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June 26, 1998

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

VIA HAND DELIVERY

ORIGINAL

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, in the above-referenced proceeding, are an original and three (3) copies of the "Petition of PP&L, Inc. For Reconsideration, Clarification, Amendment, Correction, and Supersedeas of the Order entered on June 15, 1998 and for Expedited Consideration of this Petition."

Copies of the foregoing 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 Bloom
Commissioner Brownell
Comissioner Rolka
Commissioner Wilson

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

R-00973954

PETITION OF PP&L, INC. FOR RECONSIDERATION, CLARIFICATION, AMENDMENT, CORRECTION, AND SUPERSEDEAS OF THE ORDER ENTERED ON JUNE 15, 1998 AND FOR EXPEDITED CONSIDERATION OF THIS PETITION

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

PP&L, Inc. ("PP&L") hereby petitions the Pennsylvania Public Utility Commission ("PUC" or the "Commission"), pursuant to Section 703(g) of the Public Utility Code, 66 Pa.C.S. § 703(g), and 52 Pa. Code § 5.572, for reconsideration, clarification, amendment and correction of the Order entered by the Commission in the above-captioned proceeding on June 15, 1998 ("Order"). In addition, PP&L requests expedited consideration of this Petition and supersedeas of the Order if the Commission does not take final action on this Petition at its scheduled July 9, 1998 public meeting. In support of its Petition, PP&L states the following:

A. RELIEF REQUESTED

1. The purposes of this Petition are: (a) to identify and request correction of several errors in the Commission's determination of unbundled rates in Attachment A to the Order; (b) to request reconsideration of the Commission's mitigation adjustment; (c) to request that the Commission increase the amount of stranded costs that PP&L will be allowed to recover by correcting certain errors in the Order that overstate the market value of PP&L's generating assets; (d) to obtain clarification of the mechanism for recovery of nuclear decommissioning expenses; (e) to request that the Commission eliminate the requirement for pre-approval of

transactions between PP&L's Electric Distribution Company ("EDC") and Electric Generation Supplier ("EGS") functions; and (f) to request expedited consideration by the Commission of this Petition and supersedeas of the Order if the Commission does not take final action on this Petition on or before July 9, 1998, the date of its next scheduled public meeting.

As explained more fully below, correcting the errors in the Commission's determination of PP&L's unbundled rates (Section D) and extending to nine years the Competitive Transition Charge ("CTC") recovery period, will permit the Commission to reconsider the mitigation adjustment (Section E) without increasing PP&L's stranded cost allowance above the $2.865 billion previously authorized by the Commission and without any material change to the system average shopping credits set by the Commission. Additional stranded costs (Section F) can be awarded without any material change to the 1999 to 2001 system average shopping credits, but it will be necessary to adjust the shopping credits in later years and/or to extend further the CTC.

PP&L also asks that the Commission reconsider its disapproval of PP&L's proposal for a nuclear decommissioning cost recovery tracker (Section G), and its requirement for prior Commission approval of transactions between PP&L's EDC and EGS functions (Section H). The Commission's inclusion of nuclear decommissioning costs in the CTC leaves a substantial portion of these costs to be recovered in the market and may jeopardize PP&L's ability to qualify for important exemptions from Nuclear Regulatory Commission ("NRC") rules requiring pre-funding of nuclear decommissioning costs. The requirement for advance Commission approval of EDC/EGS transactions was presented for the first time in the PUC's final Order. No party to the proceeding proposed such a requirement, and PP&L therefore had no opportunity to review,

much less respond to, this new proposal. Such a requirement is unnecessary, anti-competitive, will almost certainly increase costs to customers, and therefore should be rejected.1/

B. INTRODUCTION

2. On April 1, 1997, PP&L filed its Restructuring Plan to implement a competitive market for electric generation in PP&L's service territory pursuant to the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. Chapter 28 ("Act").

3. After extensive discovery, hearings and briefing, Administrative Law Judge George M. Kashi issued his Recommended Decision on April 7, 1998.

4. On April 27, 1998, numerous parties, including PP&L, submitted exceptions to the Recommended Decision. On May 7, 1998, numerous parties, including PP&L, filed replies to other parties' exceptions.

5. At its May 14, 1998 public meeting, the Commission adopted a "Motion of the Chairman and Commissioners to Dispense with Non-Binding Polling," which directed the Commission' Office of Special Assistants, in conjunction with the Commission's Law Bureau, to prepare a proposed order to adjudicate issues in this proceeding.

6. At its June 4, 1998 public meeting, the Commission adopted an Order in the above-captioned proceeding that was entered on June 15, 1998.

1/ PP&L is raising certain issues in this Petition which it believes are appropriate for reconsideration by the Commission in the context of the structure established by the Commission to implement the Act. PP&L also believes that the Commission's implementation of the Act and other findings and conclusions in the Order are in error and reserves the right to raise these issues on appeal or in any other appropriate forum.

