

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. REPORT DATE: August 12, 1998	2. BUREAU AGENDA NO. AUG-98-L-78*
3. BUREAU: Law	
4. SECTION(S):	5. PUBLIC MEETING DATE: ^{KJF}
6. APPROVED BY: Director: Pankiw 7-5000 Supervisor: <i>BR</i>	August 13, 1998
7. PERSONS IN CHARGE: Sophy 2-8839 <i>[Signature]</i>	DOCKETED
8. DOCKET NO.: R-00973954	AUG 20 1998

- 9. (a) CAPTION (abbreviate if more than 4 lines)**
(b) Short summary of history & facts, documents & briefs
(c) Recommendation
- (a) Application of Pennsylvania Power & Light Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code, et al.
- (b) On April 1, 1997, PP&L submitted its Restructuring Plan. Public input and evidentiary hearings were held and an ALJ Recommended Decision issued April 7, 1998 approving \$4 billion in stranded costs. By Order issued June 15, 1998, the Commission modified the ALJ's decision and set stranded costs at \$2.86 billion. Reconsideration was denied with a limited exception. Appeals were filed in Commonwealth Court and in United States District Court. On August 12, 1998, the active parties submitted a Joint Petition for Settlement resolving the issues raised in the appeals. The Joint Petition is now before this Commission.
- (c) The Law Bureau recommends that the Commission adopt the Tentative Order approving the Joint Petition for Settlement.

MOTION BY: Commissioner Chm. Quain

Commissioner. Rolka - Yes
 Commissioner Brownell - Yes
 Commissioner

SECONDED: Commissioner Bloom

CONTENT OF MOTION: Staff recommendation adopted.

**DOCUMENT
 FOLDER**



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

REFER TO OUR FILE

AUGUST 13, 1998

R-00973954

DOCKETED
AUG 18 1998

PAUL RUSSELL ESQUIRE
PP&L INC
TWO NORTH NINTH STREET
ALLENTOWN PA 18101-1179

Application of Pennsylvania Power & Light Company for approval of its Restructuring Plan under Section 2806 of the Public Utility Code, et al.

DOCUMENT

To Whom It May Concern:

This is to advise you that a Tentative Order has been adopted by the Commission in Public Meeting on August 13, 1998, in the above entitled proceeding.

A Tentative Order has been enclosed for your records.

Very truly yours,

James J. McNulty,
Secretary

smk
Encls.
Cert.Mail

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held August 13, 1998

Commissioners Present:

John M. Quain, Chairman
Robert K. Bloom, Vice Chairman
David W. Rolka
Nora Mead Brownell

DOCKETED
AUG 18 1998

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

TENTATIVE ORDER

DOCUMENT

BY THE COMMISSION:

On August 12, 1998 PP&L, Inc. ("PP&L" or the "Company"); the Office of Consumer Advocate ("OCA"); the Office of Small Business Advocate ("OSBA"); the Office of Trial Staff ("OTS"); the PP&L Industrial Customer Alliance ("PPLICA"); Eric Epstein; Conectiv Energy ("Conectiv"); West Penn Power Company t/a Allegheny Power ("APS"); Mid-Atlantic Power Supply Association ("MAPSA"); PECO Energy Company ("PECO"); Local 1600 of the International Brotherhood of Electrical Workers ("IBEW"); New Energy Ventures ("NEV"); Enron Power Marketing, Inc. ("Enron"); Gilberton

Power Company (“Gilberton”); the Anthracite Region Independent Power Producers Association (“ARIPPA”); Schuylkill Energy Resources (“SER”); Pennsylvania Rural Electric Association (“PREA”); Allegheny Electric Cooperative, Inc. (“AEC”); Metropolitan Edison Company and Pennsylvania Electric Company, collectively doing business as GPU Energy (“GPU”); the Pennsylvania Petroleum Association (“PPA”); Environmentalists;¹ and other parties as designated on the signature pages (all such parties collectively referred to as the “Joint Petitioners”) submitted a Joint Petition for Full Settlement of PP&L’s Proposed Restructuring Plan and Application for a Qualified Rate Order (“Joint Petition”). This morning, the Joint Petitioners filed an Addendum to the Joint Petition which we will also consider.

The proposed terms and conditions of the Joint Petition represent a comprehensive settlement which resolves all issues on appeal before Commonwealth Court and all issues before the U.S. District Court arising from challenges by the Joint Petitioners to the Commission’s final order and reconsideration order regarding PP&L’s Application for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code².

¹ The following Environmentalists Member Organizations did not participate in the Joint Petition but agree to abide by the terms and conditions contained therein: Sierra Club, Penn PIRG, and Lehigh Greens.

² As noted in the certificate of service, copies of the Joint Petition and appendices have been served by PP&L on all parties to the proceeding by overnight mail or hand delivery. In addition, the Joint Petition provides that PP&L will provide written notice of the proposed settlement by letter to its customers, will post notice in its office and on its Internet web page, and will provide notice by news release.

