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-1976

Dated: May 6, 1998

TABLE OF CONTENTS

	<u>PAGE</u>
I. INTRODUCTION	1
II. REPLY EXCEPTIONS	2
1. The ALJ's Adoption of OTS' Adjustment To Taxes Other Than Income Is Legally And Factually Correct And Is Supported By Substantial Evidence In All Respects	2
2. The ALJ Correctly Adopted OTS' Adjustment to Susquehanna Deferred Refueling Expenses	4
3. The ALJ Correctly Adopted OTS' Adjustment To PP&L's Rate Case Expenses	8
III. CONCLUSION	10

TABLE OF CITATIONS

PAGE

CASES:

Pennsylvania Public Utility Commission v.
Pennsylvania Power & Light Company,
55 PUR4th 185, 228-229 (1983) 5

RULES, REGULATIONS AND STATUTES:

66 Pa. C.S. §2803 7, 9
66 Pa. C.S. §2810 3
66 Pa.C.S. §§ 2801 et..seq. 1

I. INTRODUCTION

By cover letter dated April 7, 1998, Administrative Law Judge George M. Kashi issued a Recommended Decision ("R.D.") concerning the application of Pennsylvania Power & Light Company ("PP&L" or "Company") for approval of its plan under Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. §§ 2801 et. seq. (the "Act"). ALJ Kashi concluded in his Recommended Decision that "the adjustments of the Office of Trial Staff ("OTS") to stranded costs, as modified, most nearly reflect our own position." R.D. at 2. Based upon ALJ Kashi's modifications to the adjustments recommended by OTS to PP&L's stranded costs, OTS has concluded that ALJ Kashi has recommended an allowance of \$3,715,274 billion in stranded costs for PP&L. Without ALJ Kashi's modification, the OTS recommended allowance for PP&L's stranded costs is \$3,171,875 billion, which is the amount that should be adopted by the Pennsylvania Public Utility Commission ("Commission").

On April 27, 1998, OTS filed Exceptions ("Exc.") to portions of the Recommended Decision. In these Reply Exceptions, OTS responds to the Exceptions raised by PP&L in its Exceptions.

II. REPLY EXCEPTIONS

1. The ALJ's Adoption of OTS' Adjustment To Taxes Other Than Income Is Legally And Factually Correct And Is Supported By Substantial Evidence In All Respects.

OTS Main Brief, at 49 through 54, inclusive.

OTS Reply Brief, at 13 through 14, inclusive.

Recommended Decision, at 129.

On pages 9 through 11 of its Exceptions, PP&L attempted to provide argument to support its position that "Taxes Other Than Income" should be included in its calculation of stranded costs. In presenting its position, PP&L avers in its Exceptions that "PP&L's claim reflects two assumptions", which can best be described as "inflation assumptions." OTS submits, and the ALJ agreed, that it is the reliance on these "two assumptions" which is most troublesome in adopting PP&L's position that "Taxes Other Than Income" should be included in its calculation of stranded costs.

In that regard, in its Exceptions, PP&L correctly asserts that Section 2810 of the Act "states that the transition to retail competition shall be revenue neutral as to the Commonwealth." PP&L Exceptions, at 10. The problem arises because PP&L has incorrectly interpreted Section 2810 of the Act to allow the Company to increase "Taxes Other Than Income" for "inflation" in an otherwise revenue neutral figure. There is absolutely no factual or statutory

evidence, either explicit or by implication, to support the Company's position that Section 2810 of the Act provides that revenue neutrality includes an increase for inflation. Moreover, there is no reference in Section 2810 of the Act that defines the tax rate calculation as a factor of inflation. In fact, on cross-examination, PP&L witness, Mr. Schadt admitted that the Act does not make a reference to the term "inflation". (See Tr. 1592-August 26, 1997).

A review of Section 2810 of the Act clearly indicates that the "revenue neutrality" concept applies to the tax revenue realized by the Commonwealth of Pennsylvania's Department of Revenue not the incumbent electric utilities like PP&L. In its Exceptions, PP&L argues in part that "it is not reasonable to project that capital stock and PURTA taxes will remain at 1996 levels over the next 20 to 30 years." In response, OTS submits that the rates for all incumbent electric utilities were frozen effective December 31, 1996. Additionally, the "revenue neutrality", as set forth in Section 2810 of the Act, was established as of December 31, 1996. 66 Pa. C.S. §2810. Accordingly, the "revenue neutrality" aspect of the statute is governed by the revenues in effect as of December 31, 1996.

It must be noted that if the Pennsylvania General Assembly intended that "revenue neutrality" include an inflation adjustment, the General Assembly in its wisdom would have provided for an "inflation adjustment" or "cost-of-living adjustment" in the Act. In the absence any statutory reference to inflation,

PP&L should be prohibited from including inflation as a component of its calculation for Taxes Other Than Income. The inflation method as proposed by PP&L will only increase the Company's stranded cost claim, and will have no effect on the taxes owed by PP&L to the Commonwealth of Pennsylvania.

Consequently, PP&L's Exceptions should be denied by the Commission.

2. The ALJ Correctly Adopted OTS' Adjustment to Susquehanna Deferred Refueling Expenses.

OTS Main Brief, at 56 through 60, inclusive.

Recommended Decision, at 136-139, inclusive.

On page 11 of its Exceptions, PP&L attempted to present argument as to why the ALJ was incorrect in adopting OTS' recommendation regarding the Susquehanna Deferred Refueling Expenses. In the presentation of its argument, PP&L has not presented any record evidence or Commission Orders to support its position. Case in point, PP&L argues that "this conclusion is inconsistent with prior PUC Orders that have permitted the Company to defer these costs and record them as regulatory asset." Noticeably absent from the Company's reliance on "prior PUC Orders" is the citations to these "prior PUC orders". OTS respectfully submits that no "prior PUC Orders" exist that supports the Company's position.

- As an overview, in this filing, the Company has claimed Susquehanna Deferred Refueling Costs as an individual item in its claim for regulatory assets. By way of further discussion, the deferred refueling costs represents incremental maintenance costs incurred during refueling and inspection outages which are deferred and subsequently amortized from the end of the outage until the next scheduled refueling and inspection outage is complete. OTS, through its witness, explained that deferred refueling costs are not regulatory assets that are recoverable through a traditional amortization, but are typical ongoing expenses that, in a regulatory environment, are recoverable in base rates at normalized levels.

As previously discussed, the Company in its Exceptions, referred to "PUC Orders", without any citation to such "PUC Orders". The record evidence in this case supports the ALJ's conclusion that prior "PUC Orders" supports the position advanced by OTS. Case in point, the Commission in its Order in Pennsylvania Public Utility Commission v. Pennsylvania Power & Light Company, 55 PUR4th 185, 228-229 (1983), approved PP&L's request to accrue and defer first refueling costs of Susquehanna Unit 1. The Commission further ordered that approval was specifically addressed to the costs of the first Susquehanna Unit 1 outage in 1984 and was for book purposes only.

Accordingly, no allowance was made for their recovery in rates. Additionally, the Commission's Opinion and Order in PP&L's most recent base rate case at

Docket No. R-00943271, clearly did not institute an annual amortization for which the Company would be entitled to full recovery, but established a normalized annual level of expense applicable to the deferred refueling costs that would be included in rates. Simply put, there is no support in the Commission's Opinion and Orders for the position advanced by PP&L regarding claimed deferred refueling costs as regulatory assets for stranded costs.

In order to fully comprehend the issue of whether it is proper for PP&L to claim Susquehanna deferred refueling costs as regulatory assets for stranded costs, one must be able to distinguish the difference between amortization and normalization. In that regard, the record evidence in this case demonstrates that PP&L's only expert witness in this area did not understand for ratemaking purposes, the difference between amortization and normalization. (See Tr. 1588-August 26, 1997). OTS submits that this lack of understanding, as to the difference between amortization and normalization, is why the Company has made a *mistake in claiming deferred refueling costs as a regulatory asset*. In contrast, OTS witness Reed provided in testimony that normalization is a ratemaking concept that describes the transformation of an operating expense that recurs at irregular intervals and in irregular amounts into a "normal" annual test year expense allowance. See OTS St. 2 at 15. Mr. Reed explained that amortization is an accounting concept that extinguishes an atypical,

nonrecurring expense over a predetermined number of years by charging to operations a pro rata share based on the selected amortization period. Id., at 15. OTS submits that it is critical to understand that recovery of normalization expenses do not extend over a period of years and, therefore, claims for unrecovered normalized expenses in subsequent proceedings cannot exist and must be disallowed. In contrast, an amortization allowance could be claimed in succeeding proceedings as long as there is a remaining unamortized balance. In applying the definition of normalization and amortization to the issue of Susquehanna deferred refueling costs, OTS submits, and the Commission's Order supports, the conclusion that the Commission did not allow PP&L to amortize the full amount of Susquehanna deferred refueling costs in the Company's last base rate proceeding. In PP&L's last base rate proceeding, the Commission allowed PP&L to reflect a claim for Susquehanna deferred refueling expenses in annual O & M at a normalized level, therefore PP&L's attempt to claim deferred refueling costs as a regulatory asset in this proceeding violates the definition of normalization. It must be noted that the Act defines stranded costs in pertinent part as that "which traditionally would be recoverable under a regulated environment but which may not be recoverable in a competitive electric generation." See 66 Pa. C.S. §2803.

Accordingly, PP&L's Exceptions should be denied.

3. The ALJ Correctly Adopted OTS' Adjustment To PP&L's Rate Case Expenses.

OTS Main Brief, at 60-62, inclusive.

Recommended Decision, at 143-144, inclusive.

On page 12 of its Exceptions, PP&L excepted to the Recommended Decision's adoption of OTS' adjustment disallowing deferred rate case expense as a regulatory asset and recoverable stranded cost. Like Susquehanna Deferred Refueling costs, OTS disagrees with PP&L's recovery of 1994 Rate Case Expense as stranded regulatory assets. The reasons for OTS' recommendation are in many aspects similar to the reasons set forth above regarding Susquehanna Deferred Refueling Costs.

OTS submits that from a ratemaking viewpoint, PP&L is only entitled to include in rates an amount that represents what would normally be incurred in a year for litigating a base rate case. It must be noted that for ratemaking purposes, the total rate case expenses has no significance beyond the determination of a normal year's expense. OTS submits that PP&L is no more entitled to recovery of its unamortized rate case expense in this proceeding than it would be in a base rate proceeding in a regulating environment.

In its Exceptions, PP&L argues that the Act mandates that its rate case expense be recovered as a regulatory asset. As with "PUC Orders", PP&L has made a reference to the Act, without any specific citation. A proper

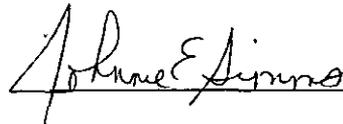
interpretation of the Act reveals that at 66 Pa. C.S. §2803, stranded costs is defined, in pertinent part, as that "which traditionally would be recoverable under a regulated environment but which may not be recoverable in a competitive electric generation market."

Consequently, there is no statutory support for the Company's position to recover its 1994 Rate Case Expense as stranded regulatory assets. PP&L's Rate Case Expense costs could not be recovered in a traditional regulated environment. Accordingly, PP&L's Exceptions should be denied.

III. CONCLUSION

For the foregoing reasons, the Commission should deny the Company's Exceptions and adopt the Recommended Decision with the modifications set forth in the Office of Trial Staff's Exceptions.

Respectfully submitted,

A handwritten signature in cursive script that reads "Johnnie E. Simms". The signature is written in dark ink and is positioned above the typed names of the signatories.

Johnnie E. Simms
Scott H. DeBroff
Prosecutors

The Office of Trial Staff
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pa. 17105
(717) 787-1976

Dated: May 7, 1998

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Pennsylvania Public Utility
Commission**

v.

Pennsylvania Power & Light Company

:
:
:
:
:
:

**Docket No.
R-00973954**

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing, the Reply Exceptions of the Office of Trial Staff dated May 6, 1998, either personally, by first class mail, express mail or by fax upon the persons addressed below:

Paul E. Russell, Esquire
Pennsylvania Power and Light Company
Two North Ninth Street
Allentown, PA 18101

Scott T. Jones
The Economics Resource Group Inc.
One Mifflin Place
Cambridge, MA 02138

Donald H. Muth
PA Public Utility Commission
Bureau of Fixed Utility Services
P. O. Box 3265
Harrisburg, PA 17105-3265

RECEIVED
98 MAY -7 PM 12:24
PA.P.U.C.
PROTHONOTARY'S OFFICE

Bohdan Pankiw, Esquire
PA Public Utility Commission
Law Bureau
P. O. Box 3265
Harrisburg, PA 17105-3265

Warren W. Mack, President
AHL Strom Development Corporation
4350 LaJolla Village Drive
Suite 210
San Diego CA 92122

Billie Ramsey, Executive Director
ARIPPA
1300 Market Street
Lemoyne, PA 17043

Donald A. Kaplan, Esquire
Lisa M. Helpert, Esquire
Preston Gates Ellis & Rouvelas Meeds, LLP
Suite 500
1735 New York Avenue NW
Washington, DC 20006

Z. Ahmed Kaloko
PA Public Utility Commission
Bureau of CEEP
P. O. Box 3265
Harrisburg, PA 17105-3265

Craig Burgraff, Esquire
Barrett Sheridan, Esquire
James Mullins, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place 5th Floor
Harrisburg, PA 17101-1921

David M. Kleppinger, Esquire
Robert A. Mills, Esquire
McNees, Wallace & Nurick
100 Pine Street
P. O. Box 1166
Harrisburg, PA 17108

Alan Kohler, Esquire
Daniel Clearfield, Esquire
Robert Longwell, Esquire
Wolf, Block, Schorr & Solis-Cohen
212 Locust Street
Suite 300
Harrisburg, PA 17101

Craig G. Goodman, Esquire
Senior Vice President, Law
Regulation and Public Policy
Equitable Resources, Inc.
3333 K Street NW
Suite 425
Washington, DC 20007

Glenn Bartron
PA Public Utility Commission
Bureau of Audits
P. O. Box 3265
Harrisburg, PA 17105-3265

Bernard A. Ryan, Jr., Esquire
Office of Small Business Advocate
1102 Commerce Building
300 North Second Street
Harrisburg, PA 17101

Elizabeth R. Benson
Energy Associates
7303 Timber Lane
Falls Church, VA 22046-2735

Richard L. Caplan, Esquire
Caplan and Luber, LLP
40 Darby Road
Paoli, PA 19301

Louis J. Carter, Esquire
7300 City Line Avenue
Philadelphia, PA 19151-2291

Ginny Kreidler
RMMI Inc. 111
Presidential Boulevard
Suite 127
Bala Cynwyd, PA 19004

Stephen J. Baron
J. Kennedy and Associates, Inc.
35 Glenlake Parkway
Suite 475
Atlanta, GA 30328

D. Jane Drennan, Esquire
Sarah T. Tomalty, Esquire
Drennan and Associates
1216 16th Street NW
Washington, DC 20036

James Melia, Esquire
Kirkpatrick and Lockhart
Payne-Shoemaker Building
240 North Third Street
Harrisburg, PA 17101-1507

Attorney of Record
Environmental Energy Project
3700 Vartan Way
Harrisburg, PA 17110

Eric J. Epstein
2308 Brandywine Drive
Harrisburg, PA 17110

Edwin D. Hill
International
Vice-President
IBEW
200 Corporate Center Drive
Suite 301
Corapolis, PA 15108

William T. Hawke, Esquire
Janet L. Miller, Esquire
Todd S. Stewart, Esquire
Norman James Kennard, Esquire
Malatesta, Hawke and McKeon
Harrisburg Energy Center
100 North Tenth Street
P. O. Box 1778
Harrisburg, PA 17105-1778

Joan O. Brandeis, Esquire
Schnader, Harrison, Segal and Lewis
1600 Market Street
Suite 3600
Philadelphia, PA 19103-4252

Robert P. Haynes, III, Esquire
Mette, Evans and Woodside
3401 North Front Street
Harrisburg, PA 17110-0950

William Schmitt
Local 1600 IBEW
540 Grange Road
P. O. Box 470
Trexlerstown, PA 18087

Lisa Yoho, Director
Regulatory Affairs
The Eastern Group, Inc.
2900 Eisenhower Avenue
Suite 300
Alexandria, VA 22314

David A. McCormick, Esquire
Department of the Army
Office of the Judge
Advocate General
901 North Stuart Street
Arlington, VA 22203-1837

Wayne M. Thomas, Esquire
Kohn Nast and Graff, PC
1101 Market Street
24th Floor
Philadelphia, PA 19107

Stephen J. Selden, Esquire
Bethlehem Steel Corporation
Eighth and Eaton Avenues
Bethlehem, PA 18016

Stephen L. Huntoon, Esquire
Mary McFall Hopper, Esquire
PECO Gas Supply Company
2301 Market Street
Philadelphia, PA 19101-8699

John L. Munsch, Esquire
Allegheny Power
800 Cabin Hill Drive
Greensburg, PA 15601

Craig A. Doll, Esquire
214 State Street
Harrisburg, PA 17101

Terrance J. Fitzpatrick, Esquire
David M. DeSalle, Esquire
Ryan, Russell, Ogden and Seltzer
800 North Third Street
Suite 101
Harrisburg, PA 17102

Kenneth Zielonis, Esquire
Stevens and Lee
208 North Third Street
Suite 310
Harrisburg, PA 17101

Scott J. Rubin, Esquire
International Brotherhood of
Electrical Workers
Local 1600
3 Lost Creek Drive
Selinsgrove, PA 17870

Michael A. Stosser, Esquire
Adelia Borrasca, Esquire
Heller, Ehrman, White and McAuliffe
815 Connecticut Avenue NW
Washington, DC 20006-4004

Joel D. Newton, Esquire
Paul E. Nordstrom, Esquire
Deborah A. Swanstrom, Esquire
Clinton A. Vince, Esquire
Verner Liipfert Bernhard McPherson and Hand
901 15th Street NW
Washington, DC 20005

Michael Vough, Esquire
Vough and Associate
126 South Main Street
Pittston, PA 18040

Harry S. Geller, Esquire
PA Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Susan M. Shanaman, Esquire
212 North Third Street
Suite 203
Harrisburg, PA 17101

M. Thomas Butler
CNG Retail Services Corporation
625 Liberty Avenue
Pittsburgh, PA 15222-3197

Linda C. Smith, Esquire
Dilworth, Paxson, Kalish & Kauffman, LLP
305 North Front Street
Suite 403
Harrisburg, PA 17101-1236

Joseph A. Dworetzky, Esquire
John J. Lavelle, Jr., Esquire
Hangley, Aronchick, Segal and Pudlin
One Logan Square
12th Floor
Philadelphia, PA 19103

Michael L. Kessler
Vice President and General Counsel
American Energy Solutions, Inc.
111 South Alfred Street
Alexandra, VA 22314

John P. Zinkand
Executive Vice President
Pennsylvania Petroleum Association
Suite 121, Building 2
2001 North Front Street
Harrisburg, PA 17102

Usher Fogel, Esquire
Roland, Fogel, Koblenz & Carr, LLP
1 Columbia Place
Albany, NY 12207

Gary A. Jeffries, Esquire
CNG Energy Services Corporation
One Park Ridge Center
P. O. Box 15746
Pittsburgh, PA 15244-0746

Brian A. Rider
Pennsylvania Retailer's Association
224 Pine Street
Harrisburg, PA 17101-1325

Gordon Smith, Esquire
Joelle Ogg, Esquire
JOHN AND HENGERER
1200 17th Street, NW
Suite 600
Washington, DC 20036-3006

John R. Orr, Esquire
DUKE ENERGY TRADING AND MARKETING, LLC
One Westchase Center
10777 Westheimer
Suite 650
Houston, TX 77042

David W. Francis, Esquire
Powell, Trachtman, Logan, Carrle,
Bowman and Lombardo, P.C.
114 North Second Street
Harrisburg, PA 17101

Roger Clark, Esquire
905 Denston Drive
Ambler, PA 19002-3901

Jerry Mendl
MSB Energy Associates
Suite 200
7505 Hubbard Avenue
Middletown, WI 53562

Andrew Altman, Deputy Director
Clean Air Council
135 South 19th Street
Suite 300
Philadelphia, PA 19103

Gene Stilp, Coordinator
PP&L Ratepayers Association
1550 FCVR
Harrisburg, PA 17112-9240

Randall B. Griffin, Esquire
Delmarva Power & Light Company
800 King Street
P. O. Box 231
Wilmington, DE 19899

Robert D. Knecht
Industrial Economics, Inc.
2067 Massachusetts Avenue
Cambridge, MA 02140

Bruce A. Connell, Esquire
Legal Department
600 North Dairy Ashford, ML-1034
Houston, TX 77079

H. Allan Knopp
Director - Regulatory Affairs
600 North Dairy Ashford, CH-1038
Houston, TX 77079

Anthony C. Adonizio, Esquire
Robert F. Young, Esquire
Allegheny Electric Cooperative, Inc.
212 Locust Street
P. O. Box 1266
Harrisburg, PA 17108-1266

Patricia Armstrong, Esquire
Regina L. Matz, Esquire
Thomas, Thomas, Armstrong & Niesen
212 Locust Street
P. O. Box 9500
Harrisburg, PA 17108-9500

Fred Zalcman, Esquire
Pace University School of Law
78 North Broadway
White Plains, NY 10603

Bruce Biewald, Esquire
Synapse Energy Economics, Inc.
101 Chilton Street
Cambridge, VA 02138

John Gallagher, Esquire
LeBeouf, Lamb, Greene and MacRae
200 North Third Street
Suite 300
P. O. Box 12105
Harrisburg, PA 17108-2105

George F. Denardo
Lucent Technologies
555 Union Boulevard
Allentown, PA 18103

David Boonin
New Energy Ventures, Inc.
200 South Broad Street
Suite 800
Philadelphia, PA 19102

Keith M. Sappenfield, II
Director of Marketing Support
NORAM Energy Management, Inc.
P. O. Box 2628
Houston, TX 77252-2628

David Cruthirds
Electric Clearing House, Inc.
1000 Louisiana
Suite 5800
Houston, TX 77002-5050

Norma J. Rosner, Esquire
General Counsel
VASTAR Power Marketing, Inc.
200 Westlake Park Boulevard
Houston, TX 77079

John Haucke, Executive Vice President
Pennsylvania Association of Plumbing,
Heating, Cooling Contractors, Inc.
4015 Jonestown Road
Harrisburg, PA 17109-9109

Vickiren S. Aeschleman
Director-Regulatory Policy
QST Energy Inc.
300 Hamilton Blvd.
Suite 300
Peoria, IL 61602

Sheila S. Hollis, Esquire
Mary Ann Ralls, Esquire
Stephanie A. Sugrue, Esquire
Duane, Morris & Heckscher, LLP
1667 K Street, NW
Suite 700
Washington, DC 20006-1608

Richard Haring
Energis Resources, Inc.
499 Thornall Street
5th Floor
Edison, NJ 08837

Honorable George M. Kashi
Administrative Law Judge
PA Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265



Johnnie E. Simms
Senior Prosecutor
Office of Trial Staff

Date: May 6, 1998
R-00973954



COMMONWEALTH OF PENNSYLVANIA



ORIGINAL

OFFICE OF SMALL BUSINESS ADVOCATE

Suite 1102, Commerce Building
300 North Second Street
Harrisburg, Pennsylvania 17101

Bernard A. Ryan, Jr.
Small Business Advocate

(717) 783-2525
(717) 783-2831 (FAX)

May 7, 1998

James J. McNulty, Secretary
Pa. Public Utility Commission
Room B-18, North Office Building
P. O. Box 3265
Harrisburg, PA 17120

KJR

RECEIVED
98 MAY -7 PM 3:31
PA.P.U.C. OFFICE
PROTHONOTARY'S OFFICE

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

Dear Mr. McNulty:

Please be advised that the Office of Small Business Advocate will not be filing Reply Exceptions in the above-docketed proceeding. As evidenced by the enclosed certificate of service, a copy of this letter has been served on all active parties in this case.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Bernard A. Ryan, Jr.
Bernard A. Ryan, Jr.
Small Business Advocate

Enclosures

cc: Cheryl Walker Davis, Director
Office of Special Assistants

Parties of Record

DOCKETED
MAY 11 1998

DOCUMENT
FOLDER

49

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I certify that I am serving a copy of the foregoing document on behalf of the Office of Small Business Advocate by first class mail (unless otherwise indicated) upon the persons addressed below:

Cheryl Walker Davis, Director
Office of Special Assistants
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
(hand delivered 5/7)

Craig R. Burgraff, Esquire
Barrett C. Sheridan, Esquire
James A. Mullins, Esquire
Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120
(Office of Consumer Advocate)
(717) 783-5048
(717) 783-7152 (fax)

Hon. George M. Kashi
Administrative Law Judge
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17120
(hand delivered 5/7)

David Kleppinger, Esquire
Pamela C. Polacek, Esquire
McNees, Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
(PPLICA)
(717) 232-8000
(717) 237-5300 (fax)

Paul E. Russell, Esquire
Pennsylvania Power & Light Co.
Two North Ninth Street
Allentown, PA 18101-1179
(PP&L)
(610) 774-4254
(610) 774-6726 (fax)

Joan O. Brandeis, Esquire
Schnader, Harrison, Segal and Lewis
1600 Market Street, Suite 3600
Philadelphia, PA 19103
(Bethlehem Steel Corporation)
(215) 751-2000
(215) 751-2205 (fax)

Donald A. Kaplan, Esquire
Lisa M. Helpert, Esquire
Preston Gates Ellis & Rouvelas Meeds
Suite 500
1735 New York Avenue, N.W.
Washington, DC 20006-4759
(PP&L)
(202) 628-1700
(202) 331-1024 (fax)

Craig A. Doll, Esquire
214 State Street
Harrisburg, PA 17101
(Delmarva Power & Light Company)
(717) 230-9555
(717) 230-9750 (fax)

Johnnie E. Simms, Esquire
Scott DeBroff, Esquire
Office of Trial Staff
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105
(Office of Trial Staff)
(717) 787-1976
(717) 772-2677 (fax)

Daniel Clearfield, Esquire
Robert J. Longwell, Esquire
Alan Kohler, Esquire
Wolf, Block, Schorr & Solis-Cohen
Locust Court Building, Suite 300
212 Locust Street
Harrisburg, PA 17101
(Enron Corp.)
(717) 237-7160
(717) 237-7161 (fax)

Environmental Energy Project
Attorney of Record
3700 Vartan Way
Harrisburg, PA 17110
(Environmentalists)

Roger E. Clark, Esquire
905 Denston Drive
Ambler, PA 19002
(Environmentalists)
(215) 643-2364
(215) 628-2630 (fax)

William T. Hawke, Esquire
Janet L. Miller, Esquire
Todd S. Stewart, Esquire
Malatesta, Hawke & McKeon
100 North Tenth Street
P. O. Box 1778
Harrisburg, PA 17105
(MAPSA)
(717) 236-1300
(717) 236-4841 (fax)

Mr. Eric Joseph Epstein.
2308 Brandywine Drive
Harrisburg, PA 17110
(717) 541-1101
(717) 541-5487 (fax)

Clinton A. Vince, Esquire
Paul E. Nordstrom, Esquire
Deborah A. Swanstrom, Esquire
Joel E. Newton, Esquire
Verner, Liipfert, Bernhard,
McPherson & Hand
901 15th Street, N.W.
Washington, DC 20005-2301
(Allegheny Power)
(202) 371-6000
(202) 371-6279 (fax)

Richard L. Caplan, Esquire
Mary Huwaldt, Esquire
Caplan & Lubert, LLP
The Caplan & Lubert Building
40 Darby Road
Paoli, PA 19301-1461
(Schuylkill Energy Resources)
(Gilberton Power Company)
(610) 640-1200
(610) 640-9865 (fax)

Billie E. Ramsey, Esquire
Executive Director - ARIPPA
1300 Market Street, Suite 7
Lemoyne, PA 17043
(Anthracite Region Independent Power
Producers Association)
(717) 763-7635
(717) 763-7455 (fax)

John L. Munsch, Esquire
Allegheny Power
800 Cabin Hill Drive
Greensburg, PA 15601
(Allegheny Power)
(412) 837-3000
(412) 838-6177 (fax)

David A. McCormick, Esquire
Regulatory Law Office -U 3949
US Army Legal Services Agency
901 North Stuart Street
Arlington, VA 22203-1837
(Dept. of the Army)
(703) 696-1646
(703) 696-2960

Mary McFall Hopper, Esquire
Assistant General Counsel
PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103
(PECO Energy)
(215) 841-4917
(215) 568-3389 (fax)

Harry S. Geller, Esquire
118 Locust Street
Harrisburg, PA 17108
(Pa. Utility Law Project)

Michael A. Stosser, Esquire
Heller Ehrman White & McAuliffe
815 Connecticut Avenue, N.W.
Suite 200
Washington, DC 20006-4004
(Kraft Foods, Inc.)