C. STANDARDS FOR RECONSIDERATION

7. The Commission, in the frequently cited case of *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa PUC 553, 51 PUR4th 284 (1982), has set forth the standard for determining whether to grant reconsideration of a prior order. There, the Commission stated that:

> A petition for reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in Pennsylvania Railroad Company case, wherein it was said that "[p]arties . . . , cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them . . . ." What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

Duick v. Pennsylvania Gas & Water Co., 56 Pa PUC, *supra*, at 559.

D. USE OF INCORRECT DATA IN THE ORDER

8. Attachment A to the Order sets forth the unbundled rates for PP&L for each year of the transition period. Unfortunately, Attachment A contains several errors that must be corrected before PP&L can file accurate unbundled rates. The errors, which are each addressed below, include: (1) incorrect starting rate; (2) incorrect sales figures; (3) incorrect transmission and distribution rates; (4) incorrect shopping credits which violate the generation rate cap; and (5) incorrect amortization rate.[2/]

2/ This discussion is based upon PP&L's preliminary review of the Commission's Order. Additional corrections and further refinements may be proposed, if necessary, in PP&L's compliance filing.

1. Incorrect Starting Rate

9. In calculating the unbundled components of PP&L's rates after restructuring, the Commission started with a system average bundled rate of 7.21¢ per kWh. Order, p. 24, Attachment A. This figure was PP&L's system average bundled rate in *1995*.

10. The 1995 system average bundled rate of 7.21¢ per kWh was presented solely for the purpose of comparing PP&L's rates with rates of other electric utilities in Pennsylvania and in other states. *See, e.g.*, PP&L Exhibit SFT 2. When PP&L prepared its Restructuring Plan filing in early 1997, the most recent calendar year data for other utilities then available were for 1995. Therefore, 1995 data were used for all utilities in order to permit appropriate comparisons. At no point did PP&L suggest that its system average bundled rate in 1995 was appropriate for the determination of unbundled rate components in 1999. Neither PP&L nor any other party used the 1995 system average bundled rate in presenting their case.

11. Use of 1995 data to determine unbundled rates in 1999 is inappropriate. Since January 1, 1995, there have been many changes that would affect PP&L's system average bundled rate. The following are a few examples of changes that have occurred since January 1, 1995, that would affect PP&L's system average bundled rate:

a. PP&L's Energy Cost Rate ("ECR") was modified effective April 1, 1995, from 1.0468¢ per kWh to 1.0377¢ per kWh.

b. PP&L's ECR was modified effective September 28, 1995, to reflect the roll-in of current energy costs into base rates from 1.0377¢ per kWh to a negative 0.0134¢ per kWh.

c. PP&L's ECR was modified effective April 1, 1996, from a negative 0.0134¢ per kWh to a negative 0.1465¢ per kWh and was rolled into base rates at that level effective January 1, 1997.

d. PP&L's system average base rate in 1995 does not reflect subsequent changes in PP&L's State Tax Adjustment Surcharge.

e. PP&L's customer base is constantly turning over, affecting the system average rate per kWh. Customers' load patterns change over time, and use of older data fails to capture the full effect of changes that have occurred since 1995.

f. PP&L's Special Base Rate Credit Adjustment, which was designed to refund to customers a specific amount of money, expired by its own terms, upon completion of the refund.

g. The data from 1995 does not reflect a full year of increased revenues from the increase in base rates allowed by the Commission in the Order entered on September 27, 1995, at Docket No. R-00943721.

12. The most logical and consistent starting point for rate unbundling would be the system average bundled rate at January 1, 1999, which is the starting point for competition and unbundled rates under the Act. That figure, after correction of the sales figures discussed immediately below, is 7.42¢/kWh and is shown on Attachment 1 to this Petition.

2. <u>Incorrect Sales Figures</u>

13. The Commission relied on OCA witness Lee Smith's 1999 system average sales figure of 33,090,377,000 kWh in setting the starting point for PP&L's recovery of stranded costs. Order, at 79. OCA witness Lee Smith, in turn, relied PP&L's answer to Interrogatory OCA-III-

39. See OCA Exhibit 11-R. This interrogatory answer, however, did not include certain PP&L rate classes in developing system average projected sales for 1999.

14. The correct PP&L 1999 system usage should be 33,108,701,350 kWh. This number is derived from PP&L's answer to Interrogatory OCA-III-39, the source used by Ms. Smith, see OCA Exhibit 11-R, plus sales under PP&L's standby service rate and corrections to certain street and area lighting rate schedules. A breakdown of this figure by rate schedule is provided as Attachment 1 to this Petition. Corrected figures for the remaining years of the transition period were calculated using the Commission's stated 1.5% growth rate and are shown in Attachment 2 to this Petition.