The Joint Petitioners aver that this comprehensive settlement is in the public interest and, therefore, request that this Commission: (1) approve without modification the proposed settlement as set forth in the Joint Petition and the Addendum; (2) amend our final order, and reconsideration order as necessary to implement the full settlement; (3) approve the tariff supplements necessary to implement the proposed settlement; (4) issue a Qualified Rate Order authorizing PP&L to securitize up to \$2.85 billion of stranded assets and costs as proposed in the full settlement;³ and (5) approve PP&L's transfer of generation assets. The Joint Petitioners recognize, however, that pursuant to the provisions of Section 703(g) of the Public Utility Code, the Commission is obligated to provide notice of and opportunity to be heard before it may amend a prior order.

In the proposed settlement, all PP&L customers will receive a guaranteed 4% rate reduction effective January 1, 1999, the start date for retail electric generation competition in PP&L's service territory through December 31, 1999, independent of securitization. In addition to the guaranteed rate decreases of 4%, customers shall receive a system-average shopping credit of 3.81 cents per KWH on January 1, 1999, and 4.13 cents per KWH on January 1, 2000, with a steady escalation of the shopping credit throughout the entire recovery period of the Competitive Transition Charges ("CTCs"). Customers that elect to shop for generation shall receive total rate reductions in 1999 equal to the 4% decrease referenced above plus savings produced by the difference

³ The Joint Petition originally provided for the securitization of up to \$2.97 billion. In the Addendum filed with the Commission this morning, the Joint Petitioners requested the amount to be securitized be reduced by \$120 million.

between their generation purchase price and their shopping credit. Moreover, given the escalating system average shopping credits of 3.81 cents per KWH in 1999 to 5.02 cents per KWH in 2009 included in the proposed settlement, as well as other specific components of the proposed settlement, the Joint Petitioners expect the development of a vibrant competitive market with many alternative electric generation suppliers.

In addition, the settlement terms and conditions provide that PP&L will (1) recover a substantially smaller amount of stranded cost recovery than it claimed before the Commission; (2) transfer its EGS function to a separate corporate affiliate subject to competitive safeguards to insure fair dealing; (3) expand its current universal service programs; (4) accelerate the phase-in to customer choice for all customer classes; (5) educate consumers about restructuring; (6) facilitate funding of sustainable energy and economic development; (7) encourage small renewable energy technologies; and (8) withdraw its actions before Commonwealth Court and its civil complaint before the U.S. District Court challenging the Commission's restructuring orders at Docket No. R-00973954.

The Joint Petitioners, in turn, agree to resolve all objections to PP&L's Restructuring Plan and to withdraw (1) all cases pending before the Commonwealth Court which challenge the constitutionality of the Electric Competition Act and the Commission's Restructuring Order and Reconsideration Order at Docket No. R-00973954, provided that the Joint Petitioners are not barred from raising any factual, legal

or contrary positions in other proceedings as long as such positions are not in derogation of this settlement.

The proposed settlement set forth in the Joint Petition, the Addendum and its appendices constitutes a comprehensive resolution of the broad array of issues raised by PP&L's restructuring plan under the Electric Competition Act. Consistent with the fundamental goals of that historic legislation, the settlement provides for an orderly transition from the current regulated electric utility structure for generation to a structure under which retail customers will have direct access to a competitive market for the generation of electricity; moreover, and also consistent with the legislation, the settlement provides for a fair and reasonable recovery of PP&L's transition and stranded costs created by this transition to a competitive market. In particular, the settlement contains the following benefits:

- customers will receive a guaranteed rate decrease of 4% during 1999;
- customers will receive a shopping credit that will allow shopping customers to achieve bill savings in addition to the guaranteed rate cuts;
- the size of the shopping credit and other provisions of the settlement will insure that a competitive market for electricity will be created and functioning by January 1, 1999.
- transmission and distribution rates will be capped for an additional three and one-half years (to December 31, 2004);

- the generation rate cap will be extended for an additional four years (to December 31, 2009);
- universal service programs will be expanded, and a sustainable energy fund will promote the development and use of renewable energy and clean energy technologies, energy conservation and efficiency which will benefit the environment;
- substantial litigation and its associated costs and uncertainties will be avoided (the settlement lists eight Commonwealth Court actions and one Federal Court action to be withdrawn as a part of this proposed settlement)

Upon our review of the Joint Petition, the Addendum and the appendices, we tentatively find that the proposal is in the public interest and therefore should be approved. We note that the Joint Petition has been signed by all of the active parties of record to PP&L's restructuring proceedings. Therefore, before we can give final approval to the proposal we shall give all parties of record to PP&L's restructuring proceedings an opportunity to file comments to this comprehensive proposal before we render a final decision on its merits. Accordingly, we shall provide that any comments to the Joint Petition, the Addendum and the appendices must be filed on or before August 24, 1998. We will thereafter promptly consider all timely filed comments and issue a final order with respect to the proposed settlement set forth in the Joint Petition, the Addendum and the appendices.