Mr. Stephen J. Baron
J. Kennedy and Associates, Inc.
35 Glenlake Parkway, Suite 475
Atlanta, GA 30328
(770) 395-1288
(770) 396-0151 (fax)

Scott J. Rubin, Esquire
3 Lost Creek Drive
Selinsgrove, PA 17870
(Electrical Workers, Local 1600)
(717) 743-2233
(717) 743-8145 (fax)

Robert F. Young, Esquire
Deputy General Counsel
212 Locust Street
P.O. Box 1266
Harrisburg, PA 17108-1266
(Allegheny Electric Cooperative)
(717) 233-5704
(717) 236-0248 (fax)

Patricia Armstrong, Esquire
Thomas, Thomas, Armstrong & Niesen
212 Locust Street
P. O. Box 9500
Harrisburg, PA 17108-9500
(Allegheny Electric Cooperative)
(717) 255-7600
(717) 236-8278 (fax)

Bruce A. Connell, Esquire
General Counsel
600 N. Dairy Ashford, ML-1034
Houston, TX 77079
(Dupont Power Marketing, Inc.)

Terence Fitzpatrick, Esquire
David Desalle, Esquire
Ryan, Russell, Ogden & Seltzer
800 North Third Street
Suite 101
Harrisburg, PA 17102-2025
(GPU Energy)
(717) 236-7714
(717) 236-7816 (fax)

Michael T. Vough, Esquire
Vough & Mecadon
Greater Pittston Prof. Center
126 South Main Street
Pittston, PA 18640-1793
(Commission on Economic Opportunity)
(717) 654-6499
(717) 654-6509 (fax)

Gary A. Jeffries, Esquire
CNG Energy Services Corp.
One Park Ridge Center
P.O. Box 15746
Pittsburgh, PA 15244-0746
(For CNG Energy Services)
(412) 787-4268
(412) 787-4464 (fax)

Michael L. Kessler, Esquire
Vice President/General Counsel
American Energy Solutions, Inc.
111 South Alfred Street
Alexandria, VA 22314
(American Energy Solutions, Inc.)
(703) 684-1006
(703) 683-3256

Mr. Bruce Biewald
Synapse Energy Economics, Inc
101 Chilton Street
Cambridge, MA 02138
(Witness for environmentalists)
(617) 661-3248
(617) 661-0599 (fax)

Usher Fogel, Esquire
Roland, Fogel, Koblenz & Carr, LLP
1 Columbia Place
Albany, NY 12207
(Pa. Petroleum Assoc.)
(Plumbing, Heating, Cooling
Contractors, Inc.)
(518) 434-8112
(518) 462-4242 (fax)

John P. Zinkand
Executive Vice President
Pennsylvania Petroleum Association
Suite 121, Building 2
2001 N. Front Street
Harrisburg, PA 17102
(Pennsylvania Petroleum Association)
(717) 233-5838
(717) 233-4578 (fax)

Linda C. Smith, Esquire
Dilworth, Paxson, Kalish & Kauffman LLP
305 N. Front Street, Suite 403
Harrisburg, PA 17101-1236
(AARP)
(717) 236-4812
(717) 236-7811 (fax)

Mr. Scott T. Jones
The Economic Resource Group
One Mifflin Place
Cambridge MA 02138

Brian A. Rider, President
Pennsylvania Retailers' Assoc.
224 Pine Street
Harrisburg, PA 17101-1325
(717) 233-7976

Susan M. Shanaman, Esquire
212 North Third Street
Suite 203
Harrisburg, PA 17101-1505
(For Center for Energy/Econ Dev)
(717) 236-2055
(717) 236-2070 (fax)

Joseph A. Dworetzky, Esquire
Hangley Aronchick Segal & Pudlin
One Logan Square, Twelfth Floor
Philadelphia, PA 19103-6933
(New Energy Ventures)
(215) 496-7014
(215) 568-0300 (fax)

Mr. David M. Boonin
New Energy Ventures, Inc.
1845 Walnut Street, Suite 2525
Philadelphia, PA 19103
(New Energy Ventures)
(215) 563-9290
(215) 563-9292 (fax)

Gordon Smith, Esquire
John & Hengerer
1200 17th Street, N.W., Suite 600
Washington, DC 20036-3006
(Duke Energy Trading/Marketing)
(Electric Clearinghouse, Inc.)
(Vastar Power Marketing, Inc.)
(NorAm Energy Management, Inc.)
(202) 429-8809
(202) 429-8805 (fax)

John R. Orr, Esquire
Duke Energy Trading/Marketing
One Westchase Center
10777 Westheimer, Suite 650
Houston, TX 77042
(Duke Energy Trading/Marketing)
(713) 260-1800
(713) 260-6511 (fax)

Mr. David L. Cruthirds
Electric Clearinghouse, Inc.
1000 Louisiana, Suite 5800
Houston, TX 77002-5050
(Electric Clearinghouse, Inc.)
(713) 507-3761

Keith M. Sappenfield, II
Director of Marketing Support
NorAm Energy Management, Inc.
P.O. Box 2628
Houston, TX 77252-2628
(NorAm Energy Management, Inc.)
(713) 654-5864

David W. Francis, Esquire
Powell, Trachtman, Logan, Carrle,
Bowman & Lombardo
114 North Second Street
Harrisburg, PA 17101
(Quaker Oats Company)
(Mount Joy Wire Corporation)
(717) 238-9300
(717) 238-9325 (fax)

Robert A. Mills, Esquire
McNees, Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
(717) 232-8000
(717) 237-5300 (fax)

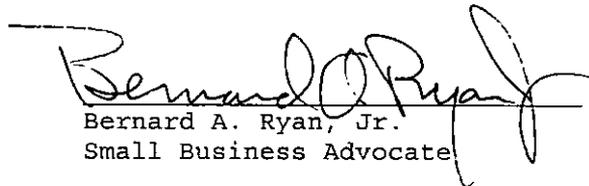
Gene Stilp, Coordinator
1550 FCVR
Harrisburg, PA 17112-9240
(PP&L Ratepayers Association)

John J. Gallagher, Esquire
Leboeuf, Lamb, Greene & MacRae
200 North Third Street, Suite 300
P.O. Box 12105
Harrisburg, PA 17108-2105
(Duquesne Light Company)
(717) 232-8199
(717) 232-8720 (fax)

Norma J. Rosner, Esquire
Vastar Power Marketing, Inc.
200 Westlake Park Boulevard
Houston, TX 77079
(Vastar Power Marketing, Inc.)
(713) 584-3980

Mr. Richard LaCapra
LaCapra Associates
The Province Building
333 Washington Street
Boston, MA 02108
(Witness for OCA)
(617) 367-6500
(617) 951-0528

Stephanie A. Sugrue, Esquire
Duane, Morris & Heckscher
1667 K Street, N.W., Suite 700
Washington, DC 20006-1608
(QST Energy, Inc.)
(202) 776-7800
(202) 776-7801 (fax)


Bernard A. Ryan, Jr.
Small Business Advocate

Date: May 7, 1998

RECEIVED
98 MAY -7 PM 3:31
PA.P.U.C.
PROTHONOTARY'S OFFICE

ORIGINAL



ANTHRACITE REGION INDEPENDENT POWER PRODUCERS ASSOCIATION

May 7, 1998

RECEIVED

MAY 07 1998

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

REPLY TO:

Billie E. Ramsey
Executive Director
1300 Market Street
Suite 7
Lemoyne, PA 17043
(717) 763-7635
(717) 763-7455 Fax

James McNulty, Secretary
Pennsylvania Public Utility Commission
B-20 North Office Building
Harrisburg, PA 17120

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

David F. Martin, P.E.
President
48 Eleanor Avenue
Frackville, PA 17931
(717) 874-4119
(717) 874-2034 Fax
<http://www.arippa.org>

HAND DELIVERED

Dear Mr. McNulty:

The Anthracite Region Independent Power Producers Association ("ARIPPA") is submitting this letter in lieu of Reply Exceptions in the above-captioned proceeding. ^{KJR}

With the exception of ARIPPA and its individual members, Schuylkill Energy Resources and Gilberton Power Company, none of the parties' exceptions addressed the issue of a true-up mechanism for payments to independent power producers ("IPPs"). Accordingly, there is no need for ARIPPA to reply to the exceptions of the other parties.

ARIPPA reiterates the need for a true-up mechanism for payments to IPPS to remove the potential economic incentive for "contractual gamesmanship" by PP&L.

Very truly yours,


Billie E. Ramsey

Members:

Archbald Power Company
Archbald, PA

Ebensburg Power Company
Ebensburg, PA

Foster Wheeler Mt. Carmel, Inc.
Mt. Carmel, PA

Gilberton Power Company
Frackville, PA

Inter-Power/Ahlcon Partners, L.P.
Colver, PA

Northeastern Power Company
Mc Adoo, PA

Panther Creek Partners
Nesquehoning, PA

Schuylkill Energy Resources
Shenandoah, PA

U. S. Generating Company
Northampton, PA

U. S. Generating Company
Scrubgrass, PA

Westwood Energy Properties
Tremont, PA

Wheelebrator Frackville Energy Co.
Frackville, PA

Enc.

cc: As per Certificate of Service
Administrative Law Judge George M. Kashi

Affiliate Member:

Air Products & Chemicals, Inc.
Cambria, PA

DOCKETED

MAY 11 1998

DOCUMENT
FOLDER

51

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Pennsylvania Power :
& Light Company for Approval of : Docket No. R-00973954
Restructuring Plan :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon the persons and in the manner indicated below:

Service in Hand:

Office of Special Assistants
Pennsylvania Public Utility Commission
210 North Office Building
Harrisburg, PA 17120

James McNulty, Secretary
Pennsylvania Public Utility Commission
B-20 North Office Building
Harrisburg, PA 17120

Service by First Class Mail Postage Pre-Paid

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

Donald A. Kaplan, Esq.
Preston Gates Ellis & Rouvelas Meeds, LLP
1735 New York Ave., NW
Suite 500
Washington, DC 20006-4759

John Munsch, Esq.
Allegheny Power Corp.
800 Cabin Hill Drive
Greensburg, PA 15601-2301

Johnnie E. Simms, Esq.
Office of Trial Staff
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

James A. Mullins, Esq.
Tanya J. McCloskey, Esq.
Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120

Bernard A. Ryan, Jr., Esq.
Office of Small Business Advocate
1102 Commerce Building
300 North Second Street
Harrisburg, PA 17101

David M. Kleppinger, Esq.
McNees, Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

Daniel Clearfield, Esq.
Alan Kohler, Esq.
Robert Longwell, Esq.
Wolf, Block, Schorr and Solis-Cohen LLP
Locust Court Building, Suite 300
212 Locust Street
Harrisburg, PA 17101

Richard L. Caplan, Esq.
Caplan & Luber, LLP
40 Darby Road
Paoli, Pa 19301

Todd S. Stewart, Esq.
Malatesta, Hawke & McKeon, LLP
Harrisburg Energy Center
P.O. Box 1778
Harrisburg, PA 17105-1778

Scott J. Rubin, Esq.
3 Lost Creek Drive
Selinsgrove, PA 17870-9357

Michael Fiorentino, Esq.
Clean Air Council - Harrisburg
3700 Vartan Way
Harrisburg, PA 17110

Roger E. Clark, Esq.
905 Denston Drive
Ambler, PA 19002

Mr. Eric Epstein
2308 Brandywine Drive
Harrisburg, PA 17110

David A. McCormick, Esq.
Regulatory Law Office
US Army Legal Services Agency
Department of the Army
Office of the Judge Advocate General
DAJA - RL 3949
901 North Stuart Street, Room 713
Arlington, VA 2203-1837

Stephen L. Huntoon, Esq.
Mary McFall Hopper, Esq.
PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699

Paul E. Nordstrom, Esq.
Verner, Liipfert, Bernhard, McPherson & Hand
901 15th Street, NW
Suite 700
Washington, DC 20005-2301

Robert P. Haynes, III, Esq.
Mette, Evans & Woodside
3401 North Front Street
P.O. Box 5950
Harrisburg, PA 17110-0950

Harry S. Geller, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101-1414

David W. Francis, Esq.
Powell, Trachtman, Logan, Carrle, Bowman &
Lombardo, P.C.
114 North Second Street
Harrisburg, PA 17101

Michael L. Kessler, Esq.
American Energy Solutions, Inc.
111 South Alfred Street
Alexandria, VA 22314

Michael T. Vough, Esq.
Greater Pittston Professional Center
126 South Main Street
Pittston, PA 18640-1793

Michael A. Stosser, Esq.
Kraft Foods, Inc.
815 Connecticut Ave., NW
Suite 200
Washington, DC 20006-4004

Craig A. Doll, Esq.
214 State Street
Harrisburg, PA 17101

Joan O. Brandeis, Esq.
Schnader Harrison Segal & Lewis
Suite 3600
Philadelphia, PA 19103-4252

Bruce A. Connell, Esq.
DuPont Power Marketing, Inc.
Legal Department
600 North Dairy Ashford, ML-1034
Houston, TX 77079

Gene Stilp, Esq.
1550 FCVR
Harrisburg, PA 17112-9240

Otto Hofmann, Esq.
PA Rural Electric Association
212 Locust Street
P.O. Box 1266
Harrisburg, PA 17108-1266

Craig G. Goodman, Esq.
ERI, Inc.
3333 K Street, NW
Suite 425
Washington, DC 20007

Gary A. Jeffries, Esq.
CNG Energy Services Corp.
One Park Ridge Center
P.O. Box 15746
Pittsburgh, PA 15244-0746

Shawn P. Leyden, VP and General Counsel
Energis Resources
499 Thornall Street
Edison, NJ 08837

Terrance J. Fitzpatrick, Esq.
David M. DeSalle, Esq.
Ryan, Russell, Ogden & Seltzer, LLP
800 North Third Street, Suite 101
Harrisburg, PA 17102

Usher Fogel, Esq.
Roland, Fogel, Koblenz & Carr, LLP
1 Columbia Place
Albany, NY 12207

John P. Zinkund, Executive Vice President
Pennsylvania Petroleum Association
2001 North Front Street
Suite 121, Building 2
Harrisburg, PA 17102

Susan M. Shanaman, Esq.
212 North Third Street, Suite 203
Harrisburg, PA 17101-1505

Linda C. Smith, Esq.
Dilworth, Paxson, Kalish & Kauffman LLP
305 North Front Street, Suite 403
Harrisburg, PA 17101-1236

Joseph A. Dworetzky, Esq.
Hangley, Aronchick, Segal & Pudlin
One Logan Square, 12th Floor
Philadelphia, PA 19103

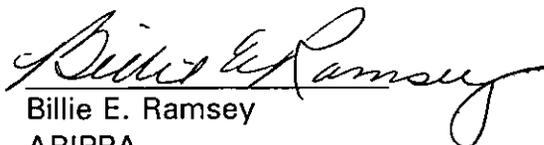
Robert A. Mills, Esq.
McNees, Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

Gordon Smith, Esq.
John & Hengerer
1200 17th Street, NW
Suite 600
Washington, DC 20036-3006

David M. Boonin, President
NEV East, LLC
200 South Broad Street
Suite 800
Philadelphia, PA 19102

Fred Zalcman, Esq.
Pace Energy Project
Pace University School of Law
78 N. Broadway
White Plains, NY 10603

Sheila S. Hollis, Esq.
Duane, Morris & Heckscher LLP
1667 K Street, NW
Suite 700
Washington, DC 20006-1608


Billie E. Ramsey
ARIPPA
1300 Market Street, Suite 7
Lemoyne, PA 17043

Dated: May 7, 1998



ORIGINAL

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, Pennsylvania 17101-1921
(717) 783-5048

IRWIN A. POPOWSKY
Consumer Advocate

May 7, 1998

FAX (717) 783-7152
E-Mail: paoca@ptd.net

James J. McNulty, Secretary
Secretary's Bureau
Pennsylvania Public Utility Commission
Room B-20, North Office Building
P. O. Box 3265
Harrisburg, PA 17105-3265

RECEIVED
98 MAY -7 PM 3:52
PA.P.U.C.'S OFFICE
PROTHONOTARY'S OFFICE
KJR

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

Dear Secretary McNulty:

Enclosed please find for filing an original and nine (9) copies of the Office of Consumer Advocate's Reply Exceptions in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely,

James A. Mullins

James A. Mullins
Assistant Consumer Advocate

Enclosures

cc: All parties of record
Hon. George M. Kashi, ALJ
Cheryl Walker-Davis, Director

DOCUMENT
FOLDER

57

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

APPLICATION OF PENNSYLVANIA :
POWER & LIGHT COMPANY FOR :
APPROVAL OF ITS RESTRUCTURING : Docket No. R-00973954
PLAN UNDER SECTION 2806 OF THE :
PUBLIC UTILITY CODE :

REPLY EXCEPTIONS
OFFICE OF CONSUMER ADVOCATE

RECEIVED
98 MAY 7 7 PM 3:52
PROTHONOTARY'S OFFICE

Craig R. Burgraff
Senior Assistant Consumer Advocate

James A. Mullins
Assistant Consumer Advocate

For:

Irwin A. Popowsky
Consumer Advocate

Office of Attorney General
Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120
(717) 783-5048

DATED: May 7, 1998

DOCKETED

MAY 11 1998

DOCUMENT
FOLDER

I. INTRODUCTION

The Office of Consumer Advocate (“OCA”) hereby files these Reply Exceptions to the Exceptions filed by PP&L, Inc. (“PP&L”) and other parties to Administrative Law Judge George M. Kashi’s Recommended Decision in this case. Since PP&L anticipated certain Exceptions of other parties and discussed those issues in the Introduction section of its Exceptions, the OCA will briefly respond to certain points made by PP&L in that Introduction.

PP&L at pages 2 and 3 of its Exceptions notes that its stranded cost claim should be viewed in light of its past and proposed mitigation efforts. It notes that its current rates are below the Pennsylvania average, and marginally above the national average because of past mitigation. PP&L suggests, as it did in its Initial Brief at page 5, that the results of past mitigation efforts support the reasonableness of high stranded cost levels. The OCA submits that this argument is illogical.

The Electricity Generation Customer Choice and Competition Act (“Customer Choice Act” or “Act”) certainly introduces mitigation as a consideration in the Commission’s determination of stranded costs, but it does so as a barometer for containing stranded cost recovery, not expanding it. Section 2803 of the Act, 66 Pa.C.S. §2803, defines transition or stranded costs as those costs which the Commission determines will remain following mitigation by the electric utility. Section 2808(c)(4) and (5) of the Act, 66 Pa.C.S. §2808(c)(4) and (5), provides that, in determining the level of transition or stranded costs that an electric utility may recover through the competitive transition charge (“CTC”), the Commission shall consider the extent to which the electric utility in the past has undertaken efforts to mitigate generation-related transition or stranded costs. It also provides that

the utility maintains the duty to mitigate generation related stranded costs during the transition period.

Clearly, the Act provides the Commission with the discretion to not allow excessive levels of stranded cost recovery where it believes that appropriate mitigation efforts have not been undertaken by the utility. PP&L suggests, however, with little explanation, that the corollary also applies. That corollary is that the exercise of acceptable past mitigation supports the granting of excessive levels of stranded costs. The OCA submits that this corollary is completely illogical.¹

As the OCA noted at pages 14-16 of its Main Brief, PP&L's level of current rates does not justify a higher level of stranded costs versus utilities with higher current rates. To the extent PP&L's lower embedded generation costs allow it to charge lower current rates than some other utilities, those lower costs also should result in lower allowed stranded costs. Otherwise, PP&L will be able to recover these costs twice, once as stranded costs and then again through competitive market revenues.

PP&L at pages 5-6 of its Exceptions attempts to explain why its stranded cost calculation should be totally different from its neighboring electric utility, PECO Energy, even though both will compete in the same market area, the Pennsylvania-New Jersey-Maryland ("PJM") interconnection. PP&L notes that this proceeding was based upon a "fully developed record" where the alleged flaws in opposing parties' positions were fully exposed for the first time. The OCA submits that PP&L's supposition has no merit.

¹ PP&L at page 4 of its Exceptions also incorrectly notes that the OCA proposed a 32% rate decrease in 1999 based upon a reasonable determination of stranded cost recovery. In actuality, the OCA recommended average rate savings of 20% in 1999 which decline to 13% in 2005 based on the OCA's assumed market prices. OCA M.B. at 83.

PP&L's statement that the PECO Energy restructuring order was not based on a fully developed record is misleading. PP&L Exceptions at 5. In that case, the record included the direct testimony, rebuttal testimony, and surrebuttal testimony of those parties who elected to file in the case. To the extent that PP&L is suggesting that there was insufficient due process in the PECO case, PP&L is in error. There was full due process in that proceeding. PP&L also suggests that the lack of cross-examination of the OCA's market price witness in the PECO proceeding led to the lack of a fully developed record. *Id.* What PP&L fails to note is that the opportunity for cross-examination was provided, and that all parties, including PP&L, voluntarily waived cross-examination of the OCA's market price witness.

PP&L's hypothesis is incorrect and is raised simply to gloss over the obvious, namely that it is illogical to develop wholly inconsistent methodologies and market lines for two neighboring utilities within the same market area. PP&L has never demonstrated a substantive reason for such an illogical action.

II. REPLY EXCEPTIONS

A. It Is Appropriate For All Customers To Benefit From The Act During The Phase-In Period Through Rate Savings.

Enron Power Marketing, Inc. (“Enron”) excepted to the ALJ’s determination relative to the proper generation rate for PP&L to charge its provider of last resort customers and those customers not yet provided choice under the phase-in. This exception, along with others advanced by Enron, were supported by others of the Competitive Intervenors. Provider of last resort customers are customers who either are unable to find an alternative supplier to serve them, return to PP&L after choosing an alternative supplier, or simply choose to remain with PP&L as their energy supplier. The ALJ adopted the position that the generation rates charged to provider of last resort customers, prior to the completion of customer choice phase-in, should not exceed the standard set forth in Section 2807(e)(3) of the Act, 66 Pa.C.S. §2807(e)(3), applicable to those customers after the phase-in is completed. That standard is prevailing market prices including all reasonable costs. R.D. at 163. In addition, the ALJ agreed with those parties who concluded that the Company’s generation rates for these customers should not be priced so low as to undercut the market. The ALJ, therefore, recommended that during the phase-in, PP&L’s generation rates should at no time be set below the standard offer price for the same class of service marketed by PP&L’s unregulated Generation Supply Group. Id.

With regard to the proper generation rates to be charged after the phase-in period, the ALJ noted that the Company must await the promulgation of regulations by the Commission, as required by Section 2807(e)(2) of the Act, 66 Pa.C.S. §2807(e)(2), before the provisions of Section 2807(e)(3) can be fully implemented. Id.

In this case, the Competitive Intervenors requested the determination of a “shopping credit” similar to the PECO restructuring decision. That credit would be established as the difference between current rates and the combination of the T&D and CTC components. Competitive Intervenors Brief at 12-13. Thus, these parties requested that default customers must be served at current regulated tariff rates until the Commission reduces those rates pursuant to Chapter 13 or promulgates post-phase-in regulations pursuant to Section 2807(e)(2) and (3) of the Act. See OCA R.B. at 33.

The OCA agrees with Enron and the Competitive Intervenors that the ALJ’s overall recommendation is totally inadequate and will result in neither rate savings for customers nor the development of a competitive market. The OCA differs from the Competitive Intervenors in their suggestion that 100% of any difference between PP&L’s bundled embedded rates and its T&D and CTC components must all be reflected in a “shopping credit.” As the OCA noted at page 81 of its Main Brief, the reflection of the entire difference between the Company’s capped rates and the combination of the T&D charge and the levelized CTC as a “shopping credit”, even if it exceeds the established prevailing market price, means that customers who must remain PP&L customers for whatever reason during the phase-in period must pay a generation rate that is higher than the applicable market rate. As the OCA argued, all customers should have the opportunity to receive rate savings from competition, not just customers who are able to and do leave PP&L.

The OCA submits that the Commission should reduce PP&L’s current rates and apply a reasonable market-based generation credit.² In order to achieve the result of having generation

² The ALJ correctly determined that PP&L’s proposed Purchase Generation Cost Rate for Basic Utility Supply Service customers is premature and should be addressed in the

rates charged by PP&L for customers who continue to purchase generation from PP&L be just and reasonable, it is necessary that PP&L's rates must be initially reduced by the amounts set forth in the OCA's testimony.

Under the "shopping credit" approach, customers can receive rate savings only if they select an alternate supplier and that supplier's charges are less than the "shopping credit". In contrast, the OCA's proposal results in rate savings for all customers with alternative suppliers competing based upon their ability to provide favorably priced electric generation when compared to the market-based retail generation price. Additional savings are possible for customers who are able to obtain electricity for less than the avoidable generation component of the OCA's rate, which starts at 3.13¢/Kwh in 1999 on a total Company basis and increases to 4.86¢/Kwh by 2005. OCA M.B. at 81.

The OCA submits that its recommendations in this case are appropriate for several reasons. First, it avoids the result that only customers who are able to and who choose to shop will see any of the rate benefits resulting from restructuring.

Second, the OCA submits that the effect of a "shopping credit" which is significantly higher than the market price of generation results in customers who must remain with the utility unreasonably subsidizing the collection of stranded costs. The Company, by being allowed to charge more than the market price upon which the stranded cost amount was determined, will overcollect its costs during the phase-in period.

Commission's regulations to be adopted pursuant to Section 2807(e)(2) of the Act. 66 Pa.C.S. §2807(e)(2). PP&L did not except to this determination. PP&L Exceptions at 8.

The OCA submits that PP&L's generation customers should only be charged prevailing market based generation rates (including all reasonable costs) and that all PP&L customers should have an opportunity to receive the rate savings proposed in the OCA's testimony, not just the customers who leave PP&L.

B. The ALJ Correctly Rejected PP&L's Stranded Cost Claim For Rate Case Expense.

PP&L has excepted to the ALJ's rejection of the Company's request for stranded costs related to rate case expense. PP&L Exceptions at 12. The OCA submits that the ALJ's decision is appropriate.