3. Incorrect T&D Rates

15. The Order and the calculations shown in OCA Exhibit 11-R also contain errors with respect to PP&L's transmission and distribution charges. The calculations in OCA Exhibit 11-R erroneously assumed that the effect of PP&L's proposed T&D depreciation reserve swap was accounted for in PP&L's average transmission and distribution rates. It was not. See Exhibits JMK 1, p. 58 and JMK 2, p. 7. Accordingly, the $18.4 million adjustment in OCA Exhibit 11-R should be eliminated. Using the correct usage and total revenue figures and reversing the erroneous adjustment in OCA Exhibit 11-R, PP&L's correct system average transmission and distribution rate is calculated as 1.74¢ per kWh.[3/]

3/ The Federal Energy Regulation Commission ("FERC") is currently reviewing the Company's rates for transmission service at Docket No. ER97-3189-007. When the FERC approves new transmission rates, PP&L must reflect those rates in its charges to all customers purchasing transmission service from the Company.

4. Incorrect Shopping Credits

16. In Attachment A to the Order, the Commission specifies the shopping credits that would be applicable to PP&L. The Commission states that the shopping credit is the residual charge, *i.e.*, the remainder after the charges for transmission and distribution service and the CTC are subtracted from the bundled total rate.

17. In Attachment A to the Order, the Commission sets forth the system average shopping credit by year. The shopping credit increases each year until 2004. At that time, the shopping credit reaches 4.61¢ per kWh, where it remains for the remainder of the transition period. All but one of the annual increases in the shopping credit are between 2% and 3%. The shopping credit, however, increases dramatically from 3.94¢ per kWh in 2001 to 4.40¢ per kWh in 2002, a substantial increase of 11.68%. There is no explanation or justification in the Order for this substantial increase. Moreover, such an increase would violate the generation rate cap in the Act and would deny PP&L the opportunity to recover the amount of stranded costs authorized by the Commission. This error must be corrected.

5. Incorrect Amortization Rate

18. Finally, the Order authorized a CTC amortization rate of 10.86% (Order, p. 81). Appendix A, however, was calculated using a 10.68% rate. This apparent transposition must also be corrected. Use of the correct rate is included in Attachment 2 to this Petition.

E. RECONSIDERATION OF THE MITIGATION ADJUSTMENT

19. At pages 23-26 of the Order, the Commission imposes on PP&L a mitigation adjustment of $70 million annually commencing in 1999 through the end of the transition period, June 30, 2007. Thus, the $70 million annual reduction to PP&L's CTC revenues would be in effect for 8½ years. The nominal effect of the Commission's mitigation adjustment is $595

million (8 ½ years x $70 million per year). The Commission should reconsider and reverse this result for the reasons explained below.

20. Initially, the Commission's imposition of a mitigation adjustment is fundamentally inconsistent with the Commission's orders in other restructuring proceedings of other electric utilities. In fact, PP&L, at this point, stands alone as the only utility in the Commonwealth to have suffered a mitigation adjustment by the Commission. The Commission has sought consistency in its application of the Act. However, by adopting a mitigation adjustment solely for PP&L, the Commission has failed to achieve consistency in its decisions.

21. This mitigation adjustment was imposed despite PP&L's low rates and extensive past mitigation efforts. As the Commission acknowledged at page 24 of its Order, PP&L's rates are well below the statewide average. PP&L's low rates result from a long-term commitment to efficiencies such as refinancings of high-cost debt and preferred stock, controlling operation and maintenance expenses, reducing the number of employees, reducing inventory and encouraging economic development to increase sales and spread fixed costs over a greater number of billing units. The Commission, at page 25 of its Order, agreed that the Company's mitigation efforts are, and have been, sincere and effective, yet the Commission proceeded to impose a massive mitigation adjustment solely on PP&L.

22. In contrast, although the Commission specifically found that the mitigation efforts of PECO Energy, the electric utility with the highest rates in Pennsylvania, "have been inadequate," the Commission determined *not to disallow* any of PECO's stranded costs.

Application of PECO Energy Co., Docket No. R-00973953, p. 100 (December 23, 1997)("*PECO*").[4/]

23. The Commission's Order, at page 24, dismisses PP&L's past mitigation efforts as "expected." The Commission's decision is contrary to Section 2808(c)(5) of the Act, which requires the Commission to give consideration to "efforts undertaken over time, prior to the enactment of this Chapter [28], to reduce or moderate customer rate levels while maintaining safe and efficient operations."