We recognize and appreciate the uncounted hours spent by the participants in preparing this Joint Petition, which presents a negotiated resolution of important and conflicting interests in a practical and enforceable manner. We believe that this settlement represents a difficult, but important step in the advancement of the economies of the area served by PP&L and the Commonwealth, and an historic breakthrough in the creation of retail electric competition in the Commonwealth. At the same time, the Joint Petition continues necessary and important safeguards for utility customers which must be preserved in the public interest.

We have thoroughly examined the proposed settlement and tentatively find it to be in the public interest; THEREFORE,

IT IS ORDERED:

1. That in consideration of and reliance upon the representations, mutual promises and undertakings of the parties to this proposed settlement, including the express agreement of each signatory to be legally bound by its terms and the certification of each signatory that he or she has full authority to enter into the settlement and to act on behalf of their respective parties, the terms of the proposed full settlement set forth in the Joint Petition, the Addendum and the appendices shall be and are hereby tentatively approved as to each and every one of its terms and conditions and we hereby tentatively reconsider and amend our prior orders in these proceedings as necessary to implement the terms of the full

settlement. Any issue not specifically addressed in the settlement shall be treated and resolved in accordance with the resolution of that issue adopted by the Commission at this docket in the Restructuring Order entered June 15, 1998, and the Reconsideration Order entered July 9, 1998.

2. That the Commission hereby tentatively approves, consistent with the conditions enumerated in the Joint Petition at Paragraph K.2, PP&L's transfer of its EGS function to a separate corporation no later than September 15, 1998. The transfer or assignment may be, in PP&L's discretion, to an entity that is an affiliate or non-affiliate of PP&L. Subject to review and audit of the assets to be transferred, consistent with the spirit of the settlement and the Codes of Conduct, we tentatively grant the approvals, licenses and certificates of public convenience required under the Public Utility Code regarding the transfer or assignment of PP&L's generating assets and liabilities under the settlement, including but not limited to approvals under Chapters 5, 11, 19, 21 and 28 of the Public Utility Code.

3. That all aspects of PP&L's transfer of its generation assets and liabilities and wholesale contracts under the settlement are tentatively approved. In addition, we tentatively grant the approvals, licenses and certificates of public convenience required under the Public Utility Code regarding the transfer or assignment of PP&L's generating assets and liabilities under the settlement, including but not limited to approvals under Chapters 5, 11, 19, 21 and 28 of the Public Utility Code.

4. That PP&L's recovery of the transition and stranded costs as set forth in the settlement is just and reasonable and in the public interest and that securitization of up to \$2.85 billion of stranded costs as set forth in the settlement is just and reasonable and in the public interest.

5. That the application of PP&L for the Issuance of a Qualified Rate Order under Sections 2808 and 2812 of the Public Utility Code, 66 Pa. C.S. §§2808 and 2812 contained in the Joint Petition for Settlement of PP&L's Proposed Restructuring Plan, filed on August 12, 1998 (the "Joint Petition"), be tentatively granted, consistent with this Qualified Rate Order.

6. That, to the extent specified this Qualified Rate Order, PP&L's filings, testimony and exhibits submitted to the Commission in conjunction with PP&L's Proposed Restructuring Plan, at Docket No. R-00973954 (the "Restructuring Filing"), are hereby incorporated herein by reference.

7. That the tariff supplements appended to the Joint Petition and all other appendices are hereby tentatively approved, being necessary to implement the full settlement, and shall become effective pursuant to the terms set forth in the Joint Petition and the Addendum.

8. That any party of record to PP&L's restructuring proceeding at Docket No. R-00973954, may submit comments on or before August 24, 1998 with respect to the

provisions of the proposed settlement set forth in the Joint Petition, the Addendum and the appendices.

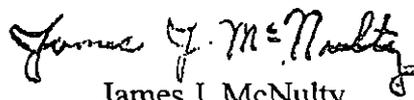
9. Written comments, an original and 15 copies, shall be submitted to the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265. Comments should specifically reference the above-referenced docket number. Comments not received by the Secretary by close of business on August 24, 1998 will not be considered.

10. That this order shall not become final until we have considered all timely filed comments and issued a final order with respect to them.

11. That our approval of the terms and conditions set forth in the Joint Petition, the Addendum and the appendices is expressly contingent upon and shall not become final and enforceable until all appeals and civil actions required to be dismissed with prejudice as referred to in Part O of the proposed settlement have been finally withdrawn, discontinued, or dismissed with prejudice in accordance with the provisions of the settlement.

12. That a copy of this tentative order shall be served upon all parties to PP&L's restructuring proceeding at Docket No. R-00973954.

BY THE COMMISSION


James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: August 13, 1998

ORDER ENTERED: August 13, 1998

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