PP&L bases its exception on the "authorization" from the Commission in PP&L's last base rate case to recover rate case expense over four years. *Id.* Since PP&L recorded the deferred rate case expense on its books as a regulatory asset, it posits that recovery is mandated by the Act.

The OCA submits that PP&L is in error. As the ALJ correctly noted, for ratemaking purposes the Commission has normalized rate case expense for future recovery. R.D. at 173. PP&L is not entitled to recovery of its amortized rate case expense in this proceeding any more than it would be in a base rate proceeding in a regulated environment. Since the Company would be unable to recover its unamortized rate case expense under a regulated environment, Section 2803 of the Act, 66 Pa.C.S. §2803, prevents its recovery as a stranded regulatory asset. *Id.* At 144. See also OCA M.B. at 43-45. The ALJ's decision is correct.

C. The ALJ Correctly Rejected PP&L's Stranded Cost Claim For Susquehanna Deferred Refueling Expense.

PP&L excepted to the ALJ's disallowance of its regulatory asset claim for Susquehanna deferred refueling expense based upon its own determination to record deferred refueling expense for the Susquehanna station as a regulatory asset for accounting purposes. The ALJ properly differentiated between accounting conventions and ratemaking, and appropriately rejected PP&L's claimed stranded cost. R.D. at 136-139.

As the OCA noted in its Main Brief, the Commission in PP&L's last base rate case reflected the normalized level of refueling outage costs to account for the interval between refueling outages at Susquehanna. OCA M.B. at 48. Thus, a normalized level of refueling outage costs is already recovered in rates and recognized as an annual expense. No further recovery for any additional refueling outage costs is necessary as a regulatory asset.

D. The CTC Reconciliation Provided For By The Customer Choice Act Is For Collection Differences Based Upon Sales Levels.

Various parties have excepted to the ALJ's decision based upon the failure to provide for a CTC reconciliation that extends beyond the reconciliation provided for by Section 2808(f) of the Act, 66 Pa.C.S. §2808(f). The Anthracite Region Independent Power Producers Association ("ARIPPA"), along with two of its members, Gilberton Power Company ("GPC") and Schuylkill Energy Resources ("SER"), submit that the ALJ erred in not providing for a mechanism whereby projected payments to non-utility generators ("NUGs") are reconciled with actual payments. The concern of these entities is that PP&L might be tempted to put economic pressure on its NUGs to force them into compromising their PURPA contract rights for sums less than PP&L's aggregate CTC income attributable to those NUG contracts. ARIPPA Exceptions at 2.

The Environmentalists at pages 11-14 of their Exceptions iterate the desirability of instituting a tracking system to monitor shortfalls or overcollections that result from the actual market price over time differing from market prices adopted in this proceeding.

The OCA's position is that the Act requires stranded or transition costs to be recovered through the CTC, and that the only expressed reconciliation of the CTC is for the difference between actual annual revenues received from the CTC charge and the annual amortization of transition or stranded costs approved by the Commission through the CTC, or essentially a volumetric reconciliation. Section 2808(f) of the Act, 66 Pa.C.S. §2808(f), expressly provides:

Consistent with section 1307(e) (relating to sliding scale of rates; adjustments), the commission shall establish procedures for the annual review of the competitive transition charge. The review shall reconcile the annual revenues received from the charge with the annual amortization of transition or stranded costs approved by the commission under this section. The commission shall adjust the competitive transition charge based upon underrecovery or overrecovery of the annual amortization amount.

By definition, the Act requires that stranded costs are to be determined during the electric utility's restructuring proceeding. 66 Pa.C.S. §2803. The requirement in the Act for a determination of stranded costs in the restructuring plan on a net present value basis is a clear requirement for a one-time determination of stranded costs in this proceeding. There simply is no provision in the Act for an annual reconciliation of stranded costs to actual market price or to NUG payments. As noted earlier, the only provision in the Act which permits reconciliation of the CTC is for a change in sales.

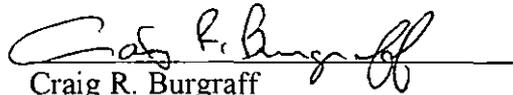
The OCA submits that the CTC should not be adjusted either annually or periodically in the manner suggested above.

III. CONCLUSION

For the reasons noted above, the listed exceptions should be denied.

Respectfully submitted,

James A. Mullins
Assistant Consumer Advocate


Craig R. Burgraff
Senior Assistant Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1921
(717) 783-5048

DATED: May 7, 1998
46740

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing documents,
OCA's Reply Exceptions, upon parties of record in this proceeding in accordance with the requirements of
52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 7th day of May, 1998.

SERVICE BY INTER-OFFICE MAIL OR FIRST CLASS MAIL, POSTAGE PREPAID

Johnnie E. Simms, Esq.
Scott DeBroff, Esq.
Office of Trial Staff
PA Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Bernard A. Ryan, Jr., Esq.
Office of Small Business Advocate
Suite 1102, Commerce Bldg.
300 North Second Street
Harrisburg, PA 17101

David M. Kleppinger, Esq.
Robert A. Mills, Esq.
McNees, Wallace & Nurick
100 Pine Street
P. O. Box 1166
Harrisburg, PA 17108-1166

Robert J. Longwell, Esq.
Wolf, Block, Schorr & Solis-Cohen
Suite 300, Locust Court Bldg.
212 Locust Street
Harrisburg, PA 17101

William T. Hawke, Esq.
Malatesta, Hawke & McKeon
Harrisburg Energy Center
100 North Tenth Street
Harrisburg, PA 17101

Craig A. Doll, Esq.
214 State Street
Harrisburg, PA 17101

Terrance J. Fitzpatrick, Esq.
David M. DeSalle, Esq.
Ryan, Russell, Ogden & Seltzer, LLP
Suite 101
800 North Third Street
Harrisburg, PA 17102-2025

Patricia Armstrong, Esq.
Regina L. Matz, Esq.
Thomas, Thomas, Armstrong & Niesen
Suite 500
212 Locust Street
P. O. Box 9500
Harrisburg, PA 17108-9500

Linda C. Smith, Esq.
Dilworth, Paxson, Kalish & Kauffman
Suite 403
305 North Front Street
Harrisburg, PA 17101-1236

David W. Francis, Esq.
Powell, Trachtman, Logan, Carrle
Bowman & Lombardo
114 North Second Street
Harrisburg, PA 17101

Harry S. Geller, Esq.
PA Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Robert F. Young, Esq.
Anthony C. Adonizio, Esq.
Allegheny Electric Cooperative, inc.
212 Locust Street
P. O. Box 1266
Harrisburg, PA 17108-1266

Susan M. Shananman, Esq.
Suite 203
212 North third Street
Harrisburg, PA 17101-1505

SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

Eric Epstein
2308 Brandywine Drive
Harrisburg, PA 17110

Billie E. Ramsey, Esq.
ARIPPA
Suite 7
1300 Market Street
Lemoyne, PA 17043

SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

Paul E. Russell, Esq.
Pennsylvania Power & Light Company
Two North Ninth Street
Allentown, PA 18101-1179

Mid-Atlantic Power Supply Assoc.
Suite 200
620 Herndon Parkway
Herndon, VA 20170

Stephen J. Baron
J. Kennedy & Associates, Inc.
Suite 475
35 Glenlake Parkway
Atlanta, GA 30328

Jerry Mendl
MSB Energy Associates
Suite 200
7507 Hubbard Avenue
Middleton, WI 53562

Richard L. Caplan, Esq.
Caplan & Lubert, LLP
The Caplan & Lubert Building
40 Darby Road
Paoli, PA 19301-1461

Fred Zalzman, Esq.
Pace University School of Law
78 North Broadway
White Plains, NY 10603

Donald A. Kaplan, Esq.
Lisa M. Helpert, Esq.
Preston, Gates, Ellis & Rouvelas
Meeds, LP
Suite 500
1735 New York Avenue, N.W.
Washington, DC 20006

Bruce Biewald
Synapse Energy Economics, Inc.
101 Chilton Street
Cambridge, MA 02138

John R. Orr, Esq.
Duke Energy Trading & Marketing
Suite 650
One Westchase Center, 10777 Westeimer
Houston, TX 77042

Mr. Robert D. Knecht
Industrial Economics Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140

Scott J. Rubin, Esq.
Public Utility Consulting
3 Lost Creek Drive
Selinsgrove, PA 17870-9357

William Schmitt
IBEW Local 1600
540 Grange Road
P.O. Box 470
Trexertown, PA 18087

Mary McFall Hopper, Esq.
PECO Energy
2301 Market Street
P. O. Box 8699
Philadelphia, PA 19101-8699

Randall V. Griffin, Esq.
Delmarva Power & Light Company
800 King Street
P. O. Box 231
Wilmington, DE 19899

James D. Steffes
Enron Corporation
1400 Smith Street
P. O. Box 4428
Houston, TX 77002

David A. McCormick, Esq.
Department of the Army
United States Army Legal Services
901 North Stuart Street
Arlington, VA 22203-1837

Joel D. Newton, Esq.
Verner Liipfert Bernhard McPherson
& Hand
901-15th Street, N.W.
Washington, DC 20005-2301

John L. Munsch, Esq.
Allegheny Power Company
800 Cabin Hill Drive
Greensburg, PA 15601

Michael L. Kessler, Esq.
American Energy Solutions, Inc.
111 South Alfred Street
Alexandria, VA 22314

Michael A. Stosser, Esq.
Adelia S. Borrasca, Esq.
Heller, Ehrman, White & McAuliffe
Suite 200
815 Connecticut Avenue, N.W.
Washington, DC 20006

Michael T. Vough, Esq.
Vough & Mecadon
Greater Pittston Professional Center
126 South Main Street
Pittston, PA 18640

Joan O. Brandeis, Esq.
Schnader, Harrison, Segal & Lewis
Suite 3600
1600 Market Street
Philadelphia, PA 19103

Usher Fogel, Esq.
Roland, Fogel, Koblenz & Carr, LLP
1 Columbia Place
Albany, NY 12207

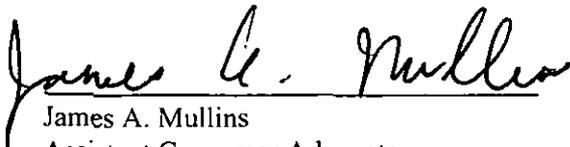
David M. Boonin
New Energy Ventures, Inc.
Suite 800
200 South Broad Street
Philadelphia, PA 19102

Andrew Altman, Deputy Director
Clean Air Council
Suite 300
135 South 19th Street
Philadelphia, PA 19103

Gordon J. Smith, Esq.
John & Hengerer
Suite 600
1200 17th Street, N.W.
Washington, DC 20036-3006

Roger E. Clark
Environmental Energy Project
905 Denston Drive
Ambler, PA 19002

Joseph A. Dworetzky, Esq.
Hangley, Aronchick, Segal & Pudlin
Twelfth Floor
One Logan Square
Philadelphia, PA 19103-6933


James A. Mullins
Assistant Consumer Advocate

Counsel For
Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120
(717) 783-5048

41338

RECEIVED
98 MAY -7 PM 3:52
PA.F.U.C. OFFICE
PROTHONOTARY'S OFFICE

MCNEES, WALLACE & NURICK
ATTORNEYS AT LAW

ORIGINAL

100 PINE STREET
P. O. BOX 1166
HARRISBURG, PA 17108-1166
TELEPHONE (717) 232-8000
FAX (717) 237-5300
<http://www.mwn.com>

PAMELA C. POLACEK
DIRECT DIAL: (717) 237-5368
E-MAIL ADDRESS: PPOLACEK@MWN.COM

May 7, 1998

KJR

VIA HAND DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Room B-20, North Office Building
Harrisburg, PA 17120

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

Dear Secretary McNulty:

Enclosed for filing are the original and nine (9) copies of the Reply Exceptions of the PP&L Industrial Customer Alliance in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties are being duly served with the exceptions. Please date stamp the extra copy of this letter and return it for our filing purposes.

Very truly yours,

MCNEES, WALLACE & NURICK

By *Pamela C. Polacek*
Pamela C. Polacek

Counsel to the PP&L Industrial Customer Alliance

RECEIVED
98 MAY -7 PM 1:01
PAPPUCCI OFFICE
PROTHONOTARY

PCP/clc
Enclosures

- c: Honorable George M. Kashi (via hand delivery)
- Cheryl W. Davis, Office of Special Assistants (w/diskette) (via hand delivery)
- Certificate of Service

DOCUMENT
FOLDER

5

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document 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

Joan O. Brandeis, Esquire
Schnader, Harrison, Segal & Lewis
Suite 3600
1600 Market Street
Philadelphia, PA 19103-4252

Roger E. Clark, Esquire
905 Denston Drive
Ambler, PA 19002

Daniel Clearfield, Esquire
Alan Kohler, Esquire
Robert Longwell, Esquire
Wolf, Block, Schorr and Solis-Cohen
212 Locust Street
Harrisburg, PA 17101

Enron Corporation
Attn: James D. Steffes
1400 Smith Street
P.O. Box 4428
Houston, TX 77002

Bernard A. Ryan, Jr., Esquire
Angela Jones, Esquire
Office of Small Business Advocate
PA Public Utility Commission
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101

Stephen L. Huntoon
Mary McFall Hopper
PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103

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

Mr. Robert D. Knecht
Industrial Economics Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140

Craig R. Burgraff
Barrett C. Sheridan
James A. Mullins
Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1921

Richard LaCapra
Henry Yoshimura
LaCapra Associates
The Province Building
333 Washington Street
Boston, MA 02108

Neil Talbot
81 Grand Street, No. 5
New York, NY 10013

Thomas S. Catlin
Exter Associates, Inc.
Suite 350
12510 Prosperity Drive
Silver Spring, MD 20904

Scott J. Rubin, Esquire
3 Lost Creek Drive
Selinsgrove, PA 17870-9357

CERTIFICATE OF SERVICE

Page 2

Docket No. R-00973954

Johnnie E. Simms
Scott H. DeBroff
Prosecutors, Office of Trial Staff
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Gene Stilp, Coordinator
1550 FCVR
Harrisburg, PA 17112-9240

Donald A. Kaplan, Esquire
Lisa M. Helpert, Esquire
Preston Gates Ellis & Rouvelas Meeds, LLP
Suite 500
1735 New York Avenue, NW
Washington, DC 20006

Terrance J. Fitzpatrick, Esquire
David M. DeSalle, Esquire
Ryan, Russell, Ogden & Seltzer, LLP
800 North Third Street, Suite 101
Harrisburg, PA 17102-2025

David A. McCormick, Esquire
Regulatory Law Office
U.S. Army Legal Services Agency
Department of the Army
DAJA-RL 3949
901 North Stuart Street, Room 713
Arlington, VA 22203-1837

David W. Francis, Esquire
Powell, Trachtman, Logan, Carrle,
Bowman & Lombardo, P.C.
114 North Second Street
Harrisburg, PA 17101

Richard L. Caplan, Esquire
Caplan and Luber, LLP
40 Darby Road
Paoli, PA 19301

Craig A. Doll, Esquire
214 State Street
Harrisburg, PA 17112

Randall V. Griffin, Esquire
800 King Street
P.O. Box 231
Wilmington, DE 19899

Eric Joseph Epstein
2308 Brandywine Drive
Harrisburg, PA 17110

Billie E. Ramsey, Executive Director
ARIPPA
1300 Market Street, Suite 7
Lemoyne, PA 17043

John L. Munsch, Esquire
Allegheny Power
800 Cabin Hill Drive
Greensburg, PA 15601-1689

Michael A. Stosser, Esquire
Kraft Foods, Inc.
815 Connecticut Avenue NW
Suite 200
Washington, DC 20006-4004

Bruce A. Connell, Esquire
Legal Department
600 North Dairy Ashford, ML-1034
Houston, TX 77079

William T. Hawke, Esquire
Janet L. Miller, Esquire
Todd S. Stuart, Esquire
Malatesta, Hawke & McKeon, LLP
Harrisburg Energy Center
P.O. Box 1778
Harrisburg, PA 17105-1778

Mary Huwaldt, Esquire
Caplan & Luber
40 Darby Road
Paoli, PA 17301

CERTIFICATE OF SERVICE

Page 3

Docket No. R-00973954

Robert F. Young, Esquire
212 Locust Street
P.O. Box 1266
Harrisburg, PA 17108-1266

Michael T. Vough, Esquire
Vough & Mecadon
Greater Pittston Professional Center
126 South Main Street
Pittston, PA 18640-1793

Michael L. Kessler
Vice President and General Counsel
American Energy Solutions, Inc.
111 South Alfred Street
Alexandria, VA 22314

Gary A. Jeffries
Senior Attorney
CNG Energy Services Corporation
One Park Ridge Center
P.O. Box 15746
Pittsburgh, PA 15244-0746

Usher Fogel, Esquire
Roland, Fogel, Koblenz & Carr, LLP
1 Columbia Place
Albany, NY 12207

John P. Zinkand
Executive Vice President
Pennsylvania Petroleum Association
Suite 121, Building 2
2001 North Front Street
Harrisburg, PA 17102

Linda C. Smith, Esq.
Dilworth, Paxson, Kalish & Kauffman, LLP
305 North Front Street, Suite 403
Harrisburg, PA 17101-1236

Gordon J. Smith, Esq.
John & Hengerer
1200 17th Street, N.W., Suite 600
Washington, D.C. 20036-3006

John R. Orr, Esq.
Duke Energy Trading and Marketing, L.L.C.
One Westchase Center, 10777 Westheimer
Suite 650
Houston, TX 77042

Stephen J. Baron
J. Kennedy and Associates, Inc.
35 Glenlake Parkway, Suite 475
Atlanta, GA 30328

Robert P. Haynes, III, Esquire
Mette, Evans & Woodside
3401 North Front Street
P.O. Box 5950
Harrisburg, PA 17110-0950

Clinton A. Vince, Esquire
Paul E. Nordstrom, Esquire
Deborah A. Swanstrom, Esquire
Joel D. Newton, Esquire
Verner, Liipfert, Bernhard, McPherson &
Hand
901 15th Street, NW
Washington, DC 20005-2301

Barbara R. Alexander
15 Wedgewood Drive
Winthrop, ME 04564

Susan M. Shanaman, Esquire
212 North Third Street
Suite 203
Harrisburg, PA 17101-1505

Joseph A. Dworetzky, Esq.
John P. Lavelle, Jr., Esq.
Hangley, Aronchick, Segal & Pudlin
One Logan Square, 12th Floor
Philadelphia, PA 19103

CERTIFICATE OF SERVICE

Page 4

Docket No. R-00973954

David Cruthirds
Electric Clearinghouse, Inc.
1000 Louisiana, Suite 5800
Houston, TX 77002-5050

Norma J. Rosner, Esq.
General Counsel
Vastar Power Marketing, Inc.
200 Westlake Park Boulevard
Houston, TX 77079

Patricia Armstrong, Esquire
Thomas, Thomas, Armstrong & Niesen
212 Locust Street
P.O. Box 9500
Harrisburg, PA 17108-9500

John Haucke, Executive Vice President
Pennsylvania Association of Plumbing,
Heating, Cooling Contractors, Inc.
4015 Jonestown Road
Harrisburg, PA 17109-9109

Vickiren S. Aeschleman
Director - Regulatory Policy
QST Energy, Inc.
300 Hamilton Boulevard, Suite 300
Peoria, IL 61602

Harry S. Geller, Esquire
118 Locust Street
Harrisburg, PA 17108

Attorney of Record
Environmental Energy Project
3700 Vartan Way
Harrisburg, PA 17110

Brian A. Rider
Pennsylvania Retailers Association
224 Pine Street
Harrisburg, PA 17101-1325

Keith M. Sappenfield, II
Director of Marketing Support
Noram Energy Mangement, Inc.
P.O. Box 2628
Houston, TX 77252-2628

Jerry Mendl
MSB Energy Associates
7507 Hubbard Avenue, Suite 200
Middleton, WI 53562

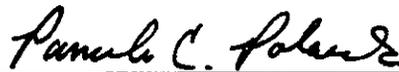
Fred Zalczman
Pace Energy Project
Pace University School of Law
78 North Broadway
White Plains, NY 10603

James H. Norris, Esquire
Eckert, Seamans, Cherin & Mellott
42nd Floor - 600 Grant Street
Pittsburgh, PA 15219

Dave Boonin
New Energy Ventures
1845 Walnut Street, Suite 2525
Philadelphia, PA 19103

Sheila S. Hollis, Esquire
Mary Ann Ralls, Esquire
Stephanie A. Sugrue, Esquire
Duane, Morris & Heckshcer, LLP
1667 K. Street, N.W., Suite 700
Washington, DC 20006-1608

RECEIVED
98 MAY -7 PM 4:01
PA.P.U.L.
PROTHONOTARY'S OFFICE



Pamela C. Polacek, Esq.

Counsel to the PP&L Industrial Customer Alliance

Dated this 7th day of May, 1998, at Harrisburg, Pennsylvania.

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission

v.

Docket No. R-00973954

Pennsylvania Power & Light Company

Application of PP&L for Approval
of its Restructuring Plan Under
Section 2806 of the Public Utility Code

**REPLY EXCEPTIONS OF THE
PP&L INDUSTRIAL CUSTOMER ALLIANCE – COMPLAINANTS**

Air Products and Chemicals, Inc.
Alumax
Appleton Papers Inc.
Armstrong World Industries, Inc.
Bethlehem Steel
CertainTeed Corporation
Hercules Cement Company
Hershey Foods Corporation
Horsehead Resource Development Co., Inc.
Lafarge Corporation - Whitehall Plant

Lucent Technologies
Magee Carpet Company
Mount Joy Wire Corporation
Praxair, Inc.
R.R. Donnelley & Sons Company, Inc.
The Stroh Brewery Company
Thomson Consumer Electronics, Inc.
Victaulic Company of America
WEA Manufacturing

David M. Kleppinger
Pamela C. Polacek
McNEES, WALLACE & NURICK
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
(717) 237-5214

Counsel to the PP&L Industrial
Customer Alliance

Dated: May 7, 1998

DOCKETED

DOCUMENT
FOLDER

MAY 11 1998

RECEIVED
98 MAY - 7 PM 4:01
PA.P.U.C. OFFICE
REGISTRAR

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	ii
I. INTRODUCTION	1
II. REPLY EXCEPTIONS	2
A. PPLICA RESPONSES TO PP&L	2
1. PP&L’s “Introduction” In Support Of The Recommended Decision Is Useless And Inaccurate Rhetoric Designed To Distract The Commission From The Clear And Pervasive Inadequacies Of The PP&L Proposal . . .	2
2. PP&L Exception 2: Taxes Other Than Income	7
3. PP&L Exception 3: Susquehanna Deferred Refueling Costs	8
B. PPLICA RESPONSES TO OCA	9
1. OCA Exception 26: Universal Service Cost Allocation	9
C. PPLICA RESPONSES TO ARIPPA AND SER/GPC	10
1. The ARIPPA and SER/GPC Requests For Creation Of A True-Up Mechanism To Reconcile PP&L’s “Actual” Stranded Costs Throughout The Transition Period With The Stranded Cost Calculation Approved In This Proceeding Are Not Authorized by The Act	10
III. CONCLUSION	13

TABLE OF AUTHORITIES

<u>Administrative Decisions</u>	<u>Page</u>
Chapter 28 Electricity Generation Customer Choice and Competition Act: Utility Recovery of NUG-Related Expenses Under the Act, Docket No. M-00970939, Order entered July 18, 1997	11
Guidelines for Universal Service and Energy Conservation Programs Made Pursuant to 66 Pa. C.S. §§ 2803, 2802(17), 2804(8) and 2804(9), Docket No. M-00960890F0010, Final Order entered on July 11, 1997	9
Pennsylvania Pub. Util. Comm'n v. Duquesne Light Co., Docket No. R-00974104, Motion of Chairman John M. Quain to Dispense with Non-binding Poll, adopted (5-0) at Public Meeting on April 30, 1998 ("Duquesne Restructuring — Quain Motion")	4,5
Pennsylvania Pub. Util. Comm'n v. PECO Energy Co., Docket No. R-00973953, Order and Opinion entered on December 23, 1997, 181 PUR 4 th 517 (1997) ("PECO Restructuring Order")	4,9
Pennsylvania Pub. Util. Comm'n v. West Penn Power, Docket No. R-00973981, Motion of Commissioner John Hanger to Dispense with Non-binding Poll, adopted (5-0) at Public Meeting on April 30, 1998 ("West Penn Restructuring — Hanger Motion")	5,6,12

Statutes and Rules

52 Pa. Code § 5.535	1
66 Pa. C.S. § 1301	3,16
§ 2802(15)	3,11
§ 2802(17)	9
§ 2803	3,11
§ 2804(3)	10
§ 2804(4)	10,15
§ 2804(7)	10,16
§ 2804(8)	9
§ 2804(9)	9
§ 2804(13)	3,11
§ 2804(14)	3
§ 2806(E)	11
§ 2808(a)	10,11,12
§ 2808(c)	3,12
§ 2808(f)	12
§ 2810	8

I. INTRODUCTION

On April 7, 1998, Administrative Law Judge George M. Kashi issued a Recommended Decision ("R.D.") in this proceeding. The parties submitted to the Pennsylvania Public Utility Commission ("Commission" or "PUC") Exceptions to the R.D. on April 27, 1998.¹ Pursuant to Section 5.535 of the Commission's Regulations, 52 Pa. Code § 5.535, and the established procedural schedule, the PP&L Industrial Customer Alliance ("PPLICA") hereby submits these Reply Exceptions. PPLICA was an active participant in this proceeding, submitting testimony by five witnesses, a Main Brief ("PPLICA M.B."), a Reply Brief ("PPLICA R.B."), and Exceptions ("PPLICA Exc.").

PPLICA replies to specific exceptions submitted by PP&L, OCA, ARIPPA and SER/GPC. PPLICA reasserts all arguments and positions set forth in its Exceptions, Briefs and testimony. Failure to specifically address exceptions raised by other parties to PPLICA positions should not be construed as acquiescence to those issues.

¹PPLICA received Exceptions from the following parties: PP&L ("PP&L" or "Company"); the Office of Consumer Advocate ("OCA"); the Office of Trial Staff; the Office of Small Business Advocate; Enron Power Marketing, Inc.; Environmentalists; PECO Energy Company ("PECO"); Anthracite Region Independent Power Producers ("ARIPPA"); the Commission on Economic Opportunity; Mid-Atlantic Power Supply Association; Pennsylvania Petroleum Association and the Pennsylvania Association of Plumbing, Heating, Cooling Contractors, Inc.; Schuylkill Energy Resources, Inc. and Gilberton Power Company ("SER/GPC"); and, NEV East, LLC.

II. REPLY EXCEPTIONS

A. PPLICA Responses To PP&L.

1. **PP&L's "Introduction" in Support of the Recommended Decision is Useless and Inaccurate Rhetoric Designed to Distract the Commission from the Clear and Pervasive Inadequacies of the PP&L Proposal.**

PP&L devotes one-half of its Exceptions to a defense of the PP&L filing and the R.D. See PP&L Exc. at 1-6. The Company attempts to anticipate the arguments that might be raised by parties such as PPLICA and the OCA in exceptions and then responds to PP&L's version of the PPLICA and OCA arguments. As PPLICA details in its Exceptions, the R.D. is illogical, inconsistent, anti-competitive and inequitable. PPLICA Exc. at 1-40. Adoption of the R.D. without modification will produce disastrous effects on the development of a competitive market in the PP&L territory and throughout the state. The Commission must not allow PP&L's rhetoric and public relations-like hype to cloud its clear consideration of the actual arguments raised by PPLICA (and others) regarding the flaws in the R.D.