24. The Commission's Order also is internally inconsistent. In Ordering Paragraph 6, at page 165 of the Order, the Commission required PP&L to design a CTC to recover the level of stranded costs set forth in the table attached to the Order, which identifies $2,864,719,000 of stranded costs. At pages 8 and 16 of the Order, the Commission states that $2.865 billion is PP&L's net, non-mitigable stranded costs and that PP&L is permitted to recover 100% of that amount. But, as a result of the mitigation adjustment, PP&L's annual CTC revenue collection is reduced by $70 million and by $595 million in total.

25. The Commission's mitigation adjustment also is contrary to the scheme of regulation under the Act. Under the Act, rates for generation are to be unbundled when the phase-in of competition in electric generation commences. The mitigation adjustment, however, is related to PP&L's rates for generation under long-standing cost of service ratemaking principles. The rate change that is the source of the mitigation adjustment results from a change in depreciation method for the Susquehanna Steam Electric Station ("SSES") from a modified

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4/ *PECO* was appealed by several parties, but the case was later terminated by the Commission's approval of a settlement modifying many aspects of the Commission's Order including an increase in the level of stranded costs which PECO is allowed to recover. *Application of PECO Energy Co.*, Docket No. R-00973953 (May 15, 1998).

sinking fund method to straight line depreciation effective January 1, 1999. It is clearly contrary to the Act to impose on PP&L this one last vestige of regulation of generation rates. The Commission should not require, at PP&L's expense, a continuation of rate regulation for generation while simultaneously passing on to ratepayers the benefit of competitive, *deregulated* generation rates. The mitigation adjustment results from the improper application of traditional cost of service ratemaking principles to a competitive generation market with unregulated generation rates.

26. The Commission's mitigation adjustment also is inconsistent with the rate caps in the Act, which cap PP&L's rates at January 1, 1997 levels. In its 1995 rate case, PP&L proposed reduced rates to reflect lower depreciation expense effective January 1, 1999. Before passage of the Act, however, PP&L was free to propose increases in rates to reflect other changes in its costs of service. The rate cap under Section 2804 of the Act took away PP&L's ability to propose a rate increase to offset the January 1, 1999 rate reduction. The rate reduction cannot fairly be allowed to stand as the only surviving remnant of cost of service rate regulation in a competitive market.

27. The Commission's mitigation adjustment also violates the prohibition against single expense or "line item" ratemaking. *See, e.g., National Fuel Gas Distribution Corp. v. Pa. P.U.C.*, 76 Pa. Cmwlth. Ct. 102, 464 A.2d 546 (1983); *following remand, aff'd. on other issues,* 131 Pa. Cmwlth. Ct. 59, 569 A.2d 413, *allocatur denied*, __ Pa. __, 583 A.2d 795 (1990). Specifically, the Commission's mitigation adjustment failed to consider the many other changes to PP&L's expenses that would justify a net rate increase on January 1, 1999, under traditional ratemaking. In its restructuring proceeding, PP&L demonstrated that it is not and will not earn an excessive rate of return *even under its own proposal which would permit PP&L to recover*

approximately $4 billion of stranded costs through 2005 by charging the maximum rates under the rate caps of the Act. See generally PP&L Statement 8-R, pp. 19-29. Under the Order, PP&L would be allowed to recover a substantially reduced amount of stranded costs, and this lower amount is to be recovered over a longer period of time, 8½ years, instead of 7 years. Thus, there is no record support for a conclusion that PP&L's current rates are excessive, and certainly no basis to support a rate decrease. Fair consideration of all of the evidence dictates that the Commission's mitigation adjustment be eliminated from the Order.

28. It also must be remembered that PP&L's use of the modified sinking fund method of depreciation during the first portion of the SSES's operating life was a novel proposal specifically designed to benefit customers by ameliorating the rate impact of reflecting the Susquehanna plant in rate base. The effect of the modified sinking fund method was to moderate rates by reducing (decelerating) annual depreciation accruals during the early years in which the SSES was in service, when its rate base, and therefore, return and income tax revenue requirements were the greatest. The reduced level of depreciation accruals in the first portion of the SSES's operating life would be made up through increased accruals later in the service life of the SSES, when PP&L's investment in the SSES would be partially recovered, and therefore, the return and income tax revenue requirement associated with the SSES would be reduced. *See generally, Pa. P.U.C. v. PP&L*, 59 Pa PUC 332, 352-53; *Pa. P.U.C. v. PP&L*, Docket No. R-00943271, pp. 106-113 (Sept. 27, 1995).

29. The use of the modified sinking fund method and the change to straight line depreciation clearly contemplated a continuation of rate regulation. Under traditional rate regulation, PP&L reasonably could expect to recover fully the remaining depreciation on SSES over its remaining life, *i.e.*, over approximately 20 years. In a competitive environment, recovery

of this depreciation is extremely uncertain and is largely dependent upon future competitive market prices. Under these circumstances, a $70 million annual reduction in stranded cost recovery simply is inappropriate and confiscatory.