In support of its restructuring proposal and the R.D., PP&L touts its full support for competition and its balanced approach to the original filing. PP&L Exc. at 2 & 4. However, any utility would logically and economically support "competition" if it were assured the unnecessary competitive advantage and market dominance that the R.D. provides PP&L. Unfortunately, this benefit accrues to PP&L to the detriment of ratepayers, competitors, and the development of a viable competitive market in Pennsylvania. PP&L's "balanced" approach to stranded cost calculation inflates the Company's claim to \$5.5 billion, in order for the Company to claim speculative future mitigation efforts to reduce its claim by \$1 billion. See id. at 3. This overcompensation for stranded cost will permit PP&L to dominate the new "competitive" market. The excessive stranded cost

recovery that PP&L receives for generating assets that are otherwise comparable to those owned by PECO or West Penn will provide PP&L with excessive cash flows from which it will maximize its share of the competitive market. While PECO and Duquesne are being compensated for their true "stranded cost," PP&L will be compensated for its "stranded lost revenues." Under the R.D., PP&L will receive much higher compensation for comparable (and sometimes jointly-owned) units than other utilities. The Act and the General Assembly never intended such disparate treatment for one utility.

The Company attempts to categorize the ALJ's approval of \$4.15 billion² in stranded cost as a 25% reduction from its gross stranded costs. See id. at 3. This argument again illustrates the inability of the Company to grasp the fundamental concept that it is not entitled to its full litigation claim for stranded cost. See PPLICA R.B. at 9-14. Rather, the Act establishes that the Company can recover only a just and reasonable amount of its properly claimed and quantified stranded costs. 66 Pa. C.S. §§ 2802(15), 2803, 2804(13), 2804(14), 2808(c) & 1301. In addition, the Act contemplates Commission discretion to order an equitable sharing of properly claimed and quantified stranded costs.

Sharing of Stranded Costs — I move to reject the Judge's conclusion that the Act prohibits sharing of stranded costs and that any sharing amounts to takings. The Act contemplates the Commission deliberation as to the just and reasonable rate for recovery of stranded costs. It is quite apparent that the Act does not restrict the Commission deliberation. The fact that sharing is not explicitly detailed, was to provide the Commission the full opportunity to customize the stranded cost result and recovery to the circumstances of the individual utility.

²PPLICA does not support the Company's calculation of the ALJ's final stranded cost recommendation under the R.D.

Pennsylvania Pub. Util. Comm'n v. Duquesne Light Co., Docket No. R-00974104, Motion of Chairman John M. Quain to Dispense with Non-binding Poll, adopted (5-0) at Public Meeting on April 30, 1998, p. 23 ("Duquesne Restructuring — Quain Motion"). This "just and reasonable" determination is made after the Company proves, based on substantial evidence, the proper amount of its claim and after past and future mitigation efforts are examined.

Even if the Commission does not order sharing in this proceeding, however, the Company has failed miserably to prove that its litigation claim for \$5.5 billion in "gross" stranded costs or \$4 billion in "net" stranded costs is legitimate. The burden of proof is on PP&L to support its claim.

In summary, in order to recover each component of the requested amount, [the utility] has the burden to prove, based on substantial evidence in the record, that each request would recover the net present value of the unmitigated, net, known and measurable generation related expense within the definition of stranded costs. [The utility] has the burden to prove that such costs would have been recoverable under traditional regulation but will not be recoverable in a competitive market. Once identified as appropriately recoverable stranded costs, the Commission must determine a just and reasonable amount authorized for recovery.

Pennsylvania Pub. Util. Comm'n v. PECO Energy Co., Docket No. R-00973953, Order and Opinion entered on December 23, 1997, 181 PUR 4th 517, 550 (1997) ("PECO Restructuring Order"). PP&L has not satisfied this burden.

In fact, the overwhelming weight of the evidence in this proceeding establishes that PP&L's litigation claim is drastically overstated. The Company's market price forecast is far from a balanced proposal. To the contrary, PPLICA illustrated a clear self-interested bias to unreasonably deflate projected market prices. PPLICA Exc. at 14-22. This bias is most evident in PP&L's reliance on Dr. Jones' completely judgmental fuel price forecast rather than an independent, nationally recognized forecast. Id. at 18-20. In the Commission's recent actions on the Duquesne

Light Company and West Penn Power restructuring proceedings, the Commission again endorsed the OCA analysis, including use of the nationally recognized DRI fuel price forecast. Duquesne Restructuring — Quain Motion, pp. 16-17; Pennsylvania Pub. Util. Comm'n v. West Penn Power, Docket No. R-00973981, Motion of Commissioner John Hanger to Dispense with Non-binding Poll, adopted (5-0) at Public Meeting on April 30, 1998, p. 16 ("West Penn Restructuring — Hanger Motion"). As Commissioner Hanger's Motion noted, DRI is a "reputable national leader in the field" and a "credible forecast." Id. This is directly contradictory to PP&L's (and the R.D.'s) arguments that DRI is not a reliable input to any market price forecast. See R.D. at 101; PP&L M.B. at 74. This obviously unreasonable position on a fundamental issue militates against reliance on PP&L's Dr. Jones' testimony on any issue in this proceeding.

In addition, PP&L's self-interested choice to use the "regulatory methodology" produced a stranded cost calculation that is far from the proper balance between ratepayers and the utility during the transition. The Commission recently reiterated its conclusion from the PECO proceeding that a lost revenues approach, such as PP&L's regulatory method, is not proper under the Act.

As argued primarily by WPII and AT, the "lost revenues" approach is not conceptually sound because utilities are not guaranteed the right to receive any particular level of revenues, including its authorized rate of return under traditional regulation. Rather, even under traditional regulated ratemaking, rates are designed to provide the utility an opportunity to earn the authorized rate of return. The task at hand is to determine stranded investment, not lost revenues. We fully adopt WPII's conceptual approach, consistent with our decision in PECO. If this proceeding were intended to guarantee West Penn revenue neutrality as the transition is made to a competitive generation market, there would be no possibility of consumer savings and no development of competition during the transition to competition. Clearly that is not the intent under the Act. Thus, we reject as conceptually unsound a "lost revenues" approach or any approach which incorporates guaranteed revenue neutrality, including return on investment, as part of the stranded generation principal amount.

West Penn Restructuring — Hanger Motion, pp. 9-10. The Commission further endorsed the validity of the asset value methodology, which was accepted by the Commission in the PECO proceeding and used by PPLICA and OCA in this proceeding, as the correct measure of stranded costs under the Act.

Conceptually, stranded utility generation investment is the difference in the value of the generating assets under regulation and in a competitive market over the life of the assets. Revenues received under each framework are not the primary issue. Rather they are an important element in assessing the change in the market value of the assets. WPII argues that the Commission must use the market valuation approach adopted by the Commission in PECO to determine a net present value of West Penn's generation assets at this time. We agree that a market valuation approach is preferable, in part because we believe it is the approach that is most consistent with the Act. Additionally, we believe that it is an approach which most fairly balances all of the relevant legal, policy and financial considerations and can produce a result that is both just and reasonable and consistent with the public interest.

Id. at 10. PP&L's use of the regulatory methodology, and its misapplication of the asset value methodology to conveniently produce an identical inflated claim, must be rejected.

In addition to requesting excessive stranded cost recovery from ratepayers, PP&L proposed substantial anti-competitive restrictions on the ability of some customer classes to access competitive supply. See PPLICA Exc. at 30-34. As PPLICA explains fully in its Exceptions, customers on IS-T, IS-P, RTS and RTD service will be economically prohibited from participating in the competitive market if PP&L's proposals are accepted. Id. PP&L's blatant cost shifting and anti-competitive proposal to charge a much higher firm rate schedule CTC to customers in these classes solely because a customer desires to access competitive supply strikes at the very heart of the Act. The Company's attempt to prevent these customers from exercising their access rights is inconsistent

with its purported support for competition and an open competitive market. Such proposals confirm that PP&L's claim that its filing was designed "to avoid controversy and to reach a balanced result" is clearly disingenuous. See PP&L Exc. at 3.

The Company attempts to portray itself as the lone champion of competition in this proceeding. As evidenced by its stark anti-competitive, anti-customer choice, and self-interested positions, however, in reality the Company is a wolf in sheep's clothing. Although vast differences exist between the positions of the consumer interests represented in this proceeding and the positions of PP&L (and the R.D.), the OCA and PPLICA positions are only "extreme" when compared to PP&L's litigation claim. Query why customer representatives such as PPLICA and OCA would endanger the long-term viability of the competitive market with "extreme positions." See PP&L Exc. at 4 & 6.

Fortunately, the time has arrived for the Commission to weigh the vast record created by the parties in this proceeding and determine how to facilitate the rapid but reasoned development of competitive markets for the benefit of citizens and businesses in the PP&L service territory. The OCA and PPLICA clearly have long-term interest in the development of a vibrant competitive market; the Commission must determine whether the same can be said of the proposals advanced by PP&L in this proceeding.

2. PP&L Exception 2: Taxes Other Than Income.

PP&L excepts to the ALJ's recommendation to adjust its claim for taxes other than income. PP&L Exc. at 9-11. The R.D. concludes that capital taxes will remain constant over the life of each

generation plant and that PURTA taxes will decline over time for each plant. R.D. at 128-29. PP&L asserts that the revenue neutrality provision in Section 2810 mandates rejection of the ALJ's recommendation on this issue. PP&L Exc. at 10-11. PP&L is misguided.

The R.D. correctly adjusted PP&L's stranded cost claim to eliminate the Company's projected increases in taxes other than income. As PPLICA explains in its Reply Brief, historic evidence clearly illustrates that these tax-related costs have declined over the past five years. PPLICA R.B. at 35 (citing PPLICA Statement 2, p. 51). More importantly, Section 2810, on which PP&L relies to support its exception, is irrelevant to this issue. Id. Section 2810 guarantees revenue neutrality for the Commonwealth. See 66 Pa. C.S. § 2810. Section 2810 does not sanction any utility's attempt to improperly inflate its stranded cost claim to meet speculative future tax increases that may be imposed by the Commonwealth. PPLICA R.B. at 35. The conclusion that PP&L is misapplying Section 2810 would be sound even if the projected future increases were supported by historic evidence of similar increases, which PP&L's projections are not. Id. The PP&L exception must be denied.

3. PP&L Exception 3: Susquehanna Deferred Refueling Costs.

PP&L excepts to the ALJ's recommendation to deny recovery as a stranded cost for Susquehanna deferred refueling costs. PP&L Exc. at 11-12. The Company asserts that the regulatory asset claim of \$7.996 million should be allowed because the Commission previously permitted deferral of these costs. Id. The Company's arguments should be rejected.

As PPLICA explains in its Main and Reply Briefs, the Company's unilateral decision to change accounting methods for these costs created this claimed stranded regulatory asset. PPLICA M.B. at 62-63; PPLICA R.B. at 37. As the R.D. further explains, the only authorization given to

PP&L by the Commission regarding these costs was to normalize the costs. R.D. at 138. The claim for a regulatory asset in this proceeding is inconsistent with the normalization and should be rejected. Id. at 138-39. The PP&L exception should be denied.

B. PPLICA Responses To OCA.

1. OCA Exception 26: Universal Service Cost Allocation.

The OCA excepts to the ALJ's adoption of PP&L's proposed methodology for allocating universal service costs on a per customer basis. OCA Exc. at 34-36. The OCA proposes that a kilowatt hour allocation or, in the alternative, a non-production revenue allocation be used to distribute universal service cost responsibility. Id. at 35-36. The OCA exception must be rejected because both OCA proposals violate the Commission's mandate that universal service costs be allocated consistent with the allocation of similar costs in the Company's last base rate proceeding.

As PPLICA explains extensively in its Main and Reply Briefs, the OCA allocation proposals are wholly inconsistent with the Act and Commission precedent. PPLICA M.B. at 89-91; PPLICA R.B. at 54-55. Universal service costs must be allocated to customer classes in this proceeding consistent with the allocations implicit in bundled rates. 66 Pa. C.S. §§ 2802(17), 2804(8) & 2804(9). The Commission has repeatedly recognized that the prohibition against inter- and intra-class cost shifting and the duty to ensure just and reasonable rates requires this result. Guidelines for Universal Service and Energy Conservation Programs Made Pursuant to 66 Pa. C.S. §§ 2803, 2802(17), 2804(8) and 2804(9), Docket No. M-00960890F0010, Final Order entered on July 11, 1997, slip op. at 20; PECO Restructuring Order, 181 PUR 4th at 582.

The OCA's claim that the Company's allocation results in a "bypassable" mechanism is spurious. See PPLICA R.B. at 55. The Act does not require that a threshold level of any type of

cost be allocated to customer classes; rather, the Act requires that costs be unbundled from current rates in a way that does not shift cost responsibility or violate the rate caps. 66 Pa. C.S. §§ 2804(3), 2804(4), 2804(7) & 2808(a). PP&L's proposal conforms with these requirements. PPLICA M.B. at 89-91. The OCA proposals are not consistent with the allocation of these costs in PP&L's last base rate proceeding, impermissibly shift costs and would violate the Act's rate cap. PPLICA M.B. at 90-91; PPLICA R.B. at 54-55. The OCA allocation proposals and its exception to the R.D. must be rejected.

C. PPLICA Responses to ARIPPA and SER/GPC.

1. The ARIPPA and SER/GPC Requests for Creation of a True-up Mechanism to Reconcile PP&L's "Actual" Stranded Cost Throughout the Transition Period with the Stranded Cost Calculation Approved in this Proceeding are not Authorized by the Act.

ARIPPA excepts to the R.D.'s failure to address its request for institution of a true-up mechanism to reconcile actual payments to independent power producers ("IPPs") with the projected payments included in PP&L's stranded cost claim. ARIPPA Exc. at 1-7. SER/GPC except to the R.D.'s failure to institute a general stranded cost true-up to allow parties to relitigate all components of PP&L's stranded cost calculation. SER/GPC Exc. at 1-5. These requests are not supported by the Act or record evidence in this proceeding. The ARIPPA and SER/GPC exceptions must be denied.

In support of its exception, ARIPPA cites to the Reply Brief of Schuylkill Energy Resources, Inc., and Gilberton Power Company, which ARIPPA joined by letter in lieu of a brief. See ARIPPA Exc. at 2 (quoting GPC/SER R. B. at 7). A review of that reply brief, however, shows no citation to record evidence in support of the argument. See GPC/SER R.B. at 7.

In addition, the Act clearly does not authorize institution of an additional true-up mechanism to address any or all of the components of the stranded cost calculation made in this proceeding. As the Commission recognized in its recent order regarding recovery of NUG costs under the Act:

Under the Competition Act, an electric utility is permitted an opportunity to recover, through a competitive transition charge (CTC), the net present value of assets which make up the utility's stranded costs. 66 Pa. C.S. § 2808(A). The calculations for this CTC should contain the costs reasonably incurred by a utility which are related to obligations with NUGs or related to the cancellation, buyout, buydown or renegotiation of a contract with a NUG. In addition, the electric utility's proposed CTC, incorporating NUG-related costs, is to be a component of the restructuring plan which the utility is required to file with the Commission. 66 Pa. C.S. § 2806(E).

Chapter 28 Electricity Generation Customer Choice and Competition Act: Utility Recovery of NUG-Related Expenses Under the Act, Docket No. M-00970939, Order entered July 18, 1997, slip op. at 2 (emphasis added). The Commission states quite clearly that NUG stranded costs are to be recovered exclusively through the CTC. The Commission's interpretation is well-grounded in the plain language of the Act. For example,

- Section 2803 requires that all stranded costs, including all NUG costs, must be determined on a net present value basis in a utility's restructuring proceeding and recovered through the CTC.
- Section 2802(15) empowers the Commission to provide a mechanism, the CTC, for recovery of an appropriate amount of stranded costs.
- Section 2804(13) states that the Commission has the "duty to approve a competitive transition charge for the recovery of a transition or stranded costs."
- Section 2808(a) states that the stranded cost recovery mechanism shall be "a competitive transition charge."

See 66 Pa. C.S. §§ 2803, 2802(15), 2804(13) & 2808(a) (emphasis added). The Legislature could not have stated its intention more clearly — all properly claimed and quantified stranded costs must be calculated in this proceeding and must be recovered through a CTC or an ITC. The only true-up

permitted is the annual review of the CTC under Section 2808(f). 66 Pa. C.S. § 2808(f). No reconciliation of the individual stranded cost calculation components is authorized.

In addition, ARIPPA admits that the status of the contractual obligations between IPPs and the utilities is currently being litigated in other fora. ARIPPA Exc. at 4-5. Those fora are the appropriate places to resolve the contractual disputes between IPPs and utilities. IPPs have an appropriate method to seek redress if PP&L attempts to break or otherwise violate the IPP contracts. The Commission need not institute a true-up procedure in this proceeding. The ARIPPA exception should be denied.

The Act also does not authorize a recalculation of total stranded costs. As the Commission recognized in Commissioner Hanger's Motion regarding the West Penn proceeding:

West Penn's proposals ignore the assumptions, definitions, and directives of the Act that stranded costs are to be determined in this proceeding at a net present value as of 12/31/98. Section 2808(a) authorizes the collection of stranded costs through a CTC only following the determination of just and reasonable recoverable stranded costs by the Commission pursuant to 2808(c). West Penn's proposal ignores the requirement that only net stranded costs are recoverable, at the net present value over the life of the asset as of December 31, 1998.

West Penn Restructuring — Hanger Motion, p. 13. On this basis, the Commission rejected West Penn's proposed "second look" approach to stranded costs. Id. The SER/GPC proposal to true-up stranded costs is nothing more than a continual "second look" approach to stranded costs. The proposal must be rejected.

III. CONCLUSION

WHEREFORE, the PP&L Industrial Customer Alliance respectfully requests the foregoing Exceptions of PP&L, the OCA, ARIPPA and SER/GPC be denied and that the Commission issue a final order in this proceeding consistent with the arguments in the PPLICA testimony, Briefs (Main and Reply) and Exceptions. Those arguments necessitate the following findings by the Commission regarding PP&L's restructuring proposals.

1. The Act requires a three step process for the determination of the stranded costs to be recovered through PP&L's CTC. First, the proposed costs must be properly claimed. Second, the properly claimed costs must be quantified. Third, the Commission must determine a just and reasonable level of properly claimed and quantified stranded costs to be recovered from ratepayers.
2. The Act clearly permits the equitable sharing of stranded costs between ratepayers and shareholders. The appropriate method for this sharing is the equity return disallowance applied to stranded generation costs.
3. The appropriate method for determining stranded costs is the Asset Value Method. The Asset Value Method is the only calculation method contemplated by the Act, is consistent with the definition of stranded costs in the Act, and is the correct balancing of the interests of ratepayers and shareholders. Furthermore, the Commission utilized the Asset Value Method to determine stranded cost recovery for PECO. Because the level of recovery of stranded costs is a critical issue, the Commission must consistently apply the Asset Value Method on a state-wide basis.
4. The market price forecast performed by Randall Falkenberg on behalf of PPLICA in this proceeding is credible and reasonable. The PPLICA forecast is based on reasonable and verified input assumptions, employs a model designed to predict future prices in a competitive market (as opposed to a regulated market), and produces plausible market prices that support the necessary addition of new capacity in the PJM region in the future.
5. Because the Commission must implement restructuring in a manner fair to all ratepayers, shareholders, utilities and competitors, the Commission adopts the OCA market price forecast, as it did in the PECO restructuring proceeding. To ensure fair treatment for the ratepayers, utilities and

competitors in the relevant geographic market for that forecast, the PJM region, all Commission decisions with respect to market prices for PJM member utilities must use the same forecast. In addition, it belies logic to find that two utilities in the same market region will face different market prices in the future.

6. The Commission rejects the market price forecast performed by Dr. Scott Jones on behalf of PP&L. First, Dr. Jones used unreasonable input assumptions designed to skew the forecast towards the low market prices that are necessary to manufacture stranded costs for PP&L in this proceeding. Most of the input assumptions are based on Dr. Jones' judgment and are not supported by other evidentiary sources. The Jones market price forecast relies on a fuel price forecast he performed specifically for this proceeding. That fuel price forecast contains predictions obviously aimed at producing the desired low market price result. Second, Dr. Jones misapplied the EGEAS model in determining energy prices and failed to apply the model at all in his forecasting of capacity prices. The Commission cannot rely on one witness's independent judgment as to market prices, especially when those ad hoc judgments conveniently create the scenario necessary for PP&L to claim higher stranded costs. Third, the market price forecasts presented by Dr. Jones are fundamentally flawed because the prices will not support the addition of new capacity to meet the anticipated future demand of the region. The Jones forecast is obviously biased and must be rejected out of hand by the Commission.
7. The Commission rejects PP&L's claim for \$315.867 million in future fossil decommissioning expense recovery as contrary to established precedent. Future fossil decommissioning costs do not meet the "known and measurable" standard under Chapter 28. In addition, future fossil decommissioning costs were not traditionally recoverable in the regulated environment.
8. The Commission rejects PP&L's attempt to categorize any foregone recovery under the rate cap as a form of mitigation. Foregone recovery is clearly contemplated by the limits on the time and amount of stranded cost recovery that are central to Chapter 28. Moreover, if the OCA or PPLICA stranded cost calculations are accepted (which they should be) the issue becomes moot as PP&L will clearly recover all allowed stranded costs within the transition period.
9. Stranded costs must not be allocated to customer classes based on any allocation method except for the 12CP method endorsed in PP&L's 1995 base rate proceeding. PP&L has properly allocated stranded costs as an

embedded portion of each rate class's bundled rates. Changing this allocation will violate the cost shifting prohibitions in the Act.

10. The Commission recognizes a regulatory liability of \$55.588 million in the calculation of PP&L's total stranded costs to be recovered in this proceeding. The Company inappropriately requested recovery as regulatory assets for the following items: anticipated under-recovered energy costs in 1997 and 1998; employee transition costs; the Department of Energy assessment; and SSES deferred refueling costs. The Company failed to recognize regulatory liabilities for pension overfunding and post-retirement expense related to SFAS 106. In addition, the Company overstated the quantification of unrecovered energy costs at December 31, 1996. The net effect of these adjustments to the Company filing is recognition of a regulatory liability of \$55.588 million in the stranded cost calculation.
11. The Commission adopts the fixed CTC design methodology for the recovery of PP&L's properly claimed and quantified stranded costs from ratepayers. This methodology establishes the CTC as a residual to the generation component of the bundled rate minus the expected market price for each year of the transition. The variable and levelized CTCs will inhibit the development of a competitive market and limit the ability of customers to benefit from that market during the transition period, and consequently must be rejected.
12. The Commission institutes the PPLICA proposed tracking mechanism to monitor PP&L's recovery of stranded costs through the CTC to insure that PP&L is not permitted to recover more than its properly claimable, quantified and recoverable stranded costs.
13. In the event that PP&L will not be able to recover its full stranded costs allowed for recovery during the transition period, an extension of the CTC recovery period may be appropriate. The Company must demonstrate the alleged under-recovery at that time; an automatic extension is not granted in this proceeding. In the event that the CTC recovery period is extended, the rate cap pursuant to Section 2804(4) must be extended concurrently in order to ensure that the captive ratepayers are not harmed.
14. The calculation of the CTC for interruptible customers that obtain electricity from competitive suppliers must be based on the interruptible CTC rates shown in the proposed tariff. Interruptible customers must not be subjected to a drastic increase in stranded cost responsibility by forcing those customers to revert to a firm rate schedule and CTC simply for accessing supply in the

competitive market. The PP&L proposal is contrary to the central economic development goals of the Act, violates the rate cap, inhibits customer choice and must be rejected.

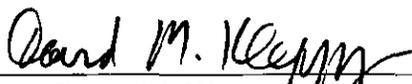
15. The Company's proposed Customized Rate Design is rejected. The proposal is unreasonable, violates the rate cap and anti-cost shifting provisions of the Act, and will further harm struggling businesses, contrary to the pro-business goals of the Act. In addition, the Company has failed to satisfy the burden of proving a reasonable basis for the Customized Rate Design.
16. The Industrial Development Initiative and Economic Development Initiative must remain available throughout the transition period. Closure of the initiatives prior to the end of the transition violates the rate cap and anti-cost shifting provisions of the Act.
17. PP&L's proposed modifications to the terms and conditions of its tariffs are rejected. No basis exists to require IST, ISP, ISA, PRS-1 and PRS-2 to take service only from the Company during the transition period. The changes to the frequency and duration of economic interruptions and the cost to buy through economic interruptions have no evidentiary support, are unreasonable, and are clearly anti-competitive.
18. Universal service costs must be allocated to customers based on the allocations of uncollectibles expense in PP&L's last base rate proceeding. Alternative proposals to allocate the costs on a kWh basis or on a non-production demand allocator violate the Act's prohibition against cost shifting (66 Pa. C.S. § 2804(7)) and the requirement that rates be just and reasonable (66 Pa. C.S. § 1301). The Commission must adhere to the precedent established in its Universal Service Order and the PECO restructuring decision by rejecting the alternative proposals.
19. PP&L's proposed "delivery rate" must be further unbundled into "transmission" and "distribution" in order to ensure that customers able to arrange for transmission service under the FERC open access tariffs do not pay twice for transmission service.
20. The PPLICA pro-rata, accelerated phase-in proposal is accepted. One third of the load in each rate class must have access to competitive supply on January 1, 1999, a second third must have access on January 2, 1999, and all customer load must have access on January 2, 2000. In addition, any oversubscription for the stages must result in a pro-rata reduction for each

customer desiring participation. Both aspects of the proposal maximize participation in the competitive market and eliminate most potential competitive disadvantage claims.

21. PP&L is not prohibited from entering into contracts under its Competitive Rate Rider. This pricing option must remain open to customers in order to maximize customer choices. In addition, elimination of the CRR at this time may competitively disadvantage eligible customers that are not yet on a CRR contract. Furthermore, the Act specifically insures the continued availability of competitive options such as the CRR.

Respectfully submitted,

McNEES, WALLACE & NURICK

By 

David M. Kleppinger
Pamela C. Polacek
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
(717) 237-5214

Counsel to the PP&L Industrial Customer Alliance

Dated: May 7, 1998

Paul E. Russell
Associate General Counsel
Tel. 610.774-4254 Fax 610.774.6726
E-mail: perussell@papl.com

PP&L, Inc.
Two North Ninth Street
Allentown, PA 18101-1179
Tel. 610.774.5151
http://www.papl.com/

ORIGINAL



May 7, 1998

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Room B-20, North Office Building
Harrisburg, PA 17120

VIA HAND DELIVERY

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

Dear Secretary McNulty:

KJR

Enclosed, for filing, in the above-referenced proceeding, are an original and nine (9) copies of the "Reply of PP&L, Inc. to Exceptions of Other Parties."

Copies of these Reply Exceptions are being provided to parties of record as indicated on the enclosed certificate of service. In addition, a copy is being provided to the Office of Special Assistants in electronic format on a computer disk, 3½ in size in Microsoft Word for Windows 6.0 format.

If there are any questions concerning this matter, please call.