30. For these reasons, the mitigation adjustment should not be imposed. The proposal made by PP&L in its 1995 base rate case, which the Commission approved, had a benefit to ratepayers and a benefit to PP&L. PP&L agreed to a rate reduction in 1999 in exchange for a fair opportunity to recover its remaining prudent investment in the SSES. PP&L proposed an agreement under which it gave substantial consideration, a rate reduction, in exchange for the right to recover depreciation accruals from ratepayers in the future. PP&L retained the right to offset the rate reduction with a demonstrated need for increases in rates to cover increases in other costs. The Commission's ruling in this restructuring case effectively denies PP&L the benefits of the agreement, but imposes the detriment.

31. Commencing January 1, 1999, rates are to be set by the competitive market. There is no need for the Commission to impose this last vestige of regulation of rates related to generation facilities during the period when generation rates will be unregulated.

32. The effect of eliminating the mitigation adjustment is shown on Attachment 2.[5/] As shown on that Attachment, the Commission can reverse the mitigation adjustment, grant the Company actual stranded cost recovery of $2.865 billion as specified in the Order, extend the CTC recovery period from 8 ½ to 9 years, and maintain, without material change, the system average shopping credits set forth in Attachment A to the Order.

5/ Attachment 2 also reflects correction of all of the incorrect data discussed in Section D of this Petition. Thus, Attachment 2 constitutes the appropriate starting point for consideration of the other issues discussed in Sections F and G of this Petition.

F. THE ORDER OVERSTATES THE MARKET VALUE OF PP&L'S GENERATION ASSETS AND THEREBY UNDERSTATES PP&L'S STRANDED COSTS

33. Under the Commission's asset value method of determining the stranded cost portion of an electric utility's investment in generating assets, the market value of generating assets is subtracted from the book value of the assets. Consequently, any overstatement of the market value of generating assets produces a corresponding understatement of stranded costs.

34. In the Order, the Commission overstated the market value of PP&L's generating assets. This overstatement of the market value of PP&L's generating assets resulted from the Commission's overlooking or not addressing several important issues, as follows:

a. In projecting the market price of electricity, OCA simply assumed, without any support, that units which can be fired with either gas or oil will use oil one-half of the time and gas one-half of the time. This simplifying assumption causes serious problems when applied to OCA's fuel price projections under which the price of oil increases faster than the price of gas (Tr. 1397-98). OCA assumes that use of oil will equal use of gas even when gas is less expensive. The assumption is clearly incorrect because owners of dual-fueled units will use the lower price fuel. OCA provided no basis for this oversimplification and the Commission's order simply states that it is "reasonable" (Order, p. 43). This unjustified oversimplification has the effect of increasing OCA's estimate of the market value of PP&L's generating assets by $159.298 million. See Table D to PP&L's Main Brief.

b. In projecting the market price of electricity, OCA, without justification, reduced the availability of electric energy imported into the PJM system after 2005. Because imports from west of PJM are at lower cost, the effect of the reduction is to

increase the market price of electric energy just as the 7-year rate cap under the Act expires. OCA has provided no cogent explanation for this assumed decline in imports and the Commission's order again simply states that this assumption is "reasonable." As shown in Table D to PP&L's Main Brief, the effect of this error is $226.296 million.

c. A significant problem arises as a result of OCA's use of DRI fuel price forecasts. These forecasts project a major divergence between the real prices of oil and gas versus the real price of coal. PP&L Ex. STJ 10. The divergence of gas and oil prices from coal prices is both illogical and unprecedented for competing fuels. Real prices of competing fuels are highly correlated, *i.e.*, they have moved up and down together over many years. See PP&L Exhibit STJ 16a. This history makes sense. If the price of one competing fuel rose sharply and others did not, there would be fuel switching in many applications (PP&L St. No. 7-R, pp. 47-49).

The fuel price projections of DRI, however, show a significant, and historically unprecedented, divergence of oil and gas prices from the price of coal. This "divergence" causes a significant understatement of the market value of PP&L's generation. The marginal cost units operating on PJM will normally be gas and oil fuel units, and these units will set the price for all units operating in the same hour. At page 41 of the Order, the Commission notes that gas and oil prices will set the marginal price, but then incorrectly concludes that price of coal therefore is not relevant to the determination of stranded costs. Apparently, the Commission misunderstood this issue. By assuming coal prices that are inconsistent with oil and gas prices used in OCA's models, OCA understates the costs of operating PP&L's coal generating units. This understatement of

the cost of operating PP&L coal units overstates the value of these units in a future competitive market and thereby understates PP&L's stranded costs.