Very truly yours,

Paul E. Russell
Associate General Counsel

Enclosures

cc: Certificate of Service
Chairman Quain
Commissioner Hanger
Commissioner Bloom
Commissioner Brownell
Comissioner Rolka

DOCUMENT
FOLDER

RECEIVED
98 MAY -7 PM 3:59
PAP&L
PROTHONOTARY'S OFFICE

47

ORIGINAL

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**APPLICATION OF
PENNSYLVANIA POWER & LIGHT COMPANY
FOR APPROVAL OF ITS RESTRUCTURING PLAN
UNDER SECTION 2806 OF THE PUBLIC UTILITY CODE**

**REPLY OF PP&L, INC.
TO EXCEPTIONS OF OTHER PARTIES**

Paul E. Russell
PP&L, Inc.
Two North Ninth Street
Allentown, PA 18101

Donald A. Kaplan
Lisa M. Helpert
Preston Gates Ellis & Rouvelas Meeds LLP
1735 New York Avenue, N.W., Suite 500
Washington, D.C. 20008-4759

Dated: May 7, 1998

RECEIVED
98 MAY - 7 PM 3:59
PAPUC
PROTHONOTARY'S OFFICE

DOCKETED

**DOCUMENT
FOLDER**

MAY 11 1998

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	REPLIES TO EXCEPTIONS	7
	A. The Revenue Requirement/Regulatory Method Is the Only Consistent and Accurate Method for Calculating Stranded Costs in the Record	7
	B. The ALJ's Market Price Determinations Are Correct	9
	1. Fuel Prices	12
	2. Inflation Rate	14
	3. Capacity Factors	14
	4. Plant Retirements	15
	5. Capacity Prices	15
	6. Model	16
	C. The ALJ Correctly Adopted PP&L's Proposals Concerning Design of the Competitive Transition Charge	16
	D. The ALJ Properly Approved PP&L's Jurisdictional Allocation of Generating Facilities	18
	E. The ALJ Properly Accepted PP&L's Claims for Regulatory Assets	19
	F. The ALJ Properly Rejected OCA's and PPLICA's Stranded Cost Sharing Proposals and Properly Adopted PP&L's Cost of Equity	20
	G. The ALJ Properly Adopted PP&L's Proposed Code of Conduct	21
	H. The ALJ Properly Rejected PPLICA's Contentions Concerning Discounted Interruptible Service Rates	21
	I. Enron's Exception Concerning Service to Customers Not Yet Eligible for Choice is Without Merit	22
	J. The ALJ Properly Rejected Enron's Proposals Concerning Unbundling of Metering and Billing	22
	K. The ALJ Properly Rejected the Proposals for Substantial Funding Increases for Customer Assistance Programs	23
III.	CONCLUSION	25

TABLE OF AUTHORITIES

Page(s)

ADMINISTRATIVE CASES

<u>Pa. P.U.C. vs. PP&L</u> , Docket No. R-00943271 (September 27, 1995)	22
<u>Application of Duquesne Light Company</u> , Docket No. 00974104, Motion Adopted April 30, 1998	4
<u>Application of PECO Energy Company</u> , Docket No. R-00973953 (December 23, 1997)	passim
<u>Application of West Penn Power Company</u> , Docket No. R-00973981, Motion Adopted April 30, 1998.	4, 11

STATUTES AND REGULATIONS

52 Pa. Code § 5.535	1
66 PA.C.S. § 2807	23
66 Pa. C.S. §2802.	5
Guidelines for Universal Service Energy Conservation Programs Made Pursuant to 66 Pa.C.S. §2803, §2807 (17), §2804 (8) and §2804 (9) (July 11, 1997)	25

I. INTRODUCTION

PP&L, Inc. ("PP&L" or the "Company") files this Reply to the Exceptions filed by various parties to the Recommended Decision ("RD") of Administrative Law Judge George M. Kashi (the "ALJ") in PP&L's Application for Approval of Restructuring Plan Under Section 2806 of the Public Utility Code (the "Application" or "Restructuring Plan Filing"). Given the large number of Exceptions and the 25-page limit on Reply Exceptions imposed by 52 Pa. Code § 5.535, PP&L is not able to respond fully to all of the Exceptions filed by opposing parties. The Commission is encouraged to refer to PP&L's Initial ("MB") and Reply Briefs ("RB"), which fully refute the many arguments raised in the Exceptions.^{1/}

The ALJ Properly Approved The Major Elements Of PP&L's Restructuring Plan Filing. As the Commission is undoubtedly aware, the Recommended Decision, for the most part, adopted PP&L's Restructuring Plan Filing and rejected most of the adjustments proposed by the opposing parties. The ALJ, after hearing the witnesses and reviewing the record, correctly recognized that PP&L's Application reflected a careful and appropriate balancing of customer, shareholder and competitor interests and achieved a result which provides for reasonable stranded cost recovery and an appropriate transition to a fully competitive market.

Opposing Party Ad Hominem Attacks On The ALJ Should Be Rejected. The opposing parties, obviously disappointed with the Recommended Decision, not surprisingly, filed extensive Exceptions. What is surprising, however, and inappropriate, is the nature and tone of the attacks directed against the ALJ. Judge Kashi has established a well-earned reputation for fairness and careful decision-making during his 18 years of service as an

^{1/} To facilitate this review, PP&L has prepared a table attached as Appendix A to these Reply Exceptions identifying where each issue raised in the Exceptions is addressed in PP&L's prior briefs.

Administrative Law Judge with the Commission. While the parties may disagree with the Recommended Decision, this does not justify *ad hominem* attacks of the ALJ's decision-making abilities. Unfounded attacks on an ALJ's impartiality and competence should not be tolerated by the Commission.

The PECO Order And Settlement Provide No Support For Opposing Party Exceptions. Apart from unfairly attacking the ALJ, the Exceptions profusely cite the Commission's PECO Order to support a variety of attacks on the Recommended Decision. PP&L has explained, at great length, the factual, legal and policy reasons why the Commission's Order in Application of PECO Energy Company, Docket No. R-00973953 (December 23, 1997) ("PECO") cannot control this case. See PP&L MB, pp. 6-8; RB, pp.14-17; PP&L Exceptions, pp. 4-6. Moreover, all of the opposing party references to the PECO Order are now moot. At its public meeting on April 30, 1998, the PUC issued a Tentative Order approving a Joint Petition For Full Settlement Of PECO Energy Company's Restructuring Plan And Related Appeals, et al, Docket Nos. R-00973953 and P-00971265. The Joint Petition resolves "all issues arising from PECO's proposed restructuring plan and application plan and application for a qualified rate order. . ." Joint Petition, p. 3. Because the Joint Petition settles all issues and adopts material changes to the PUC's prior PECO Orders, these Orders will effectively be superseded by the Joint Petition and should no longer be accorded any precedential weight.^{2/} Moreover, the Joint Petition specifically provides that:

^{2/} For example, the Joint Petition (p. 25), adopts a "black box" stranded cost allowance of \$5.26 billion, as compared to the \$4.942 billion allowed in the PECO Order. PECO, Order on Compliance Filing, p. 8. Thus, the findings supporting this prior allowance, including market price and all other elements of the stranded cost calculation, are no longer valid precedent. Similarly, the Joint Petition (p. 12) adopts a declining CTC as compared to the "levelized" CTC in the PECO Order. Thus, the PECO case no longer provides any support for a levelized CTC.

"The Joint Petitioners agree that this Settlement shall not constitute or be cited as controlling precedent in any other proceedings, including Pennsylvania utilities' restructuring proceedings before the Commission under Section 2806(D)." Joint Petition, p. 46 (Emphasis added).

PP&L's Restructuring Plan Filing Must Be Viewed In Context Of PP&L's Existing Rates. Turning to the merits of this proceeding, any fair analysis must begin with the level of PP&L's current rates. PP&L's rates have been essentially flat for the past 13 years and, when adjusted for inflation, have declined by 36% (See Appendix C, attached). Under the rate caps in the Act, PP&L's rates will not increase before 2002, producing further real rate decreases for customers. Moreover, if T&D rates remain unchanged through the end of the transition period (December 31, 2005), PP&L's customers will see more than a 50% decline in real rates over 20 years.

These low rates have three important implications for the resolution of this case. First, these low rate levels demonstrate PP&L's past mitigation efforts. This past mitigation plus PP&L's commitment to \$1 billion in future mitigation fully support PP&L's claim to recover 100% of its just and reasonable stranded costs without further sharing. Second, these low rates will, in conjunction with the rate caps in the Act, constrain PP&L's stranded cost recovery, preventing PP&L from recovering all of its stranded costs. Third, these low rates mean PP&L customers have been saving for years and are not in need of the immediate savings that are appropriate for customers of utilities with higher rates, such as PECO Energy. The many complaints in the Exceptions about the lack of savings for PP&L's

customers simply demonstrate the fact that PP&L's rates are already low and that competitors may have to "sharpen their pencils" in order to compete with these rates.^{3/}

The ALJ Properly Concluded that PP&L Had \$4.14 Billion In Stranded Costs. The opposing parties, particularly OCA and PPLICA, devote the bulk of their Exceptions to attacking the ALJ's stranded cost allowance. These arguments are fully refuted in PP&L's prior briefs, but three over-arching points should be reiterated.

First, OCA and PPLICA spend much time attacking the ALJ's use of PP&L's Revenue Requirement Method rather than OCA's Asset Value Method. The truth of the matter is, (as OCA itself has admitted elsewhere),^{4/} when properly applied, the two methods produce the same result. The differences cited by OCA and PPLICA relate to their own erroneous application of the Asset Value Method, and not to any failings in PP&L's Revenue Requirement Method. The PP&L Revenue Requirement Method should be adopted as the only accurate and complete method presented in this case. Alternatively, if the Asset Value Method is used, it should be applied accurately and correctly as set forth in Table D to PP&L's Main Brief (reproduced as Appendix B to these Reply Exceptions).

Second, apart from method and calculation issues, the PUC must consider the end result advanced by OCA and PPLICA. See PP&L RB, pp. 14-17. Both parties assert that

^{3/} In the same vein, PPLICA gloomily predicts that the lack of savings in PP&L's filing will thwart the Act's goal of "economic development." (PPLICA Exceptions, p. 3). PPLICA's argument ignores the economic development initiatives already provided by PP&L's historic low rates and the massive economic development programs pioneered by PP&L which have produced thousands of new jobs in PP&L's service territory. It also ignores the historically low interruptible rates most of PPLICA's members have enjoyed. Under PPLICA's approach, those utilities which did the best job of keeping rates low and promoting economic development would receive the worst treatment in restructuring proceedings. This is not only counter-intuitive, but bad public policy.

^{4/} See Docket No. R-00973981, Motion Adopted April 30, 1998, p. 12 ("West Penn").

PP&L has virtually no stranded costs associated with its own generating plants.^{5/} In their view, customers, over time, will pay the same for electricity in a competitive market as they would under continued regulation. Thus, competition, in their view, will produce no savings to customers. This result is completely at odds with all relevant economic theory, with the results consistently seen in other deregulated industries and with the fundamental premise of the Act.

Third, it is undisputed that the OCA/PPLICA proposals, if adopted, would destroy PP&L financially and jeopardize PP&L's ability to provide safe and reliable service as the local EDC and provider of last resort. The OCA's 20% proposed rate cut would produce a negative return on equity for PP&L in 1999. See PP&L RB, p 4. There is simply no support in the Act for destroying a utility's financial integrity and jeopardizing its ability to provide reliable service; indeed the Act specifically directs the Commission to maintain safe and reliable service. 66 Pa. C.S. §2802(9) and (12); §2807(a) and (e).

The only response offered to these points is the OCA counter argument that PP&L's stranded cost claim is facially unreasonable and anticompetitive because it exceeds the net book value of PP&L's generating plant (\$3.25 billion) (OCA Exc., p. 2). The OCA's argument is simply not true. First, the OCA's figures are in error. Second, the OCA has presented an "apples to oranges" comparison by using different jurisdictional allocations in the two figures. The OCA uses its own erroneous lower jurisdictional allocation proposal in calculating the book value figure, but uses PP&L's higher jurisdictional allocation in calculating the stranded cost figure. Obviously, using substantially different jurisdictional percentages produces different and non-comparable results. On an accurate and consistent

^{5/} OCA proposed total stranded costs of \$1.080 billion of which only \$138.1 million is generation plant. PPLICA proposed total stranded costs of \$661 million, of which only \$133 million is generating plant (PPLICA St. 1, p. 7).

basis, PP&L's net book value of generating plant is at least \$700 million more than its \$3.14 stranded cost claim, not the negative \$250 million alleged by the OCA. See Appendix B.^{6/} Once this number "bust" is corrected, the remaining OCA arguments have no factual predicate and must be rejected.

The Recommended Decision Correctly Adopted PP&L's Proposed Stranded Cost Recovery Proposals. Opposing party Exceptions also devote significant time to PP&L's proposed collection of stranded costs through the CTC. The ALJ adopted PP&L's approach in which the CTC is the residual remaining after transmission, distribution and market generation rates have been subtracted from current bundled rates. Most opposing parties, citing PECO and competitive concerns, propose an approach where the CTC is calculated first and the residual is a generation "shopping credit" for customers who choose an alternative electric supplier.

The question of whether the CTC or market generation rate is calculated first is a "red herring" which ignores the real underlying issue. No matter which method is used, the level of stranded cost collection through the CTC and the level of generation shopping credit will be constrained by PP&L's low rates and the rate caps in the Act. PP&L appropriately balanced this constraint by establishing a generation credit equal to the full projected market price and leaving a CTC that collected only \$4 billion of its \$4.5 billion stranded cost claim. The higher shopping credits proposed by the other parties will, because of the rate caps in the Act, simply reduce PP&L's level of stranded cost recovery. The issue is not one of

^{6/} PP&L's correct net book value is \$3.82 billion as shown in Appendix B, plus the \$196 million in mitigation achieved through its proposed depreciation swap shown in Note 1 in Appendix B, for a total of \$4.02 billion.

methodology. It is simply a matter of recognizing that PP&L's rates are already low and will, by definition, yield a lower shopping credit than the higher rates of other utilities.^{7/}

The opposing parties also claim that PP&L's generation shopping credit is too low to permit effective competition. Since PP&L's credit is equal to the projected market price, these parties appear to be arguing that because they cannot compete against the market price, the PUC should increase the market credit, i.e., raise generation prices. Because of the rate caps in the Act, however, this simply means denying PP&L the opportunity to recover its just and reasonable stranded costs. The market will set the price, not the PUC, and PP&L should be permitted to recover fully its just and reasonable stranded costs.

II. REPLIES TO EXCEPTIONS

A. **The Revenue Requirement/Regulatory Method Is the Only Consistent and Accurate Method for Calculating Stranded Costs in the Record**

OCA and PPLICA except to the ALJ's adoption of the Revenue Requirement Method for calculating stranded costs. Both contend that the Commission must employ the Asset Valuation Method. The ALJ correctly concluded that the Revenue Requirement Method as applied by PP&L was the only consistent and accurate method presented in this proceeding for determining stranded costs (RD, pp. 81-83).

As explained in PP&L's briefs and summarized in the RD, p. 81, the Revenue Requirement Method compares the annual cost of service revenue requirement for each generating plant over its remaining life to projected annual revenues at market prices. The difference between the cost of service revenue requirement and market revenue, discounted to present value, is the stranded cost of generation. In contrast, the Asset Valuation Method

^{7/} The Commission has already tentatively recognized that different shopping credits are inevitable. See PECO Tentative Order (4.46¢/kwh credit); Duquesne Motion (4.01¢/kwh credit); West Penn Motion (3.11¢/kwh credit).

compares the present value of market revenues less cash expenses over a series of future years to the current book value to determine stranded cost.

The ALJ correctly listed the five principal reasons why the Revenue Requirement Method is superior to the Asset Valuation Method. Moreover, as the ALJ notes, PP&L has demonstrated that, when properly applied, both methods produce the same result, as illustrated in Appendix B (PP&L St. 19-R, pp. 9-14).^{8/} OCA and PPLICA have not properly applied the Asset Valuation Method. Accordingly, the ALJ correctly concluded that the appropriate course was to accept the correct application of the Revenue Requirement Method as opposed to a flawed application of the Asset Valuation Method.

The problems with the OCA and PPLICA application of the Asset Valuation Method stem primarily from the fact that, as evidenced by the Commission's decision in PECO, it cannot be used to calculate stranded regulatory assets. As explained at pages 122 to 130 of PP&L's MB, the following adjustments must be made to OCA's stranded cost calculations to correct for these errors in application: A&G Expenses assigned to generation (\$460.911 million); reflection of future plant additions as capital rather than expense (\$165.318 million); inclusion of CWIP at January 1, 1999 (\$109.928 million); taxes recoverable (\$230.304 million); and deferred taxes (\$281.671 million). As illustrated in Appendix B, when the Asset Valuation Method is properly and consistently applied and other errors are corrected, it yields the same result as the Revenue Requirement Method.^{9/} For these reasons,

^{8/} Contentions that it is necessary to use the Asset Valuation Method for "consistency" with other utilities are without merit. When properly applied, both methods yield the same result.

^{9/} For this reason, the contention that the Revenue Requirement Method guarantees a return is incorrect. Both methods calculate the difference between a regulated return and that
(continued...)

the ALJ properly accepted the only method presented on the record that was correctly applied.

B. The ALJ's Market Price Determinations Are Correct

OCA, PPLICA and OSBA except to the ALJ's adoption of PP&L's projection of market prices for electric generation. Before addressing the specific issues raised by these parties, it is important to put these issues in context. This was accomplished by the testimony of the pre-eminent public utility economist, Dr. Alfred Kahn. Dr. Kahn observed that if the OCA and PPLICA market price projections are correct, PP&L will have essentially no stranded generation plant costs. In effect, the OCA and PPLICA are predicting that prices for generation in a competitive market, over time, will be the same as they would be under continued rate regulation. As Dr. Kahn explained:

. . . the estimates with which OCA has emerged effectively contradict . . . the very expectations of major benefits of competition to consumers . . . by predicting that they are likely to be almost entirely ephemeral. (PP&L St. 18-R, p. 24).

OCA reaches this result by predicting that capacity prices will rise by 238% and energy prices will rise by 136% from 1999 to 2015 (OCA St. 2, Exh. DCS-7). These projections defy both logic and the intent and expectation of the Act that competition will produce lower prices than regulation.^{10/}

9/(...continued)

which will be achieved based on projected market prices and, when correctly applied, produce the same result (See PP&L MB, pp. 42-48, RB, pp. 21-27). Indeed, the Asset Value Method can only rely on book value because it assumes that that Company will be allowed to earn a just and reasonable return.

10/ PPLICA observes that even PP&L projects increases in capacity and energy prices. While PP&L projects that prices will rise over current market prices, they will not rise to (continued...)

OCA, PPLICA and OSBA argue that the Commission should adopt the market price projections provided by OCA witness Smith, because: (1) adoption of Mr. Smith's prices are required for consistency with PECO, and (2) OCA's analysis must be accepted because it is based upon an "independent" fuel price/inflation forecast. The ALJ correctly recognized, based upon the evidence in this proceeding, that these overly simplistic statements cannot be the basis for resolving a pivotal issue in this proceeding.

First, and most importantly, the record in this proceeding demonstrates that the fuel price and inflation forecasts developed by Mr. Smith are grossly overstated. The unrefuted evidence in this regard was not presented in PECO, because all witnesses employed either the same DRI forecast or the interrelated EIA forecast.^{11/} Accordingly, these pleas for consistency must be recognized as an effort to urge the Commission to ignore the unrefuted evidence in this proceeding that the DRI forecast has consistently overstated both fuel prices and inflation and is internally inconsistent in its escalation of coal prices as compared to oil and gas prices.^{12/}

Second, the alleged need for "consistency" is misplaced. Under the top down approach advocated by these parties, even if the Commission could accept the invitation to

10/(...continued)

levels embedded in PP&L's tariff rates. Hence, there will be significant stranded generation costs.

11/ As demonstrated in the record in this case, the EIA and DRI forecasts are similar and based upon the same assumptions (PP&L St. 7-R, pp. 57-58; PP&L Ex. STJ-19). Accordingly, criticisms of the DRI forecast are equally applicable to the EIA forecast used by PPLICA and the similarity of these forecasts is not a basis for concluding they are correct.

12/ Dramatic proof of this consistent overstatement is shown in PP&L Exhibits STJ 12, 13, 14a and 14b.

ignore the market price record in this case, which it cannot, the adoption of the same market price as adopted in PECO will not produce the "claimed" consistency. The shopping credit resulting from the restructuring proceeding for each utility will inevitably be unique given the rates of each utility and its stranded costs. These factors are all related to the manner in which the utility has conducted its business in the pre-choice period. Accordingly, the demands for consistency with the market price determination in PECO are unsupported even as a matter of policy.^{13/}

PP&L has addressed and refuted each of the criticisms of its market price forecast and has demonstrated that its market price forecast is both superior to OCA's forecast and the only forecast supported by the weight of the evidence in this case (PP&L MB, pp. 50-87, RB, pp. 27-39). The ALJ, who heard the evidence in this case, correctly concluded that

^{13/} In addition, PECO is no longer a viable precedent because it has been superseded by the Commission's tentative approval of a settlement among all parties. The settlement specifically provides that it is not to be used as a precedent in any other case. Moreover, while the Commission has now tentatively resolved the West Penn Power Company and Duquesne Light Company restructuring proceedings, West Penn; Docket No. R-00974104, Motion Adopted April 30, 1998 ("Duquesne"), these companies are not part of the PJM system and there should be no expectation that market prices in PJM will be the same as those in Western Pennsylvania. For example, the effect of imports into PJM is not relevant to market prices in West Penn's and Duquesne's service areas and different nuclear capacity factors can be expected in ECAR and PJM. Therefore, these market price determinations are not relevant in this case. However, referring to Appendix B attached to these Reply Exceptions to apply the West Penn/Duquesne market price resolutions, the PUC would adopt the adjustments in Note 2 for "Coal Price," "Capacity Prices" and "Inflation Adjustments" and in Note 4 for "OCA pricing." No adjustment would be made for "Plant Retirement" and "New CT Fuel," which are not market price issues. Moreover, as explained above, "PJM Imports" and "Nuclear Capacity Factors" are PJM specific issues not dealt with in West Penn and Duquesne. In addition, any application of the West Penn/Duquesne decisions would also reflect the pre-tax CTC amortization rate utilized in those decisions. See West Penn, p. 24; Duquesne, pp. 25-26. PP&L's pre-tax cost of capital is summarized at Table F to its Main Brief, and is 13.54%, based on an 11.5% return on equity.

PP&L's forecast was the best forecast in this proceeding. PP&L will briefly review the reasons below.

1. Fuel Prices

The evidence in this case demonstrates that the DRI and EIA forecasts have consistently overstated both fuel prices and inflation (RD, pp. 98-99; PP&L Ex. STJ-35).^{14/} While OCA and PPLICCA contend that the DRI fuel price forecast must be accepted because it is an "independent" forecast, the ALJ quickly saw through this argument (RD, pp. 97-99). Furthermore, the ALJ correctly recognized that OCA's witness could not provide the basis for the DRI forecast or the assumptions used in that forecast since he had not obtained and did not review the full forecast documents (RD, pp. 98-99). In contrast, PP&L's forecast of fuel prices is based upon Dr. Jones' study of changes in prices of various fuels (oil, gas, coal and uranium) throughout this century and the relationship of the changes in the price of each fuel. Two critical conclusions are reached in this study (PP&L Ex. STJ-16). The first is that real fuel prices (exclusive of inflation) have not increased over time.^{15/} For this reason, Dr. Jones projected that real fuel prices would remain flat and that nominal fuel prices would

^{14/} Fuel price projections, as explained by PP&L's witness, Dr. Jones, are properly developed by projecting increases in real fuel prices and increases in fuel prices due to inflation.

^{15/} Dr. Jones demonstrated that real oil prices are "mean reverting" to a price of about \$15.50 a barrel in 1996 dollars. Nevertheless, he used a starting point price of \$17.90/barrel based on 1996 prices held flat until 1999 and increased for inflation at 2.5% per year thereafter. Currently oil prices are under \$16. Wall Street Journal, May 1, 1998, p. C-1; May 4, 1998, p.C-1. OCA suggests that Dr. Jones understated 1996 starting point fuel prices. This contention is refuted at PP&L RB, p. 33 (fn.14 and 15). However, it is obvious that Dr. Jones did not understate fuel prices by starting with \$17.90/barrel when prices currently are under \$16/barrel.

increase by inflation. These conclusions are supported by nearly 100 years of evidence (See PP&L MB, pp. 65-71).

The second critical conclusion of Dr. Jones' fuel price study is that changes in prices of different competing fuels, particularly coal as compared to oil and gas, are highly correlated. Dr. Jones' forecast of fuel prices continues this high historic correlation. In stark contrast, the DRI forecast predicts, without historic support or any explanation in this record, that coal prices will not increase at the same rate as oil and gas prices. As shown in the table on page 73 of PP&L's MB, this leads to an erroneous understatement of coal prices in every year from 2001 to 2015 by growing amounts in each year. By 2015, coal prices would be 49% higher than predicted by DRI if the historic correlation were to continue. This divergence is not only illogical, it is statistically nearly impossible. PP&L St. 7-R, pp. 30-32.

This "divergence" problem is particularly critical to the calculation of stranded costs in this proceeding. The marginal cost units operating on PJM will normally be gas and oil-fired units, and these units will set the price for all units operating in the same hour. OCA and PPLICA thus understate the costs of operating PP&L's coal-fired generating units and PP&L's stranded costs associated with these units. As shown in Appendix B, PP&L has estimated that the effect of the divergence of coal prices in the DRI forecast alone understates its stranded costs by \$230.157 million. See PP&L MB, p. 74.^{16/}

^{16/} The divergence of coal prices from oil and gas prices was not an issue in PECO for several reasons. First, as noted previously, all parties in that proceeding employed either the Spring 1997 DRI forecast or the similarly flawed EIA forecast. Second, PECO's coal-fired generating plants account for a relatively small portion of PECO's generation. See PECO Exh. 2, Sched. G-7, App. A-25, at Docket No. R-00973953. In contrast, PP&L's coal-fired generating plants account for 38% of its generation. See PP&L Hrg. (continued...)

Faced with these significant deficiencies in the DRI and EIA forecasts, the ALJ was not presented with a close question. The record in this proceeding compels a conclusion that Dr. Jones' fuel price forecast is the best available forecast in this proceeding.^{17/}

2. Inflation Rate

PP&L's witness, Dr. Jones, forecasted inflation at a level annual rate of 2.5%. This inflation rate was used to increase fuel prices after 1999 assuming that nominal fuel prices would remain flat until 1999 from relatively high levels in 1996. This inflation rate consistently was used to escalate other costs except variable O&M costs which were increased 2% for 1997-2000; 1.5% for 2000-2005 and 2.5% thereafter to reflect improved productivity following the introduction of competition (PP&L MB, p. 80).

OCA and PPLICA except to the ALJ's adoption of these inflation projections and urge adoption of the continually rising, and totally unsupported, inflation rates contained in the DRI and EIA fuel price forecasts. As explained in PP&L's MB, pp. 74-77, Dr. Jones' projections are consistent with current monetary policy and current 10-year projections of the GNP deflator. OCA's and PPLICA's inflation rates are inconsistent with current experience and completely ignore any possibility of slower economic growth between now and 2024. The ALJ properly rejected this scenario as unrealistic.

3. Capacity Factors

OCA and PPLICA except to the ALJ's findings on nuclear capacity factor and NUG capacity factors. As explained in PP&L's MB, pp. 78-79 and 83-84, the capacity factors

^{16/}(...continued)
Exh. 2, Filing Requirement RP-G.6, Attach. 2.

^{17/} The Commission recognized in PECO that the unchallenged DRI forecast, and the EIA forecast, were the best available in that proceeding (See PECO, p. 87).

used by PP&L are based upon actual capacity factors achieved in recent years. The fact that different, unsupported assumptions were made by OCA's and PPLICA's witnesses in PECO is not a basis for accepting such assumptions here.

4. Plant Retirements

OCA and PPLICA also except to the ALJ's rejection of their proposed extension of the retirement dates of certain fossil fuel plants (Keystone and Conemaugh), again arguing inconsistency with PECO. As explained in PP&L's MB, pp. 86-87 and RB, p. 38, there is no basis to conclude that the lives of these plants, in which PECO owns a minority interest, will be extended. Moreover, the OCA/PPLICA analysis assumes that only the lives of Keystone and Conemaugh will be extended and that all other units in PJM will be retired on schedule. There is obviously no basis for this totally inconsistent approach.

5. Capacity Prices

OCA and PPLICA except to the ALJ's adoption of PP&L's capacity prices. The ALJ concluded that this issue was a "tempest in a teapot" because these parties attempted, unsuccessfully, to use this issue as a demonstration that Dr. Jones' market price analysis was flawed. Dr. Jones demonstrated that his capacity prices and energy prices are sufficient to support the construction of new combined cycle units when needed (See PP&L MB, pp. 50-55, RB pp. 29-30). The only conclusion that can be reached, therefore, is that OCA's and PPLICA's higher projected capacity and energy prices exceed the prices required to support construction of new facilities.

6. Model

OCA and PPLICA also criticize the ALJ's adoption of the EGEAS model used by PP&L to project market prices. PP&L demonstrated that with the proper inputs and certain corrections, ENPRO produces essentially the same results as the EGEAS model. However, ENPRO cannot model all units on PJM (See PP&L MB, p. 59). There is no reason to reverse the ALJ on this issue.^{18/} For all the reasons explained in PP&L's MB, pp 55-61, the EGEAS Model is superior to ENPRO.

C. The ALJ Correctly Adopted PP&L's Proposals Concerning Design of the Competitive Transition Charge

Certain parties, principally Enron and MAPSA, object to PP&L's "bottom up" rate design for its CTC. They contend erroneously that only their proposed "top down" CTC rate design is acceptable, that a top down approach promotes competition and that it is mandated by PECO.

Under the Act, there are three primary rate components: The transmission and distribution charge ("T&D"), the CTC and the generation charge. The total of these charges may not exceed the rate cap. Under the Act, the T&D charge is derived from existing rates. One of the two remaining charges, the CTC or the generation charge, must be calculated independently. The other remaining charge becomes the residual charge which is capped at the portion of the total rate that remains following the calculation of the T&D charge and the charge selected to be calculated independently. Under PP&L's method of calculating the

^{18/} The only other issue here is whether PP&L properly reflected start up and no load costs in applying the EGEAS model. Dr. Jones demonstrated that even if it were assumed that suppliers always included such cost in their bids, PP&L's stranded generation costs would be reduced by only \$37 million. However, there is no reason to believe suppliers will do so, because these costs would not be recovered only if the suppliers' bid actually sets the market price (see PP&L MB, pp. 61-64).

CTC, the CTC is the residual charge; under the “top down” methodology, the generation charge is the residual charge.

In contending that the PP&L’s “bottom up” charge is anti-competitive, Enron and MAPSA disregard the problems created for PP&L by its low rates. As explained previously, the combination of PP&L’s low rates, significant stranded costs and the rate caps during the transition period make it impossible for PP&L to recover all of its stranded costs if the generation charge or shopping credit is equal to or greater than the projected market price of electricity in the PJM region. Something has to give. Under PP&L’s rate design, what “gives” is the full recovery of stranded costs. In other words, under PP&L’s proposal, PP&L has sacrificed a measure of stranded cost recovery in order to permit the generation charge to be set at the full projected price of electricity. Contrary to the marketers’ contentions, this price will permit suppliers to become profitable by “beating” the average price of electricity. Thus, under the circumstances confronting PP&L, the “bottom up” CTC methodology promotes competition. In contrast, under the “top down” CTC methodology the maximum generation charge would be less than the market price of electricity because a substantial amount of stranded costs must be recovered within the transition period under the Act and within the rate caps. (PP&L St. 7-R, pp. 22-27; Exh. STJ-9).

Further, while various parties complain, at length, that a generation credit equal to full market price would be anti-competitive, no party, other than PP&L, presented specific evidence as to what the generation credit should be. In the only other restructuring decision involving a utility with low rates (West Penn Power), the Commission has tentatively accepted a generation credit of 3.11¢/kwh. See West Penn, p. 2. There is no reason to conclude that any higher credit is required for PP&L. Enron, the most active marketer in this

proceeding, has stated that it can compete in the PJM market with an initial maximum generation credit of 3.48¢ per kilowatt hour.^{19/} See PECO, p. 35. Enron, however, presented no evidence in the record of this proceeding to justify a credit of this magnitude. Clearly, if the Commission is to base its decision on the record in this case and permit PP&L to recover a just and reasonable amount of stranded costs, then it should affirm the ALJ.

D. The ALJ Properly Approved PP&L's Jurisdictional Allocation of Generating Facilities

OCA and the Environmentalists object to the ALJ's approval of PP&L's jurisdictional allocation of generating facilities (RD, p. 112). These parties object to increasing the Pennsylvania jurisdiction allocation of generating plant in the future as wholesale contracts expire. However, the generation costs associated with the capacity returning from these wholesale contracts must be included in the calculation of stranded costs because this capacity will be required to meet the needs of PP&L's retail customers (PP&L St. 10-R, pp. 29-31). As shown on PP&L Exh. DAK-2, under a regulated environment this returning capacity would be needed to meet customer requirements and maintain a reserve margin of 16% to 22%. Thus, PP&L demonstrated that it needs the returning capacity in order to meet reserve margin requirements.

OCA's contentions that the effect of load growth on the reserve requirement should not be considered is totally inconsistent with its own case. OCA, itself, relies upon retail load growth to increase market revenues and reduce PP&L's stranded costs. OCA, however, refuses to acknowledge that this same load growth would have required PP&L to utilize

^{19/} PP&L notes that the system average generation credit for its pilot program, by coincidence, also is 3.48¢ per kilowatt hour. This level of generation credit has been more than sufficient to encourage approximately twice as many customers to apply to participate in the pilot program as available slots.

returning capacity to meet its reserve requirements under regulation. OCA's exceptions on this issue should be rejected.

E. The ALJ Properly Accepted PP&L's Claims for Regulatory Assets

OCA and PPLICA have excepted to the ALJ's approval of certain of PP&L's regulatory assets and liabilities. PP&L will explain briefly below why such exceptions should be rejected with regard to the major items. PP&L's briefs provide explanations for other items.

1. PP&L has included unrecovered energy costs for 1997 and 1998 as a regulatory asset. Contrary to the arguments of OCA and PPLICA, the amount claimed by PP&L is a reasonable estimate of the level of expense that will not be recovered under base rates. Such expenses are no more speculative than expenses estimated for future test years in traditional ratemaking (See PP&L MB, pp. 98-101).

2. OCA and PPLICA have objected to PP&L's recovery of decommissioning costs for fossil fuel generation plants. Contrary to their contentions, such costs are recoverable under traditional ratemaking as negative net salvage after a generating plant has been retired. Further, PP&L will not have a reasonable opportunity to recover such costs under deregulated rates over the small portion of the remaining life of its older fossil-fuel plants. Thus, denying recovery of decommissioning costs is anti-competitive since these older plants must compete with new plants that can spread such costs over their entire useful lives (See PP&L MB, pp. 105-09; RB, pp. 47-48).

3. PPLICA's contention that the overfunding of PP&L's pension fund should be treated as a regulatory liability is without merit. PPLICA ignores the fact that the present overfunding of PP&L's pension fund reduces the future pension expense reflected in

generation station operation and maintenance costs. Using the overfunding as a regulatory liability would increase future pension expense and, therefore, increase stranded costs (PP&L St. 8, p. 22; St. 8-R, pp. 40-42). PPLICA's contentions were properly rejected by the ALJ (See PP&L MB, pp. 101-04; RB, pp. 46-47).

F. The ALJ Properly Rejected OCA's and PPLICA's Stranded Cost Sharing Proposals and Properly Adopted PP&L's Cost of Equity

OCA and PPLICA except to the ALJ's rejection of their proposals to require PP&L's investors to "share" a portion of stranded costs by denying PP&L any equity return on the amortization of stranded costs through the CTC. PP&L has responded to these contentions in its MB, pp. 38-42, and RB, pp. 18-19. As noted in the Introduction to these Reply Exceptions, PP&L's customers have experienced flat nominal rates and declining real rates for the last 13 years and can expect continued rate stability in the future. See Appendix C. There is no reason why PP&L and its investors should be punished for this performance. OCA's and PPLICA's contentions are both legally and factually unsupported and must be rejected.

OCA also contends that the equity return rate used by the ALJ should be reduced. PP&L has responded to this contention in its MB, pp. 91-97, and RB, pp. 43-45. Again, the result of adopting the OCA proposal would be to punish PP&L and its investors. PP&L urges the Commission to recognize the performance of utilities through the cost of equity allowance. PP&L's past mitigation, low rates, cutting edge economic development and low-income programs, and continued strong support for competition all support the common equity return approved in the *Recommended Decision* and in PP&L's 1995 base rate case. (See PP&L MB, pp. 142-44).

G. The ALJ Properly Adopted PP&L's Proposed Code of Conduct

With one exception, neither OCA nor Enron provide in their Exceptions specific reasons why PP&L's code of conduct should not be implemented, at least on an interim basis. PP&L, therefore, incorporates herein by reference the relevant portions of its MB, (pp. 162-77) and its RB (pp. 66-71).

Enron's only specific argument is its unexplained assertion that it is necessary for there to be a uniform code of conduct based on the interim code adopted in PECO, even on an interim basis, until a statewide code of conduct is established in generic proceedings. From this premise, Enron concludes that the code of conduct approved for PECO should be applied throughout the state, at least for now. The Commission should reject this approach. PP&L's proposed code of conduct has been supported by substantial evidence and, unlike PECO's, has been the subject of complete evidentiary hearings. The Commission should rely upon the evidentiary record in this proceeding and approve PP&L's code of conduct.

H. The ALJ Properly Rejected PPLICA's Contentions Concerning Discounted Interruptible Service Rates

In exceptions, PPLICA persists in its contention that PP&L's interruptible service customers should be permitted the double benefit of a deeply discounted interruptible T&D rate from PP&L while obtaining interruptible generation service from other suppliers. Although PPLICA cites PECO, the Commission in that order soundly rejected PPLICA's contentions. PECO, pp. 117-18.

Clearly, PP&L's interruptible service rate schedules are discounted to reflect savings associated with generation. See Pa. P.U.C. vs. PP&L, Docket No. R-00943271, pp. 220-21 (September 27, 1995). The deep discount in PP&L's unbundled T&D rate for interruptible

service is simply the result of PP&L's "bottom up" CTC methodology under which the CTC is the residual amount remaining after eliminating the T&D charge and the generation charge from the total rate. The discount for PP&L's interruptible service rates clearly is not related to T&D facilities since PP&L has never interrupted customers due to lack of transmission or distribution capacity (PP&L St. 11-R, p. 8). Simple logic and fairness dictate that customers must choose between a generation-associated discount from PP&L for interruptible service and whatever discounted service they can obtain in the competitive market. Indeed, under PPLICA's proposal, interruptible service customers could obtain firm generation service from another supplier yet receive the benefit of a rate discount from PP&L for interruptible service, thereby obtaining firm service at discounted rates.

I. Enron's Exception Concerning Service to Customers Not Yet Eligible for Choice is Without Merit

Enron, in its Exceptions, objects to PP&L's Energy Supply Group serving those customers not yet eligible to choose an alternative supplier. Contrary to Enron's apparent impression, PP&L's Electric Distribution Group will serve customers not yet eligible to choose during the "phase-in" period. Perhaps Enron's confusion arises from the fact that, as a practical matter, the electricity needed by PP&L's Electric Distribution Group to serve such customers will be obtained from PP&L's Generation Supply Group. That does not mean, however, that these customers will be customers of the Generation Supply Group.

J. The ALJ Properly Rejected Enron's Proposals Concerning Unbundling of Metering and Billing

In its Exceptions, Enron contends that PP&L should be required at this time to unbundle billing and metering services. Section 2807 of the Act, however, requires that electric distribution companies continue to provide all distribution services, including

metering and billing in compliance with requirements of the Commission. 66 PA.C.S. § 2807. The Act explicitly specifies that the electric distribution company will have the duty to provide a single bill, including competitive generation services, to all customers unless the customer elects to receive a separate bill for electric energy directly from its electric generation supplier.

Indeed, the Commission has initiated a rulemaking, at Docket No. M-00960890.F0011, to address in detail the interaction among customers, EDCs and EGSs. The unbundling of billing services should await the outcome of that generic proceeding so that all interested parties will have a full opportunity to identify, address and resolve the many logistical and operational issues presented.

Similarly, the Commission has addressed the issue of unbundling of metering services at Docket No. L-00970120. The Commission decided that it is not appropriate to make metering a competitive service at this time. The Commission also outlined standards and procedures for insuring that customers receive real options for competitive metering while retaining all physical work related to metering as a function for electric distribution companies. There is no valid reason for undoing, in the context of this proceeding, the Commission's decision in that rulemaking.

K. The ALJ Properly Rejected the Proposals for Substantial Funding Increases for Customer Assistance Programs

Although the principal purpose of this proceeding is to implement customer choice in PP&L's service areas, various parties have used this opportunity to propose substantial increases in funding for customer assistance, including universal service programs. See, e.g. OCA Exceptions, pp. 30-34; Environmentalists' Exceptions, pp. 23-26; CEO Exceptions.

In its filing, PP&L proposed to increase annual funding for universal service programs and energy conservation programs from the current level of \$7 million to approximately \$14.3 million by 2002 (PP&L St. 16, p. 4), an increase of more than 100%.

Over and above these increased funding levels, OCA recommends an additional 30% increase in the funding level for PP&L's On Track (CAP) Program and a 17.5% increase for PP&L's WRAP and Keep Warm Plan. AARP recommends deep discounts for low-income households, which would cost more than \$106 million annually (177,000 customers x \$600 per customer per year). These requests for expansion of customer assistance programs are far in excess of the increases contemplated in the Commission's Final Order Re: Guidelines for Universal Service Energy Conservation Programs Made Pursuant to 66 Pa.C.S. §2803, §2807 (17), §2804 (8) and §2804 (9) (July 11, 1997), and should be rejected. Although the Act does not prohibit the Commission from requiring increases in customer service program funding, the Act clearly does not require the Commission to expand programs to inappropriate and unmanageable sizes, particularly given the rate caps under the Act.

In its Exceptions, OCA renews its recommendation to "transfer" write offs of uncollectible accounts and credit and collection expenses to expand the funding of the On track program. However, OCA did not prove and cannot prove that rate discounts under the On track program will reduce credit and collection expenses. Nor can OCA demonstrate that rate discounts will produce an economic benefit for PP&L that can be used for funding customer assistance programs or any other purpose. Any decrease in uncollectible accounts expense from rate discounts is offset entirely by reduced revenues. OCA's claims must be rejected.

III. CONCLUSION

For the foregoing reasons and the reasons stated in PP&L's Initial and Reply Briefs, the Commission should grant PP&L's Exceptions and adopt the Recommended Decision with the modifications described therein.

Respectfully submitted,



Paul E. Russell
PP&L, Inc.
Two North Ninth Street
Allentown, PA 18101

Donald A. Kaplan
Lisa M. Helpert
Preston Gates Ellis & Rouvelas Meeds LLP
1735 New York Avenue, N.W., Suite 500
Washington, D.C. 20008-4759

Dated: May 7, 1998

APPENDIX A

CROSS REFERENCES TO PP&L'S BRIEFS				
Issue	Other Parties' Exceptions	PP&L Main Brief	PP&L Reply Brief	Summary of PP&L's Explanation
Regulatory compact	PPLICA pp. 4-6; Environ. p. 6	pp. 22-25	p. 28	Fundamental fairness requires recognition that prudent investors of billions of dollars in used and useful facilities reasonably expected continued opportunity to recover return of and on these investments under regulation.
Allocation of stranded costs between ratepayers and shareholders	PPLICA pp. 6-7, 14; OCA pp. 5-9, 28	pp. 25-42	pp. 18-21	Approval of PP&L's filing would result in shareholders' bearing of substantial stranded costs due to the rate cap; no allocation of costs to shareholders would be fair or lawful.
Regulatory method versus asset value method of calculating stranded costs	PPLICA pp.7-14; OCA pp. 9-14	pp. 43-48, Appendix D	pp. 21-27	The evidence <i>in this proceeding</i> demonstrates that the regulatory method is superior but; if properly applied, the two methods produce the same result.
Market price forecast	PPLICA pp. 14-23; OCA pp. 14-17, 19-20; OSBA pp. 4-11; MAPSA pp. 3-5; Environ. pp. 6-11	pp. 48-87	pp. 27-36	Other parties' market price forecasts are inconsistent with history and reasonable expectations concerning the effects of future competition.
Choice of market price models	OCA pp. 17-19	pp. 55-64	p. 31	The ALJ concluded correctly that the EGEAS Model is superior.
Depreciation swap	OCA p. 26, 34-36; Environ. pp. 14-15	pp. 34-36		PP&L's depreciation swap is proper mitigation under Section 2802 (e) (4) (iii) of the act and reflects application of PUC-approved service lives.
Determination of present value	PPLICA p.29; OCA p. 26	pp. 131-34	pp. 51-53	PP&L's determination of the present value properly accounts for costs of capital and income taxes.

Issue	Other Parties' Exceptions	PP&L Main Brief	PP&L Reply Brief	Summary of PP&L's Explanation
Return on equity	OCA p. 22; OTS pp. 4-12	pp. 90-97	pp. 43-45	The ALJ properly used the cost of equity most recently approved by the PUC for PP&L which is conservative based on current market conditions.
Jurisdictional allocation of generating units	OCA pp. 20-21; Environ. pp. 15-17	pp. 88-90	pp. 39-43	PP&L's jurisdictional allocation is based on capacity needed to meet retail customers' requirements and mandatory reserve margins.
Fossil fuel decommissioning	PPLICA pp. 23-25; OCA pp. 23-24	pp. 105-09	pp. 47-48	Fossil fuel decommissioning expense is recoverable as negative net salvage; it cannot be recovered for older fossil units under competition due to their short remaining lives as compared to new unregulated units which will recover such costs over their entire useful lives.
Unrecovered energy costs	PPLICA p. 26; OCA pp. 22-23	pp. 98-101		Deferred energy costs were recoverable under the ECR. Reasonably estimated energy costs through 1998 should be included in stranded costs.
Employee transition costs and pension plan	PPLICA p.26-27 OCA p. 25	pp. 101-04	pp. 46-47	Under Section 2803 of the Act, a reasonable allowance for employee transition are recoverable as stranded costs and any over funding of the pension plan has been reflected as a reduction to future pension expenses.
SFAS 106	PPLICA p. 27	pp. 116-18		Trust fund earnings have been reflected fully as reductions to OPEB expenses.
DOE Assessment	PPLICA pp. 27-28	pp. 113-14		PP&L eliminated all DOE assessments amounts from the fuel expense part of stranded costs, thereby eliminating a "double-counting" error.

Issue	Other Parties' Exceptions	PP&L Main Brief	PP&L Reply Brief	Summary of PP&L's Explanation
Generating unit retirement dates	PPLICA p. 28; OCA p. 25	pp. 119-21	p. 50	PP&L's projected retirement dates of jointly-owned generating stations are based on PUC-approved depreciation service life studies. There is no need to conform projected retirement dates to estimates of a minority owner.
Nuclear decommissioning	Environ. pp. 17-20	pp. 109-13	pp. 48-50	Decommissioning is to be accomplished in a prudent manner meeting NRC financial qualification requirements.
CTC Design	Enron pp. 6-13; OCA pp. 2-7; MAPSA pp. 1-2	pp. 134-38	pp. 53-55	For PP&L's customers, the "bottom up" CTC design promotes competition.
Reconciliation of CTC revenues	OCA pp. 27-28; Environ. p. 20	pp. 138-42		A single reconciliation for all for all customers will avoid having different CTC termination times for different customers and will avoid separate reconciliations by customer class.
Periodic redeterminations of stranded costs	MAPSA pp. 1-5	pp. 140-41		There is no basis in the Act for multiple determinations of stranded costs.
Return on Unamortized CTC balance	PPLICA pp. 29-30	pp. 142-44		As the Commission recognized in <i>PECO</i> , a full overall pretax cost of capital should be applied to unamortized CTC balances.
Interruptible service and CTS service	PPLICA pp. 30-34; OCA pp. 28-29	pp. 144-47	pp. 56-58	Generation related discounts should be obtained only from generation providers.
Economic Incentive rates	PPLICA pp. 34-36	pp. 150-53	pp. 58-59	The EDI and IDI rates should be continued.
GS-1 and GS-3 rate design	OSBA pp. 11-13	p. 137		PP&L's rate design will eliminate a declining block rate structure as the CTC is eliminated, thus simplifying customer decisions and sending efficient price signals.

Issue	Other Parties' Exceptions	PP&L Main Brief	PP&L Reply Brief	Summary of PP&L's Explanation
Removal of sales-related costs from T&D rates	Enron pp. 34-37	pp. 122-24	pp. 49-51	These expenses continue to be incurred by the Electricity Delivery Group and, if the expenses were reallocated to a generation function, the result would increase stranded costs.
Rates charged to default customers	Enron pp. 13-19			Customers who do not choose competitive energy supplies should be charged tariff rates through the phase-in.
Acceleration of phase-in	Enron pp. 22-27; PPLICA pp. 36-37; OSBA pp.13-15	pp. 159	pp. 62-65	An accelerated phase-in is contrary to Section 2806(b) of the Act.
Pro-rata phase-in for large customers	PPLICA pp. 37-38	p. 161	p. 64	A pro-rata phase-in would be administratively unreasonable.
Code of Conduct	Enron pp. 27-30; OCA pp. 29-30; PPA/PHCC pp. 2-12	pp. 162-69	pp. 66-68	PP&L's code of conduct is more than adequate to protect interests of customers and foster competition without unfairly advantaging any competitor.
Unbundling of non-wire services	Enron pp. 31-34	pp. 177-78	pp. 69-70	Further Unbundling is not required under the Act and should continue to be addressed by work groups and in generic proceedings.
Partial payments	Enron pp. 37	pp. 179-80	pp. 70-71	As the Commission already has determined, the priority method of treating partial payments is administratively preferable and facilitates compliance with Ch. 56.
Customer Switching	OCA p. 30	pp. 180-81		Customers must be involved in the switching by the utility of their energy supplier.
Service to customers not yet eligible	Enron pp. 19-22		p. 68	PP&L's Electric Distribution Group, not its Energy Supply Group, will serve customers not yet eligible for competition.
PJM inertia capacity	Enron 38-39	p. 180		This is a FERC issue.

Issue	Other Parties' Exceptions	PP&L Main Brief	PP&L Reply Brief	Summary of PP&L's Explanation
Consolidation of bills to multiple metered customers	NEV pp. 4-6		p. 70	Consolidating bills for multiple metered customers would cause illegal cost shifting and administrative difficulties.
Funding of universal service and customer assistance programs	OCA p. 30-34; CEO pp. 1-6; Environ. pp. 23-26	pp. 186-190	pp. 73-75	PP&L proposals provide funding levels in excess of the levels required by the Act; no further program expansions are warranted.
Allocation of universal service costs	OCA pp. 34-36	pp. 91-92	pp. 75-76	Under the Act, universal service costs are tMay 7, 1998ted as approved by the PUC in the most recent base-rate case, on a per customer basis.
Renewable energy Pilot	OCA p. 36; Environ. pp. 22-23	pp. 97-98	pp. 77-78	A renewable energies pilot would reduce resources available for low-income customers and not produce sufficient benefits to justify the cost.
Environmental disclosure and standards	Environ. pp. 20-22, 26-30	pp. 194-97	p. 77	The Commission should not extend environmental disclosure requirements beyond the recent rules on customer information disclosure for electric providers or impose standards different from those of the DEP and EPA.

APPENDIX B

TABLE D

COMPARISON OF OCA AND PP&L CALCULATIONS
OF STRANDED COSTS UNDER THE ASSET VALUE METHOD

DESCRIPTION	ASSET VALUE	ASSET VALUE	DIFFERENCE	See Note
	METHOD	METHOD	OCA AND	
	OCA	PP&L	PP&L	
	ASSUMPTIONS	ASSUMPTIONS	ASSUMPTIONS	
NET GENERATION PLANT	\$ 3,248,442	\$ 3,820,858	\$ 572,416	(1)
LESS: MARKET VALUE	3,110,321	676,969	(2,433,352)	(2)
STRANDED GENERATION PLANT	138,121	3,143,889	3,005,768	
REGULATORY ASSETS	259,249	584,630	325,381	(3)
NUG CONTRACTS	574,708	650,960	76,252	(4)
NUCLEAR DECOMMISSIONING	108,125	120,443	12,318	(5)
TOTAL STRANDED COSTS	\$ 1,080,203	\$ 4,499,922	\$ 3,419,719	

Note 1... Net Generation Plant

Jurisdictional Allocation	\$ 659,725
CWIP	108,928
Depreciation swap	(196,237)
	\$ 572,416

Note 2...Market Value

Plant Retirement	\$ 144,881
Coal Price	230,157
Nuclear Capacity Factor	46,679
New CT Fuel	159,298
PJM Imports	226,296
Capacity Prices	38,446
Inflation Adjustment	198,583
A&G Expense	402,735
Fossil Decommissioning	315,867
Productivity Factor	66,162
Keystone/Conemaugh Lives	71,281
Taxes Other Than Income	133,795
Discount Rate	135,346
Jurisdictional Allocation	(336,609)
Land Escalation	78,045
Capital Additions	165,318
Deferred Income Tax Adjustment	281,671
Discount Method	71,072
Miscellaneous Adjustments	4,330
	\$ 2,433,352

Note 3...Regulatory Assets

Taxes Recoverable	\$ 230,304
Unrecovered Energy Costs	60,570
DOE Assessment	16,361
SSES Deferred Refueling Costs	7,996
Employee Transition Costs	14,540
Adj Req. OCA Original to Surrebuttal	(29,585)
Jurisdictional Allocation	40,367
Rate Case Expenses	177
Discount Rate	(9,534)
Discount Method	(5,815)
	\$ 325,381

Note 4... NUG Contracts

Capacity Adjustment	\$ 56,911
OCA Pricing	35,487
Jurisdictional Allocation	4,068
Discount Rate	(11,232)
Discount Method	(8,982)
	\$ 76,252

Note 5...Nuclear Decommissioning

Jurisdictional Allocation	\$ 20,864
Discount Rate	(647)
Discount Method	(7,899)
	\$ 12,318

NOTES TO TABLE D

Table D provides a reconciliation of the PP&L and OCA calculation of stranded costs using the OCA's asset value method. The table starts with "Net Generation Plant" and subtracts "Market Value" to obtain "Stranded Generation Plant." The table then adds "Regulatory Assets," "NUG Contracts," and "Nuclear Decommissioning" to arrive at "Total Stranded Costs." Column 1 sets forth the OCA claim; Column 2 sets forth the PP&L claim; and Column 3 sets forth the difference between the two claims.