This erroneous divergence is particularly important for a utility such as PP&L which uses coal to fuel a substantial percentage of its generation. PP&L's coal-fired generating plants account for 38% of its generation. PP&L Hearing Ex. 2, Filing Requirement RP-G.6, Attach. 2. Accordingly, the historically unprecedented divergence of coal prices from oil and gas prices predicted by DRI has a significant impact on the calculation of PP&L's stranded costs. Using inconsistent coal prices penalizes PP&L for owning and operating coal plants that have produced low cost electricity. Correcting this divergence problem alone would increase PP&L's stranded costs by $230.157 million. See Table D to PP&L's Main Brief.[6/] The ALJ rejected OCA's position on this issue.

d. The Commission improperly applied a discount rate based on a regulated utility rate of return to determine the net present value of PP&L's future unregulated after-tax margins from the sale of electric generation. Under the Commission's asset value method, the market value of PP&L's generation is deducted from the book value of those assets to determine stranded costs. The market value of PP&L's generation is determined by discounting PP&L's projected after-tax margin from a future competitive electric generation market that does not yet exist. The discount rate used for this purpose should reflect the risks and uncertainty inherent in the projected stream of future revenues, including, for example, the risks and uncertainty regarding fuel and other costs, consumer

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6/ PP&L challenged the gas and oil prices contained in the DRI forecast as being overstated and demonstrated that historically DRI has overstated fuel prices. Nevertheless, if the Commission continues to accept DRI's projections of oil and gas prices for reasons stated in the Order, it should correct the inconsistency in the DRI forecast between coal price and oil and gas price escalation rates.

demand, economic growth and sales levels over a 26-year period. At pages 60-61 of the Order, the Commission adopted OCA's proposed discount rate, which includes a 10% equity return component obtained by reference to the Commission's order in PECO's securitization case. In PP&L's view, it is inconsistent and inappropriate to use a regulated utility return to discount future unregulated after-tax margins.[7/]

The Commission determined an appropriate rate of return on equity in the proceeding involving PECO Energy's proposal to securitize a portion of its stranded costs pursuant to Section 2812 of the Act. See Docket No. R-00973877, Order entered May 22, 1997 ("PECO QRO Order"). In the PECO QRO Order, the Commission adopted the recommendation of an administrative law judge that PECO's return on equity be set at 10%, based on his determination that there would be limited risk in recovery of securitized costs by PECO. Under securitization, PECO would be allowed to sell transition bonds thereby obtaining a large amount of cash in exchange for the irrevocable obligation of its ratepayers to provide sufficient revenues to pay off those bonds over a period of up to ten years. PECO QRO Order, pp. 54-59. Nowhere did the Commission state that it was determining the discount rate to be used in the application of the asset value method for determining stranded costs.

In PP&L's restructuring proceeding, the Commission adopted the rate of return on equity from PECO's securitization proceeding for discounting PP&L's future revenues

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7/ It is to be emphasized that PP&L is not here addressing the discount rate to be applied to unamortized CTC revenues to discount them to present value. PP&L does not contend that an unregulated opportunity rate of return should be applied to CTC revenues.

from its competitive, unregulated generation business.[8/] It is inconsistent to apply this regulated rate related to a 10-year securitized obligation to discount a 26-year stream of earnings in a highly competitive future electricity generation market. The equity component of a discount rate consistent with the asset value methodology should be substantially higher than the 10% rate that the Commission used. In fact, the OCA used a 12% return on equity (which results in a 9.41% after-tax discount rate) as the rate that a developer of new electric capacity in this unregulated market would require for investment in new generating facilities. See OCA Answer to Interrogatory PPL-I-8 (Attachment 3).

Use of an unrealistically low discount rate overstates the present value of PP&L's future revenues and thereby understates PP&L's stranded costs. It is improper to apply a regulated rate of return for low-risk utilities to future revenues from a highly competitive electricity market that does not yet exist. This error understated PP&L's stranded costs by approximately $600 million.

G. CLARIFICATION OF THE COMMISSION'S ORDER CONCERNING NUCLEAR DECOMMISSIONING

35. At pages 68 through 69 of the Order, the Commission approved PP&L's proposal to recover nuclear decommissioning expense as a per kWh distribution charge for the duration of the useful lives of the nuclear facilities.

8/ Although PP&L used a regulated discount rate, PP&L applied that rate to a future stream of regulated revenues under its "lost revenues" methodology that was rejected by the Commission. Order, pp.27-31. PP&L's presentation was consistent because it applied a regulated return to future regulated annual revenue requirements which PP&L would not recover under competition. The Commission's error was in applying a regulated return to unregulated future after-tax margins from a competitive business.

36. In the Commission's Order, however, the Commission did not state whether PP&L's recovery of nuclear decommissioning expenses should include a "tracker" so that revenues for recovery of nuclear decommissioning expenses will match those expenses. The approval of a tracker ensures that PP&L would have sufficient funds to decommission properly its nuclear generating stations at the end of their lives. A tracker will clearly meet the requirement of the NRC that a system be in place to provide adequate funding for decommissioning of nuclear generating stations. Approval of a tracker would ensure that PP&L would have the financial ability to perform the appropriate decommissioning of nuclear facilities for the safety and protection of the public and would not be required by the NRC to provide additional financial assurance for nuclear decommissioning such as insurance or a surety bond.

H. CODE OF CONDUCT

37. At page 121 of the Order, the Commission states that transactions between the PP&L EDC and the PP&L EGS will be treated as transactions between affiliated interests under Chapter 21 of the Public Utility Code. No party proposed this requirement; it appeared for the first time in the Commission's Order. As a result, PP&L had no opportunity to review, much less respond to, this new requirement. Adoption of this requirement without notice, opportunity for comment and record support is unlawful and violates PP&L's procedural due process rights.

38. The stated reason for this requirement is to create a "level playing field" for PP&L's EGS and its competitors. Unfortunately, it will have exactly the opposite effect. If this requirement were actually imposed, PP&L's EGS alone would have a serious competitive disadvantage in dealing with the PP&L EDC. The PP&L EDC would be able to obtain goods and services, most importantly electric generation service, from anyone other than the PP&L EGS without having to obtain prior Commission approval. However, the PP&L EDC would

have to obtain prior Commission approval before it obtained these same goods and services from PP&L EGS. Such restrictions on procuring electric generation from the PP&L EGS may have serious consequences in a competitive environment in which rapid reaction to market conditions will be critical to meeting customers' needs.

a. Such a requirement also interferes with PP&L's responsibilities as a provider of last resort under Section 2807(e)(1). To the extent that the PP&L EDC is blocked from purchasing electric generation from the PP&L EGS by regulatory delays in reviewing affiliated interests filings, the PP&L EDC will have to purchase electric generation from a more expensive supplier, to its last resort customers' disadvantage.

b. PP&L's EGS is a substantial provider of generation services, especially in PP&L's service territory. If the PP&L EDC is precluded from purchasing electric generation from the PP&L EGS by regulatory delays in reviewing affiliated interest filings, it is not clear that the PP&L EDC will be able to locate on short notice another supplier that will have the capability to replace the substantial generating capacity of the PP&L EGS. For example, it is not clear how the PP&L EDC could arrange for spot market purchases of electric generation from the PP&L EGS because such transactions are conducted on the basis of hour-to-hour agreements. Such transactions, which are basic and essential to the electric generation industry, are totally incompatible with requirements for prior regulatory approval of each buy-sell arrangement. The strict imposition of this requirement could both increase costs of service to the PP&L EDC's generation customers and jeopardize reliability of service.

c. There is no provision in the Act that authorizes the Commission to expand the scope of Chapter 21 of the Public Utility Code to apply to divisions of the same corporation.

d. There are sufficient protections in place to assure that the PP&L EGS will have no unfair advantage in its dealings with the PP&L EDC. The Commission has required that PP&L adopt the Code of Conduct imposed by the Commission on PECO in its restructuring case. Order, pp. 120-21. That Code contains a comprehensive set of rules to govern the relationship between the PP&L EDC and the PP&L EGS. For example, the PP&L EDC may not sell non-power goods or services to the PP&L EGS at less than the higher of market price or cost, and the PP&L EDC may not purchase non-power goods or services from the PP&L EGS at an above-market price. Under this Code of Conduct, the PP&L EDC will have no ability to subsidize the PP&L EGS.

e. Finally, Section 2807(e)(1) requires the PP&L EDC, as long as it is collecting a CTC, to "continue to have the full obligation to serve, including . . . the production or acquisition of electric energy for customers." Thus, the Act has placed an obligation on PP&L, but the Commission's newly proposed requirement may make compliance more costly or almost impossible. The Act clearly contemplated that the EDC shall continue to be able to provide to non-choosing customers service with the same level of efficiency and flexibility as before, i.e., customer choice was truly supposed to be a choice, including the right not to choose.

I. PETITION FOR EXPEDITED CONSIDERATION OR SUPERSEDEAS

39. PP&L respectfully requests that the Commission address and resolve the issues raised herein as expeditiously as possible. If the Commission does not enter an order taking final action on this Petition by July 9, 1998, PP&L requests that the Commission issue an order temporarily staying the Order pending its consideration of this Petition.