The Table also contains five "Notes" which provide a detailed reconciliation of the differences between the PP&L and OCA cases on Net Generation Plant, Market Value, Regulatory Assets, NUG Contracts and Nuclear Decommissioning. The following discussion summarizes each adjustment and provides a cross-reference to where the issue is addressed in PP&L's Brief.

Note 1 — Net Generation Plant

Jurisdictional Allocation. PP&L adjusts its jurisdictional allocation to reflect expiring wholesale contracts. OCA freezes the jurisdictional allocation at January 1, 1996 and ignores subsequent changes. This issue is addressed in Section V.A.

CWIP. PP&L adjusts the plant in service balance to reflect estimated plant in service at January 1, 1999. OCA does not make this adjustment. This issue is addressed in Section V.D.5.

Depreciation Swap. PP&L proposes to transfer excess T&D depreciation reserve to generation, thereby reducing stranded costs as contemplated by the Act. The OCA opposes this adjustment and thereby shows a higher net generation plant value. This issue is discussed in Section II.D.2.b.

Note 2 - Market Value

Plant Retirement. PP&L's market revenue calculation reflects the retirement of its generating plants at the end of their book lives. OCA indefinitely extends the lives of PP&L's coal plants. This issue is addressed in Section IV.C.2.e.vii.

Coal Price. OCA projects increasing gas prices and an ever widening gap between gas and coal prices. PP&L asserts that OCA's gas prices are too high and that there is no support for the divergence between gas and coal prices. This adjustment shows the effect of using OCA's gas prices and escalating coal prices at the same rate as gas prices after 2000. This issue is addressed in Section IV.C.2.a.ii.

Nuclear Capacity Factor. PP&L uses a nuclear capacity factor of 78% in its market price projection. OCA uses 75%. This issue is addressed in Section IV.C.2.e.i.

New CT Fuel. The OCA market price forecast assumes new combustion turbines will burn 50% gas and 50% oil. PP&L projects that the new CTs will burn the least expensive fuel. This issue is discussed in Section IV.C.1.a.

PJM Imports. OCA assumes a significant decline in PJM imports after 2005. PP&L does not. This issue is addressed in Section IV.C.1.a.

Capacity Prices. PP&L and OCA disagree on future market prices for capacity. This issue is addressed in Section IV.B.2.

Inflation Adjustment. PP&L employs a 2.5% inflation assumption in its market price forecast. OCA uses a higher rate. This issue is addressed in Section IV.C.2.b.

A&G Expense. PP&L allocates A&G expenses using the cost allocation factors from the cost allocation study approved by the PUC in its 1995 base rate case. OCA, without discussion, reduces generation-related A&G by \$402.7 million. This issue is addressed in Section V.D.1.

Fossil Decommissioning. In accordance with the Act, PP&L claims its fossil decommissioning expense as a stranded cost. OCA opposes this claim. This issue is addressed in Section V.C.4.

Productivity Factor. OCA proposes to reduce future O&M expenses to reflect improved productivity. PP&L asserts it has already reflected such improvements. This issue is addressed in Section V.D.2.

Keystone/Conemaugh Lives. PP&L uses its book lives for the Keystone and Conemaugh plants. OCA proposes a life extension. This issue is addressed in Section V.C.10.

Taxes Other Than Income. PP&L projects that taxes other than income will increase at the rate of inflation. OCA proposes flat taxes. This issue is addressed in Section V.C.3.

Discount Rate. PP&L uses a discount rate equal to its weighted average after-tax cost of capital, including an 11.5% return on common equity, as approved by the PUC in PP&L's 1995 base rate case. OCA proposes a 10% ROE. This lower rate increases the net present value of market revenue and correspondingly decreases stranded costs. This issue is addressed in Section V.B.1 and Section VI.

Jurisdictional Allocation. This is the same issue discussed in Note 1. The combination of the OCA's higher market price and lower jurisdictional allocation decreases market revenue by \$336.6 million. This increase partially offsets increases in stranded generation plant (\$659.725 million), stranded regulatory assets (\$40.367 million), stranded NUG contracts (\$4.068 million) and stranded nuclear decommissioning (\$20.864 million) caused by the OCA's constant jurisdictional allocation. This issue is addressed in Section V.A.

Land Escalation. OCA includes an estimate of land value as an offset to stranded costs. PP&L asserts that the OCA claim is overstated. This issue is addressed in Section V.D.3.

Capital Additions. OCA treats capital additions as operating expenses, thereby understating tax expense and overstating market value. This issue is addressed in Section V.D.4.

Deferred Income Tax Adjustment. OCA fails to properly reflect deferred taxes and thereby understates asset value. This issue is addressed in Section V.D.7.

Discount Method. PP&L discounts to present value on a monthly basis. OCA discounts on a semi-annual basis. Applied to market value, the monthly method decreases net present market value and increases stranded costs.

Miscellaneous Adjustments. This is a fallout figure for other unexplained differences in PP&L and OCA models.

Note 3 — Regulatory Assets

Taxes Recoverable. PP&L calculates taxes recoverable over the seven-year CTC period consistent with the PECO decision. OCA does not. This issue is addressed in Section V.D.6.

Unrecovered Energy Costs. PP&L's stranded cost claim includes unrecovered energy costs deferred pursuant to PUC Order. OCA opposes this claim. This issue is addressed in Section V.C.1.

DOE Assessment. OCA identifies a double count in PP&L's claim. PP&L does not contest this adjustment, which is discussed in Section V.C.7.

SSES Deferred Refueling Costs. PP&L has recorded as a regulatory asset the cost of the first Susquehanna refueling outage which was not reflected in rates. OCA opposes the claim. This issue is addressed in Section V.C.7.

Employee Transition Costs. PP&L claims certain employee transition costs as a stranded cost in accordance with the Act. OCA opposes this claim. This adjustment is addressed in Section V.C.2.

Adjustment to OCA Surrebuttal. In its rebuttal case, PP&L makes a \$27.8 million downward adjustment to its claim to adjust taxes reconcile for the T&D depreciation reserve swamp. OCA does not incorporate this concession in its surrebuttal.

Jurisdictional Allocation. This is the same issue discussed in Note 1. PP&L's higher jurisdictional allocation increases jurisdictional regulatory assets. This adjustment is addressed in Section V.A.

Rate Case Expense. PP&L has recorded a regulatory asset for unrecovered rate case expense. OCA opposes this adjustment. This adjustment is addressed in Section V.C.11.

Discount Rate. This is the same issue discussed in Note 2. Here, the OCA's lower discount rate increases the present value of the regulatory asset and increases stranded costs. This issue is addressed in Section V.B.1 and VI.

Discount Method. This is the same issue discussed in Note 2. Here, the OCA's semi-annual method increases the present value of the regulatory asset and increases stranded costs. This issue is addressed in Section VI.B.2.

Note 4 — NUG Contracts

Capacity Adjustment. PP&L uses a NUG capacity factor of 90% to project NUG output. OCA uses a lower figure. This issue is addressed in Section IV.C.2.e.v.

OCA Pricing. The OCA uses a higher market price than PP&L. This decreases NUG stranded costs. This issue is addressed in Section IV.

Jurisdictional Allocation. This is the same issue addressed in Notes 1,2,3. The OCA's use of a lower jurisdictional allocation decreases the jurisdictional share of NUG contracts and decreases jurisdictional stranded costs. This issue is addressed in Section V.A.

Discount Rate. This is the same issue discussed in Notes 2 and 3. The OCA's use of a lower discount rate increases the net present value of NUG contract payments and increases stranded cost. This issue is addressed in Section V.B.2 and VI.

Discount Method. This is the same issue discussed in Notes 2 and 3. Here, the OCA's semi-annual method increases the present value of NUG payments and increases stranded costs. This issue is discussed in Section VI.B.2.

Note 5 — Nuclear Decommissioning

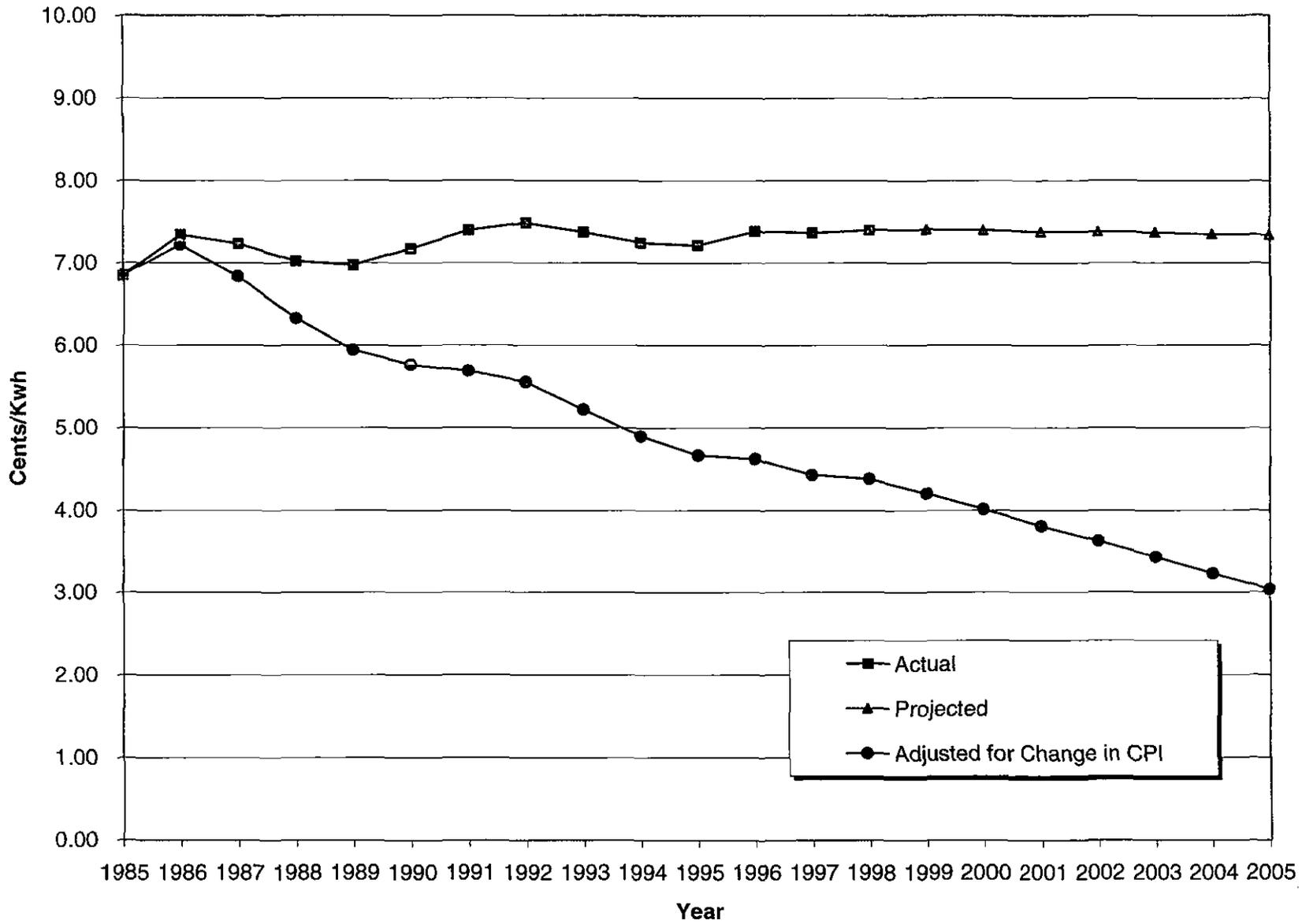
Jurisdictional Allocation. This the same issue discussed in Notes 1, 2, 3, and 4. The OCA's use of a lower jurisdictional allocation decreases the jurisdictional share of nuclear decommissioning costs and decreases jurisdictional stranded costs. This issue is addressed in Section V.B.5.

Discount Rate. This is the same issue addressed in Notes 2, 3 and 4. The OCA's use of a lower discount rate increases the net present value of nuclear decommissioning stranded costs. This issue is addressed in Sections V.B.1 and VI.

Discount Method. This is the same issue addressed in Notes 2, 3 and 4. The OCA's use of a semi-annual method increases the net present value of nuclear decommissioning stranded costs.

APPENDIX C

PP&L, Inc.
Average Price Per Kwh Billed - Ultimate Customers



ORIGINAL

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that on May 7, 1998, I served a true copy of the "Reply of PP&L, Inc. to Exceptions of Other Parties" as indicated below upon the following participants, in accordance with the requirements of Section 1.54 (relating to service by a participant):

FEDERAL EXPRESS

Honorable George Kashi
Administrative Law Judge
PA Public Utility Commission
Room G-06A, North Office Bldg.
Harrisburg, PA 17120

Craig R. Burgraff, Esq.
James A. Mullins, Esq.
Office Of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120

Johnnie Simms, Esq.
Office Of Trial Staff
Pennsylvania Public Utility Commission
Third Floor, Pitnick Building
901 North Seventh Street - Rear
Harrisburg, PA 17105-3265

David M. Kleppinger, Esq.
Robert A. Weishaar, Jr., Esq.
Pamela C. Polacek, Esq.
Robert Mills, Esq.
McNees, Wallace & Nurick
P. O. Box 1166
100 Pine Street
Harrisburg, PA 17108
for PPLICA

RECEIVED
98 MAY -7 PH 3:59
PA PUBLIC
PROTHONOTARY'S OFFICE

FEDERAL EXPRESS

Angela Jones, Esq.
Office Of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101

Mary McFall Hopper, Esq.
Assistant General Counsel
PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103

William T. Hawke, Esq.
Janet L. Miller, Esq.
Todd S. Stewart, Esq.
Malatesta Hawke & McKeon LLP
Harrisburg Energy Center
100 North Tenth Street
Harrisburg, PA 17101
for Mid-Atlantic Power Supply Assoc.

Cheryl Walker Davis, Director
PA Public Utility Commission
Office of Special Assistants
North Office Bldg., Room 210
Harrisburg, PA 17120
(with disk)

Patricia Armstrong, Esq.
Regina L. Matz, Esq.
Thomas, Thomas, Armstrong & Niesen
212 Locut St., Suite 500
Harrisburg, PA 17108-9500

David A. McCormick, Esq.
Department Of The Army
Office Of The Judge Advocate General
901 North Stuart Street
Arlington, VA 22203-1837

Craig A. Doll, Esq.
214 State Street
Harrisburg, PA 17101
for Delmarva Power & Light Company

Michael A. Stosser, Esq.
Adelia S. Borrasca, Esq.
Heller Ehrman White & McAuliffe
815 Connecticut Avenue, N.W.
Suite 200
Washington, DC 20006-4004
for Kraft Foods, Inc.

FEDERAL EXPRESS

Robert F. Young
Anthony C. Adonizio, Esq.
Deputy General Counsel
Allegheny Electric Cooperative, Inc.
212 Locust Street
P. O. Box 1266
Harrisburg, PA 17108-1266

Terrance J. Fitzpatrick, Esq.
David M. DeSalle, Esq.
Ryan, Russell, Ogden & Seltzer, LLP
800 North Third Street
Suite 101
Harrisburg, PA 17102-2025
for GPU Energy

Clinton A. Vince, Esq.
Paul E. Nordstrom, Esq.
Deborah A. Swanstrom, Esq.
Joel D. Newton, Esq.
Verner, Liipfert, Bernhard, McPherson
& Hand
901 15th Street, NW, Suite 700
Washington, DC 20005
for Allegheny Power

Joseph A. Dworetzky, Esq.
Hangley Aronchick Segal & Pudlin
One Logan Square
Twelfth Floor
Philadelphia, PA 19103-6933
for New Energy Ventures

Joan O. Brandeis, Esq.
Schnader, Harrison, Segal & Lewis
Suite 3600
1600 Market Street
Philadelphia, PA 19103-4252
for Bethlehem Steel Corporation

Linda C. Smith, Esq.
Dilworth, Paxson, Kalish & Kauffman LLP
305 N. Front Street
Suite 403
Harrisburg, PA 17101-1236
for American Association of Retired Persons

Gordon J. Smith, Esq.
John & Hengerer
1200 17th Street, N.W.
Suite 600
Washington, DC 20036-3006
*for Electric Clearinghouse, Inc. and Duke Energy
Trading and Marketing*

Susan M. Shanaman, Esq.
212 North Third Street
Suite 203
Harrisburg, PA 17101-1505
for Center for Energy and Econ. Dev.

FEDERAL EXPRESS

Daniel Clearfield, Esq.
Alan Kohler, Esq.
Robert J. Longwell, Esq.
Wolf, Block, Schorr & Solis-Cohen
305 North Front Street, Suite 401
Harrisburg, PA 17101
for Enron Corporation

Eric Epstein
2308 Brandywine Drive
Harrisburg, PA 17110
Pro se

Richard L. Caplan, Esq.
Mary Huwaldt, Esq.
Caplan & Lubert, LLP
40 Darby Road
Paoli, PA 19301
*for Schuylkill Energy Resources, Inc. and Gilberton
Power Company*

Bruce A. Connell
General Counsel
600 N. Dairy Ashford, ML-1034
Houston, TX 77079
for DuPont Power Marketing

Scott J. Rubin, Esq.
3 Lost Creek Drive
Selinsgrove, PA 17870-9357
for IBEW, Local 1600

Gary A. Jeffries, Esq.
CNG Energy Services Corporation
One Park Ridge Center
P.O. Box 15746
Pittsburgh, PA 15244-0746
for CNG

Michael T. Vough, Esq.
Vough & Mecadon
Greater Pittston Professional Center
126 South Main Street
Pittston, PA 18640
for Comm'n on Economic Opportunity

Billie E. Ramsey, Executive Director
ARIPPA
1300 Market Street, Suite 7
Lemoyne, PA 17043

Fred Zalcman, Esq.
78 N. Broadway
White Plains, NY 10603
for Environmentalists

Usher Fogel, Esq.
Roland, Fogel, Koblenz & Carr, LLP
1 Columbia Place
Albany, NY 12207
for Pennsylvania Petroleum Association

Mr. Roger E. Clark
905 Denston Drive
Ambler, PA 19002
for Environmentalists

Robert D. Knecht
Industrial Economics Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140

FEDERAL EXPRESS

Attorney of Record
Environmental Energy Project
3700 Vartan Way
Harrisburg, PA 17110
for Environmentalists

Robert P. Haynes, III, Esq.
Mette, Evans & Woodside
3401 North Front Street
P. O. Box 5950
Harrisburg, PA 17110-0950
for PA Electric Consumers Council



Paul E. Russell

RECEIVED
98 MAR -7 PM 3:59
PALEU'S OFFICE
PROTHONOTARY'S OFFICE

LAW OFFICES

WOLF, BLOCK, SCHORR AND SOLIS-COHEN LLP

212 LOCUST STREET
SUITE 300
HARRISBURG, PA 17101-0213

(717) 237-7160
FACSIMILE: (717) 237-7161

DOCUMENT
FOLDER

OBERT J. LONGWELL
DIRECT DIAL NUMBER: (717) 237-7181
E-MAIL: RLONGWELL@WOLFBLOCK.COM

May 7, 1998

VIA HAND DELIVERY

James McNulty, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Mr. McNulty:

Enclosed please find the original and nine copies of the Reply Exceptions of Enron Power Marketing, Inc. in the above-referenced matter. As indicated on the attached Certificate of Service, copies of this document are being served this day on the parties in the manner indicated.

If you have any questions, please contact the undersigned.

Respectfully,



Robert J. Longwell

For WOLF, BLOCK, SCHORR and SOLIS-COHEN, LLP

RJL/cln
Enclosures
cc: All Parties of Record
Office of Special Assistant (w/disk)

ORIGINAL

RECEIVED
98 MAY - 7 PM 1:45
KJR
PA.P.U.C.
PROTHONOTARY'S OFFICE

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of PP&L for Approval of :
its Restructuring Plan Under Section 2806 : Docket No. R-00973954
of the Public Utility Code :

REPLY EXCEPTIONS
OF ENRON POWER MARKETING, INC.

RECEIVED
98 MAY -7 PM 1:45
P.A.P.U.C.
PROTHONOTARY'S OFFICE

DOCUMENT
FOLDER

Daniel Clearfield
Alan Kohler
WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP
212 Locust Street, Suite 300
Harrisburg, PA 17101
(717) 237-7160

DOCKETED
MAY 08 1998

Dated: May 7, 1998

ORIGINAL

I. INTRODUCTION

These Reply Exceptions are submitted on behalf of Enron Power Marketing, Inc. ("Enron") in response to certain exceptions submitted on behalf of PP&L, Inc. ("PP&L"), the Office of Consumer Advocate ("OCA"), PECO Energy Company ("PECO"), the PP&L Industrial Customer Alliance ("PPLICA"), and the Office of Small Business Advocate ("OSBA"). Not surprisingly, PP&L's exceptions are brief in nature since the Administrative Law Judge's ("ALJ") Recommended Decision ("R.D."), in large part, adopted PP&L's Main Brief verbatim. As set forth in Enron's Exceptions, adoption of even a significant portion of the R.D. would erect every barrier to competitive entry imaginable and would delay the introduction of competition into PP&L's service territory indefinitely.

In the introduction to its exceptions, PP&L attempts to portray its restructuring proposal as a reasonable, well-balanced restructuring plan which, unlike other electric distribution company ("EDC") restructuring plans, justified adoption without significant modification. However, as fully set forth in Enron's Exceptions, PP&L's proposed restructuring plan is an extreme plan designed to delay competition until after it has recovered all of its stranded costs. In many respects, the proposed restructuring plan violates both the letter and spirit of the Electricity Generation Customer Choice and Competition Act ("Act") and should be rejected outright by the Commission.

Since the issuance of the R.D. and the filing of exceptions, the parties to the PECO Restructuring Proceeding¹ have settled their differences and entered into a full settlement agreement which, through Commission Order entered April 30, 1998, has been tentatively approved by the Commission.² The Settlement generally affirms and expands the Commission's initiative in the PECO Restructuring Orders to establish a vibrant competitive market throughout the Commonwealth.³

While the Settlement Agreement is not binding on the Commission in this proceeding nor can it be cited as legal precedent, the Settlement incorporates a template for other EDC restructuring proceedings which should be adopted by the Commission. As explained in PECO's exceptions in this proceeding, to adopt a more pro-competitive market structure for PECO than for PP&L is not in the public interest and will create an "unlevel playing field" between EDC service territories. Overall, the Act requires that retail generation supply be opened to vibrant competition in all EDC service territories, not just in PECO's. Once the veil has dropped, PP&L's proposed restructuring plan

¹ Application of PECO Energy Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code (December 23, 1997) R-00973953 ("PECO Order"). The Commission has also issued three other decisions in the PECO Restructuring case: Reconsideration Order (January 16, 1998); Compliance Filing Order (February 5, 1998); Revised Compliance Filing Order (February 26, 1998). The four Commission orders are jointly referred to as the "PECO Restructuring Orders".

² The Settlement Agreement is expected to become final later this month.

³ The Settlement Agreement and the Commission's Tentative Order adopts virtually every restructuring plan modification advocated by Enron in its Exceptions submitted in this proceeding.

represents nothing more than an attempt to insulate its service territory from competition, while it takes advantage of competitive opportunities elsewhere.⁴

II. REPLY EXCEPTIONS.

A. Rate Unbundling and CTC Design - The Commission Should Adopt the Approach for Rate Unbundling and CTC Design Adopted in the PECO Restructuring Orders. Reply to: MAPSA Exception, pp. 1-5.

1. In its Exceptions, Enron comprehensively explained the reasons why it is critical to the Act's implementation to follow the PECO Restructuring Orders in unbundling PP&L's rates and designing its competitive transition charge ("CTC") through a "top down" approach to rate design.⁵ Furthermore, the Commission followed this same approach in both its Duquesne and West Penn pollings.⁶

⁴ In addition to the PECO Settlement, on April 30, 1998, the Commission disposed of issues and conducted polls in the Duquesne Light Company ("Duquesne") and West Penn Power Company ("West Penn") restructuring proceedings. Application of West Penn Power Company for Approval of Restructuring Plan Under Section 2806 of the Public Utility Code, R-00973981; Application of Duquesne Light Company for Approval of Restructuring Plan Under Section 2806 of the Public Utility Code, R-00974104. In both cases, the Commission generally followed the PECO Restructuring Orders in polling or deciding the issues pending in those cases. Because PP&L's proposed restructuring plan contains many of the flaws rejected by the Commission in West Penn and Duquesne, departing from this template in this case would create an unlevel playing field between the PECO, West Penn and Duquesne service territories on one hand and PP&L's service territory on the other.

⁵ Enron Exception, pp. 6-13.

⁶ As Commissioner Hanger explained in his Motion In West Penn adopted by the Commission:

..."Unbundled T&D" is the rate for transmission and distribution services that customers now pay West Penn for generation and only non-shopping

(continued...)

2. More specifically, PP&L's approach fails miserably to comply with the Act's pro-competitive objectives by linking the generation or shopping credit to PP&L's projection of largely wholesale market prices — a completely inappropriate standard for application to a retail market. Nothing in the Act links the design of rates to market prices of any kind and the Commission's approach which designs rates to maximize the shipping credit while, at the same time, assuring recovery of a Commission-approved level of transition and stranded costs, is the only approach which conforms with the Act's objectives.

3. As the Mid-Atlantic Power Supply Association ("MAPSA") clearly explained in its Exceptions:⁷

In summary, PP&L's proposed shopping credit will not allow for competition because it is too low to allow for suppliers to compete. The recommended shopping credit is based upon a wholesale market price. In fact, PP&L's own witnesses have acknowledged in this case that its market price estimate does not include these additional costs which suppliers will be required to pay in order to arrive at a fully-delivered retail price. Under PP&L's proposal, the shopping credit would be less than 3¢/kWh; with this credit, suppliers

⁶(...continued)

customers will continue to pay West Penn for generation. The CTC is a transition period charge that all shopping customers will pay West Penn to compensate for stranded costs. The Shopping Credit is the amount leftover that a shopping customer will have available to purchase generation from a competitive Electric Generation Supplier ("EGS").

Motion, pp. 1-2.

⁷ MAPSA Exceptions, p.5

will not be able to gain any customers, and there will be no competition.

The only evidence of record in this case which indicates the magnitude of a fully-delivered retail price, was presented by a MAPSA witness. That witness has testified that, at a minimum, the shopping credit would have to be at least 3.87¢/kWh in order to cover energy and capacity, plus an additional credit to cover the additional services and costs which suppliers will be required to cover in order to deliver energy to a retail customer.

4. Overall, the PECO Restructuring Orders, West Penn and Duquesne are indistinguishable on this issue and the Commission should adopt a rate unbundling and CTC design which follows the PECO precedent.

B. Default Customers - PP&L is Correct in its Claim that the ALJ's Scheme for Serving Default Customers is Inappropriate and Illegal.
Reply to: PP&L Exception, pp. 7-9.

5. Enron agrees with PP&L that the ALJ's recommendation is inappropriate and illegal.⁸ First, as set forth in Enron's exceptions and as advocated by PP&L in its exceptions, under Section 2807(e) of the Act, a PLR pricing mechanism can

⁸ The ALJ recommended a two tier approach for determining the prices charged default customers by the provider of last resort ("PLR"). Prior to the close of the phase-in period, the ALJ proposed that the rates charged by PP&L be set at PP&L's largely wholesale prices with a rate floor set at the price for generation supply charged by PP&L's affiliated EGS at any point in time. After the phase-in, the PLR prices would be governed by regulations promulgated by the Commission under 66 Pa. C.S. § 2807(e).

not be utilized until after the phase-in period. Until that time, PP&L must “continue to charge non-shopping customers its PUC-approved, tariffed rates.”⁹

6. Second, establishing a price floor linked to the prices of PP&L’s affiliate is as the most anti-competitive scheme imaginable and would allow PP&L’s Generation Supply Group to control the market. As PP&L stated in its Exceptions:

Finally, it is simply improper to permit PP&L’s non-regulated generation supplier to be able to manipulate the floor price for last resort customers — and have to influence the decision as to whether to shop for generation supply in the competitive market.

7. While PP&L correctly identifies the glaring flaw in the ALJ’s recommendation, it falls short of correcting its own proposal which attempts to establish a pricing mechanism in its restructuring plan which links PLR prices to its calculation of largely wholesale market prices on an annual basis. What PP&L fails to recognize, as fully set forth in Enron’s Exceptions, is that Section 2807(e)(2) mandates that any mechanism for establishing “prevailing market prices” under subsection (e)(3) be considered through the promulgation of regulations — not through EDC restructuring plans. Furthermore, any prevailing market price recognized by Commission regulation must “recover fully all reasonable costs” including the retail costs of delivering power to default customers.¹⁰

⁹ PP&L exceptions, p.7.

¹⁰ 66 Pa.C.S.A. § 2807(e)(3).

C. Acceleration of the Phase-In - The Commission Should Follow the PECO Restructuring Orders by Accelerating the Phase-In to Direct Access.
Reply to: OSBA Exceptions, pp.14-15; PPLICA Exceptions, p. 36.

8. In its Exceptions, Enron has set forth the legal support for the Commission's acceleration of the phase-in in the PECO Restructuring Orders and will not repeat that discussion here. Overall, the clear language of the Act supports the Commission's authority to order an accelerated phase-in and the advantages to the public interest of accelerating customer choice are equally present in PP&L's service territory.¹¹

9. The position of both Enron and the Commission on the phase-in acceleration issue is also supported by PP&L's customers. In their exceptions, both OSBA and PPLICA support an accelerated phase-in from both a legal and a policy perspective. OSBA supports acceleration as a means of decreasing the potential for competitive disadvantages between business customers during the phase-in.¹² PPLICA argues as follows in supporting a uniform phase-in between EDC service territories:¹³

No legitimate reason exists to treat PECO's customers differently than PP&L's customers on this issue. Although the ALJ may interpret the PECO decision as a "stand alone"

¹¹ The Commission reiterated its authority to accelerate the phase-in in its West Penn and Duquesne pollings in which it adopted an accelerated phase-in for both West Penn and Duquesne and rejected claims that such an acceleration is beyond the Commission's authority. The Commission's legal rationale for its action is concisely set forth in the respective polling statements of Commissioner Hanger, APR-98-OSA-202 and 203 (April 30, 1998).

¹² OSBA Exception, p. 15.

¹³ PPLICA Exception, pp. 36-37.

decision, fundamental fairness, as well as the Act's requirements that transitional issues be decided in a manner fair to all ratepayers, investors, utilities and competitors required that PECO precedent on this issue be implemented consistently. See 66 Pa. C.S.A. § 2804(8).

10. Uniform acceleration of the phase-in across the Commonwealth is consistent with the law, is supported by the record in this case and is required by the public interest. Any other result in this proceeding should not be considered seriously.

D. Code of Conduct and Non-Wire Service Unbundling - The Commission Should Adopt a Code of Conduct Consistent with the PECO Settlement.
Reply to: PP&L Exceptions, p. 4; OCA Exceptions, pp. 29-30; PECO Exceptions, p. 12.

11. PP&L continues to advocate that its proposed interim code of conduct be implemented on a company specific basis despite that fact that even PP&L acknowledges that a code of conduct should be applied uniformly on a statewide basis. Furthermore, it advocates resolution of metering, billing and collecting ("MBC") issues on a generic statewide basis. Enron can not emphasize enough the need for a uniform, statewide policy on code of conduct and MBC issues. In this regard Enron strongly supports PECO's view as conclusively set forth in its exceptions.¹⁴

It is absolutely critical that all electric generations suppliers adhere to the same set of competitive safeguards and rules regarding the unbundling of metering and billing services. PECO assumes that such issues will be resolved on a generic basis and that the restrictions imposed on it will also apply to PP&L and other incumbent utilities.

¹⁴ PECO Exceptions, p.12.

12. In the PECO Settlement Agreement, the code of conduct and the standards governing unbundling of and competitive entry into MBC services has been resolved for implementation in PECO's service territory.¹⁵ The only way the code of conduct and MBC issues can be implemented on a uniform, statewide basis for the phase-in is for the Commission to adopt the requirements and standards set forth in the PECO Settlement.¹⁶

¹⁵ The settling parties agreement to unbundle and enable competitive entry into MBC services is set forth on pages 15-17 of the Joint Petition for Full Settlement ("Full Settlement"). The specific standards governing MBC issues are set forth in significant detail in Appendix C to the Full Settlement. As to the Code of Conduct, the Code of Conduct applicable in PECO's service territory during the phase-in period is set forth in Appendix H to the Full Settlement.

¹⁶ As to the Code of Conduct, in addition to establishing uniformity, adoption of the PECO Settlement code will eliminate the "loopholes" which the OCA has indicated "may enable the two entities [the Deley Group and the Generation Supply Group] to engage in behavior deemed detrimental to electric generation suppliers or a competitive environment in general. See OCA St. 5 at 51-52; OCA M.B. at 107." OCA Exception, p. 29.

III. CONCLUSION

For all of the foregoing reason, Enron respectfully requests the Commission to adopt its Exceptions and Reply Exceptions and adopt a restructuring plan for PP&L consistent with the foregoing discussion.

Respectfully submitted,



Daniel Clearfield

Alan Kohler

Robert J. Longwell

WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

212 Locust Street, Suite 300

Harrisburg, PA 17101

(717) 237-7160

Dated May 7, 1998

CERTIFICATE 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):

VIA FIRST CLASS MAIL

Donald A. Kaplan, Esquire
Lisa M. Helpert, Esquire
Preston Gates Ellis & Ravelas Meeds LLP
Suite 500, 1735 New York Ave., N.W.
Washington, DC 20006

Paul E. Russell, Esquire
Pennsylvania Power & Light Co.
Two North Ninth St.
Allentown, PA 18101

John Eisen, Esquire
Morgan, Lewis & Bockius
417 Walnut Street
Harrisburg, PA 17101

James A. Mullins, Esquire
Office of Consumer Advocate
Forum Place, 5th Floor
555 Walnut Street
Harrisburg, PA 17101-1921

Bernard A. Ryan, Esquire
Johnnie Simms, Esquire
Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101

David M. Kleppinger, Esquire
Robert Mills, Esquire
McNees, Wallace & Nurick
100 Pine Street
P. O. Box 1166
Harrisburg, PA 17108

Todd S. Stewart, Esquire
Norman Kennard, Esquire
Rhonda Hendrickson
Malatesta Hawke & McKeon
100 North Tenth Street
P. O. Box 1778
Harrisburg, PA 17120

James Melia, Esquire
Kirkpatrick & Lockhart
The Payne Shoemaker Building
240 North Third Street
Harrisburg, PA 17101-1507

Robert P. Haynes, III, Esquire
Mette, Evans & Woodside
3401 North Front Street
Harrisburg, PA 17110-0950

Norman J. Kennard, Esquire
Malatesta, Hawke & McKeon
100 North Tenth Street
Harrisburg, PA 17101

Kenneth Zielonis, Esquire
Stevens & Lee
208 North Third Street, Suite 310
Harrisburg, PA 17101

Cheryl W. Davis, Dir.
Office of Special Assistants
Penna. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Johnnie Simms, Esquire
Charles F. Hoffman, Esquire
Office of Trial Staff
Penna. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Harry Geller, Esquire
Penna. Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Lawrence Goldasky
GPU Energy
100 APC Building
800 North Third Street
Harrisburg, PA 17102

Craig A. Doll, Esquire
214 State Street
Harrisburg, PA 17101

Robert F. Young
Deputy General Counsel
212 Locust Street
P.O. Box 1266
Harrisburg, PA 17108-1266

Linda C. Smith, Esquire
Dilworth, Paxson, Kalish and Kauffman, LLP
305 N. Front Street, Suite 403
Harrisburg, PA 17101-1236

David W. Francis, Esquire
Powell, Trachtman, Logan, Carrle,
Bowman & Lombardo
114 North Second Street
Harrisburg, PA 17101

Terry S. Fitzpatrick, Esquire
David M. DeSalle, Esquire
Ryan, Russel, Ogden & Seltzer LLP
800 North 3rd Street, Suite 101
Harrisburg, PA 17102-2025

VIA FEDERAL EXPRESS

Scott J. Rubin, Esq.
3 Lost Creek Drive
Selinsgrove, PA 17870

Mr. Robert D. Knecht
Industrial Economics Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140

Elizabeth R. Benson
Energy Associates
7303 Timber Lane
Falls Church, VA 22046-2735

Warren W. Mack, Vice President
Ahlstrom Development Corp.
4350 LaJolla Village Drive
Suite 210
San Diego, CA 92122

Richard L. Caplan, Esquire
Caplan & Luber, LLP
40 Darby Road
Paoli, PA 19301

Billie E. Ramsey, Executive Director
ARIPPA
1300 Market Street
Lemoyne, PA 17043

Craig G. Goodman, Esquire
Equitable Resources
3333 K Street, N.W.
Suite 425
Washington, DC 20007

Louis J. Carter, Esquire
7300 City Line Avenue
Philadelphia, PA 19151-2291

Ginny Kreidler
RMI, Inc.
111 Presidential Boulevard
Suite 127
Bala Cynwyd, PA 19004

Edwin D. Hill, International Vice President
IBEW
200 Corporate Center Drive
Suite 301
Corapolis, PA 15108

William Schmitt
Local 1600 IBEW
540 Grange Road
P. O. Box 470
Trexlerstown, Pennsylvania 18087

Martha Duggan
Mary Beth Tigie
The Eastern Group, Inc.
2900 Eisenhower Avenue, Suite 300
Alexandria, VA 22314

D. Jane Drennan, Esquire
Sarah E. Tomalty, Esquire
Drennan & Associates
1216 16th Street, N.W.
Washington, DC 20036

David A. McCormick, Esquire
Department of the Army
Office of the Judge Advocate General
901 North Stuart Street
Arlington, VA 22203-1837

Joan O. Brandeis, Esquire
Schnader, Harrison, Segal & Lewis
Suite 3600
1600 Market Street
Philadelphia, PA 19103-4252

Wayne M. Thomas, Esquire
Kohn, Nast & Graff, P.C.
1101 Market Street, 24th Floor
Philadelphia, PA 19107

Mr. Craig R. Kuennen
Energy Services Manager
Commission on Economic Opportunity
211 South Main Street
Wilkes-Barre, PA 18701-1596

Roger E. Clark
905 Dennison Drive
Ambler, PA 19002

Stephen J. Selden, Esquire
Assistant General Counsel
Bethlehem Steel Corporation
Eighth & Eaton Avenues
Bethlehem, PA 18016

Mr. Eric J. Epstein
2308 Brandywine Drive
Harrisburg, PA 17110

Stephen L. Huntoon, Esquire
PECO Gas Supply Company
2301 Market Street
Philadelphia, PA 19101-8699

Noel H. Trask, Esquire
PECO Energy Company
2301 Market Street
Philadelphia, PA 19101-8699

Paul E. Nordstrom, Esquire
Debbie Swanstrom, Esquire
Verner, Liipfert, Bernhard, McPherson & Hand
901 15th Street, N.W., Suite 700
Washington, DC 20005

John L. Munsch, Esquire
Allegheny Power
800 Cabin Hill Drive
Greensburg, PA 15601

Stephen J. Baron
J. Kennedy and Assoc., Inc.
35 Glenlake Parkway, Suite 475
Atlanta, GA 30328

Fred Zalcman, Esq.
Pace University School of Law
78 North Broadway
White Plains, NY 10603

Andrew Altman, Deputy Director
Clean Air Council
135 S. 19th St., Suite 300
Philadelphia, PA 19103

Bruce Biewald
Snyapse Energy Economics, Inc.
101 Chilton St.
Cambridge, MA 02138

Jerry Mendle
MSB Energy Associates
7507 Hubbard Ave., Suite 200
Middleton, WI 53562

Richard LaCapra
Henry Yoshimura
LaCapra Associates
The Province Building
333 Washington Street
Boston, MA 02108

Neil Talbot
81 Grand Street, No. 5
New York, NY 10013

Gordon J. Smith, Esquire
John & Hengerer
1200 17th Street, NW, Suite 600
Washington, DC 20036

Michael J. Vough, Esquire
Vough & Associates
126 South Main Street
Pittston, PA 18640

Joel E. Newton, Esquire
901 15th Street, NW
Suite 700
Washington, DC 20005

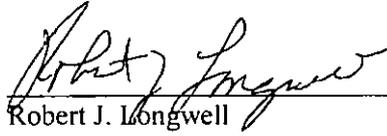
Michael A. Stosser, Esquire
Heller, Ehrman, White & McAuliffe
815 Connecticut Ave., NW
Suite 200
Washington, DC 20006-4004

Bruce A. Connell
General Counsel
600 N. Dairy Ashford, ML-1034
Houston, TX 77079

Thomas S. Catlin
Exeter Associates, Inc.
Suite 350
12510 Prosperity Drive
Silver Spring, MD 20904

Joseph A. Dworetzky, Esquire
Hangle, Aronchick, Segal and Pudlin
One Logan Square, 12th Fl.
Philadelphia, PA 19103-6933

Usher Fogel, Esquire
Roland, Fogel, Loblenz & Carr LLP
1 Columbia Place
Albany, NY 12207


Robert J. Longwell

Dated: May 7, 1998

RECEIVED
98 MAY -7 PM 1:45
PAF:JUC
PROTHONOTARY'S OFFICE

THE LAW FIRM OF

MALATESTA HAWKE & McKEON LLP

JOSEPH J. MALATESTA, JR.
WILLIAM T. HAWKE
KEVIN J. McKEON
LOUISE A. KNIGHT
THOMAS J. SNISCAK
NORMAN JAMES KENNARD
LILLIAN SMITH HARRIS
SCOTT T. WYLAND
JANET L. MILLER
SUSAN J. SMITH
TODD S. STEWART
THOMAS S. PEDERSEN

HARRISBURG ENERGY CENTER
100 NORTH TENTH STREET
HARRISBURG, PENNSYLVANIA 17101

(717) 236-1300

FAX (717) 236-4841

<http://www.MHM-LAW.com>

MAILING ADDRESS:
P.O. BOX 1778
HARRISBURG, PA 17105

DOCUMENT
FOLDER

May 7, 1998

RECEIVED
98 MAY -7 PM 1:13
PA P.U.C. OFFICE
PROTHONOTARY'S OFFICE

James J. McNulty, Secretary/Prothonotary
Pennsylvania Public Utility Commission
North Office Building - Filing Room
PO Box 3265
Harrisburg, PA 17105-3265

RE: Application of Pennsylvania Power & Light Company for Approval of its
Restructuring Plans; Docket No. R-00973954; **REPLIES OF THE MID-
ATLANTIC POWER SUPPLY ASSOCIATION TO EXCEPTIONS**

KJR

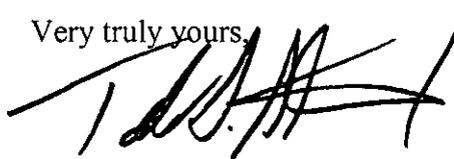
Dear Mr. McNulty:

Enclosed, for filing with the Commission, please find an original and nine (9) copies of
the Replies of the Mid-Atlantic Power Supply Association to Exceptions in the above-captioned
proceeding.

In accordance with the Certificate of Service, attached to MAPSA's Replies, all parties to
this proceeding are being served with the foregoing document.

If you have any questions regarding filing, please direct them to me.

Very truly yours,



Todd S. Stewart
Counsel for
Mid-Atlantic Power Supply Association

TSS/bes
Enclosure

cc: All Parties of Record
Honorable George M. Kashi

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

DOCUMENT
FOLDER

REPLIES OF THE MID-ATLANTIC POWER
SUPPLY ASSOCIATION ("MAPSA")
TO EXCEPTIONS

RECEIVED
98 MAY -7 PM 1:11
PA.P.U.C. OFFICE
PROTHONOTARY'S OFFICE

AND NOW COMES the Mid-Atlantic Power Supply Association ("MAPSA"), by and through its counsel, Malatesta Hawke & McKeon LLP, and hereby replies to the "Exceptions" of the Pennsylvania Power and Light Company ("PP&L") in the above-captioned proceeding, which "Exceptions" were filed in response to the Recommended Decision of Administrative Law Judge George M. Kashi, issued April 7, 1998.

At the threshold, MAPSA maintains that the document filed by PP&L, which is captioned as "Exceptions," is inappropriate in part (in particular, pp. 1-6) and should not be considered by this Commission. Over one-half of the document purported by PP&L to be its "Exceptions" (pp. 1-6) is dedicated to "singing the praises" of the ALJ's Recommended Decision ("R.D."). The Commission's Rules of Practice and Procedure, 52 Pa. Code §5.537 (which provide for the filing of exceptions to the Recommended Decision of an Administrative Law Judge) do not provide for a party to a proceeding to file a document supporting an ALJ's Recommended Decision. Because this portion of PP&L's "Exceptions" merely attempts to lend support to the R.D. (which is contrary to the statute and otherwise unsupportable), a large portion of PP&L's document is inappropriate and should not be considered.

DOCKETED
MAY 08 1998

In the alternative, MAPSA suggests to the contrary: that the ALJ's decision is contrary to the statute; that it fails to follow the strict statutory mandate that any restructuring plan promote the development of a competitive market for retail sales of electricity; and, that it fails correctly to determine an appropriate CTC/shopping credit, among other things.

This Commission has applied Chapter 28,¹ and required that restructuring plans conform with its mandate. PP&L's plan fails to conform to those requirements and must be rejected. It is likely that PP&L will argue, in its Replies to Exceptions, that MAPSA's reliance upon the Decision of this Commission in PECO² is misplaced and, therefore, MAPSA's analysis is invalid and should be rejected. MAPSA's position is, however, that the Commission's Decision in PECO is not necessarily precedential, rather, it is the requirements of Chapter 28 which are essential and which the Commission relied upon in developing the methodology first stated in PECO. Specifically, the Act sets forth the methodology for: defining stranded costs; valuing stranded generation investment; determining an appropriate market price to use in valuing stranded generation investment; and, development of a CTC, specifically requiring that a CTC be calculated "from the bottom up." Application of West Penn Power Company for Approval of Restructuring Plan Under Section 2806 of the Public Utility Code, Docket No. R-00973981 (Motion of Commissioner John Hanger to dispense with non-binding poll; adopted April 30, 1998) ("West Penn Power"). Applying the analysis and interpretation of Chapter 28 which the Commission has adopted in West Penn Power reveals the obvious failure of PP&L's plan to conform to any of the Statute's requirements.

¹ Electric Generation Customer Choice and Competition Act ("Act"), 66 Pa. C.S. §2801, *et seq.*

² Application of PECO Energy Company for Approval of its Restructuring Plan Under Section 2806 of the Pennsylvania Public Utility Code, Docket No. R-00973953, *et al.* (Order entered December 23, 1997) ("PECO").

In particular, the Act requires that stranded generation assets be valued using a market valuation approach, as opposed to a “lost revenue” approach similar to that proposed by PP&L. (West Penn Power at 10). In addition, the Act requires that a CTC be developed using a “bottom-up” approach, and precludes the use of the “top-down” approach employed by PP&L. (West Penn Power at 25). PP&L’s plan, therefore, is contrary to the Statute and must be modified by this Commission to allow for the development of a competitive market, which requirement PP&L acknowledges, but fails to show will occur under its plan. This Commission should reject PP&L’s statement, pages 1-6, in support of the R.D. as being contrary to this Commission’s Rules of Practice and Procedure and, likewise, should reject PP&L’s restructuring plan as being contrary to the Statute.

MAPSA replies to PP&L’s numbered Exceptions as follows:

Exception No. 1. PP&L excepts to the Recommended Decision (R.D. p. 162) to substitute an alternative to PP&L’s proposed pricing mechanism for provider of last resort (“PLR”) service. PP&L had proposed to provide PLR service under rates that would change monthly. MAPSA argued that PLR service should only be provided at the tariffed rate that existed as of 1/1/97, because allowing PP&L to flex its PLR rates will create competition between PP&L as PLR and the suppliers. P&L complains that the ALJ’s proposal to establish a price floor for PLR service, based upon the price its unregulated supplier charges for energy and capacity, is contrary to Act. PP&L’s argument is without merit. The Act contains no provision which prohibits the setting of a floor for provider of last resort service. In fact, PP&L correctly states that the Act envisions provider of last resort service being provided at tariffed rates as those rates existed at 1/1/97. However, PP&L is incorrect in asserting that, after the phase-in,

PP&L is permitted to charge prevailing market price for electricity as provider of last resort. The Statute specifically provides that the Commission will promulgate regulations to determine pricing at that time. 66 Pa. C.S. §2807(e)(3). Absent regulations, PP&L must provide PLR service at those tariffed rates. PP&L's "exception" should be denied.

WHEREFORE, the Mid-Atlantic Power Supply Association respectfully requests that this Commission deny the exceptions of PP&L in this proceeding.



William T. Hawke
Todd S. Stewart
Malatesta Hawke & McKeon LLP
100 North Tenth Street
P.O. Box 1778
Harrisburg, PA 17105
717-236-1300

Counsel for the
Mid-Atlantic Power Supply Association

Dated: May 7, 1998

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon the person(s) named and in the manner indicated below.

Service by Hand Delivery:

Cheryl W. Davis, Director
Office of Special Assistants
Room 210, North Office Building
Harrisburg, PA 17120
(with diskette)

Service by First Class U.S. Mail:

Robert P. Haynes, III, Esquire
PO Box 700
Suite 304
355 North 21st Street
Camp Hill, PA 17001-0700

Michael T. Vough, Esquire
Vough & Mecadon
Greater Pittston Professional Center
126 South Main Street
Pittston, PA 18640

Richard L. Caplan, Esquire
Caplan & Luber, LLP
40 Darby Road
Paoli, PA 19301

Mary McFall Hopper, Esquire
Assistant General Counsel
PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103

Fred Zalcman, Esquire
78 N. Broadway
White Plains, NY 10603

Roger E. Clark, Esquire
Attorney for The Environmentalists
905 Denston Drive
Ambler, PA 19004

David A. McCormick, Esquire
Department of the Army
Office of The Judge Advocate General
901 North Stuart Street
Arlington, VA 22203-1837

Billie E. Ramsey, Executive Director
ARIPPA
1300 Market Street - Suite 7
Lemoyne, PA 17043

Bruce A. Connell
General Counsel
600 N. Dairy Ashford
ML-1034
Houston, TX 77079

Clinton A. Vince, Esquire
Paul E. Nordstrom, Esquire
Deborah A. Swanstrom, Esquire
Joel D. Newton, Esquire
Verner Liipfert, Bernhard, McPherson & Hand
901 15th Street
Washington, DC 20005

Scott J. Rubin, Esquire
3 Lost Creek Drive
Selinsgrove, PA 17870-9357

Michael A. Stosser, Esquire
Adelia S. Borrasca, Esquire
Heller Ehrman White & McAuliffe
815 Connecticut Avenue, NW
Suite 200
Washington, DC 20006-4004

Joan O. Brandeis, Esquire
Schnader Harrison Segal & Lewis
1600 Market Street, Suite 3600
Philadelphia, PA 19103-4252

Joseph A. Dworetzky, Esquire
Hangley Aronchick Segal & Pudlin
One Logan Square, 12th Floor
Philadelphia, PA 19103-6933

Gary A. Jeffries, Esquire
CNG Energy Services Corporation
1 Park Ridge Center
P.O. Box 15746
Pittsburgh, PA 15244-0746

Michael L. Kessler, Esquire
American Energy Solutions, Inc.
111 South Alfred Street
Alexandria, VA 22314

James H. Norris, Esquire
Eckert Seamans Cherin & Mellott
42nd Floor - 600 Grant Street
Pittsburgh, PA 15219

Gordon J. Smith, Esquire
John, Hengerer & Esposito
1200 17th Street, N.W.
Suite 600
Washington, DC 20036-3006

Usher Fogel, Esquire
Roland, Fogel, Koblenz & Carr, LLP
1 Columbia Place
Albany, NY 12207

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

Donald A. Kaplan
Preston Gates Ellis & Rouvelas Meeds LLP
1735 New York Avenue, NW
Suite 500
Washington, DC 20006-5209

Johnnie Simms, Esquire
Office of Trial Staff
PA Public Utility Commission
Third Floor, Pitnick Building
901 North 7th Street - Rear
P.O. Box 3265
Harrisburg, PA 17105-3265

Karen Oill Moury, Esquire
Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101

Craig R. Burgraff, Esquire
James A. Mullins, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17120

David M. Kleppinger, Esquire
Pamela C. Polacek, Esquire
McNees, Wallace & Nurick
100 Pine Street
PO Box 1166
Harrisburg, PA 17108

Harry S. Geller, Esquire
118 Locust Street
Harrisburg, PA 17108

David W. Francis, Esquire
Powell, Trachtman, Logan, Carrle,
Bowman & Lombardo, P.C.
114 North Second Street
Harrisburg, PA 17101

Craig A. Doll, Esquire
214 State Street
Harrisburg, PA 17101

Robert F. Young
Anthony C. Adonizio, Esquire
Deputy General Counsel
212 Locust Street
PO Box 1266
Harrisburg, PA 17108-1266

Terrence J. Fitzpatrick, Esquire
David M. DeSalle, Esquire
Ryan, Russell, Ogden & Seltzer, LLP
800 North Third Street, Suite 101
Harrisburg, PA 17102-2025

Linda C. Smith, Esquire
Dilworth Paxson Kalish & Kauffman LLP
305 North Front Street
Suite 403
Harrisburg, PA 17101-1236

Daniel Clearfield, Esquire
Alan Kohler, Esquire
Robert J. Longwell, Esquire
Wolf, Block, Schorr & Solis-Cohen
212 Locust Street, Suite 300
Harrisburg, PA 17101

Susan M. Shanaman, Esquire
212 North Third Street
Suite 203
Harrisburg, PA 17101-1505

Patricia Armstrong, Esquire
Regina L. Matz, Esquire
Thomas, Thomas, Armstrong & Niesen
Suite 500 - 212 Locust Street
P.O. Box 9500
Harrisburg, PA 17108-9500

Eric Epstein
2308 Brandywine Drive
Harrisburg, PA 17110



William T. Hawke
Todd S. Stewart
Malatesta Hawke & McKeon LLP
Harrisburg Energy Center
P.O. Box 1778
Harrisburg, PA 17105-1778
717-236-1300

DATED: May 7, 1998

RECEIVED
98 MAY -7 PM 1:13
P.A.P.U.C.
PROTHONOTARY'S OFFICE

DATE: May 12, 1998

SUBJECT: R-00973954

TO: Chery W. Davis, Diector
Office of Special Assistants

FROM: James McNulty
Secretary
FVVL

KWJ

Pennsylvania Public Utility Commission
v.
Pennsylvania Power & Light Company

Copies of the Recommended Decision have been served upon all parties of interest.

Exceptions have been filed by:

See Attached List

Reply Exceptions have been received from:

See Attached List

DOCKETED

MAY 13 1998

**DOCUMENT
FOLDER**

cc: Annette Shelley