40. If the Commission does not stay the Order, PP&L will be required to submit a compliance filing based on the Order. PP&L believes that modifications of the Order explained above would materially affect that compliance filing. PP&L anticipates that energy marketers and others will rely on PP&L's compliance filing to develop marketing material and product offerings to the substantial portion of PP&L's customers that will be eligible for customer choice of generation suppliers in early 1999. If the Commission then adopts some or all of the modifications to the Order suggested above, the compliance filing would become inaccurate and the marketing material incorrect. False price signals and other data would be given to the consuming public. Generation marketers would be faced with the dilemma of: (i) continuing to use inaccurate advertising materials and product offerings, or (ii) replacing the incorrect marketing materials and product offerings with new, corrected versions. The result of either approach would be substantial confusion in the electric generation marketplace. The nascent electric generation market should not be subjected to the dislocations that would be caused by such confusion.

41. For the same reasons, and in order to permit as orderly a transition to the competitive electric generation market as practical at this time, PP&L requests that the Commission consider this Petition and issue a final order resolving the issues raised by this Petition as expeditiously as possible.

42. For the reasons stated above, it is urgent that the Commission take final action on this Petition no later than July 9, 1998, the date of the Commission's next scheduled meeting. It is imperative, therefore, that the amount of time for the other parties to answer this Petition be limited so that the Commission will have sufficient time to consider any answers. PP&L asks that the Commission require all parties to file any answers to this Petition to be received by the Commission on or before July 2, 1998.

J. CONCLUSION

WHEREFORE, for all the foregoing reasons, PP&L, Inc. respectfully requests that the Pennsylvania Public Utility Commission to:

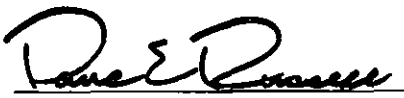
(a) grant reconsideration of its Order entered on June 15, 1998,

(b) amend the Order as requested in this Petition;

(c) take final action on this Petition by July 9, 1998, or issue an Order of supersedeas staying the Order during the pendency of consideration of this Petition; and

(d) grant such other and further relief that the Commission deems proper.

Respectfully submitted,



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Attorneys for PP&L, Inc.

Dated : June 26, 1998

PP&L 1999 SYSTEM SALES AND REVENUE
By Rate Schedule

Rate Schedule	Sales (kwh)	Total Revenue
RS	11,639,053,426	998,320,483
RTS	432,888,674	23,541,135
RTD	5,411,268	430,608
GS-1	1,559,422,912	171,308,597
GS-3	7,761,639,458	600,343,748
LP4	4,471,321,372	284,902,361
ISP	448,755,438	21,924,240
LP5	2,651,475,957	145,048,643
IST	2,327,705,181	94,556,936
LP6	576,039,511	31,012,594
LPEP	67,986,000	4,684,483
ISM	550,689,000	13,520,036
IS1	4,821,917	232,097
BL	4,751,439	445,127
SA	27,512,532	4,588,725
SM	7,244,471	1,288,398
SHS	62,980,150	17,049,422
SE	10,952,444	457,059
TS	515,396	59,508
SI-1	194,065	39,040
GH-1	398,577,858	33,164,980
GH-2	87,190,577	7,176,816
Standby	11,572,304	1,113,259
Totals	**33,108,701,350**	**2,455,208,294**
Average (cents/kwh)		**7.42**

Attachment A

Pennsylvania Power & Light
CTC, T&D and Shopping Credit in Cents per kwh
Declining CTC Revenue Requirement with kwh consumption as indicated (See Notes)
Stranded: **$ 2,864,719,000** ***kwh Growth Rate*** **1.50%**
Pre-Tax Return: **10.86%**

Year	kwh consumed	CTC Revenue Requirement	CTC Rate With GRT	T&D Rate	Bundled Rate Today	Shopping Credit
1999	33,108,701,350	$ 619,712,306	1.96	**1.74**	**7.42**	**3.72**
2000	33,605,331,870	$ 597,023,949	1.86	**1.74**	**7.42**	**3.82**
2001	34,109,411,848	$ 571,745,217	1.75	**1.74**	**7.42**	**3.93**
2002	34,621,053,026	$ 543,580,360	1.64	n/a	n/a	**4.04**
2003	35,140,368,821	$ 512,199,866	1.52	n/a	n/a	**4.15**
2004	35,667,474,353	$ 477,236,599	1.40	n/a	n/a	**4.28**
2005	36,202,486,469	$ 438,281,504	1.27	n/a	n/a	**4.41**
2006	36,745,523,766	$ 394,878,829	1.12	n/a	n/a	**4.55**
2007	37,296,706,622	$ 346,520,784	0.97	n/a	n/a	**4.71**

Notes:

GRT Gross up is 1/(1-GRT), or 1.0460251, to reflect payment of GRT on the GRT revenue receipt.

Revenue requirement represents amortization of stranded; monthly interest; and rate reduction.

The shopping credit is the bundled rate less the sum of the T&D rate plus the CTC with GRT rate.

Attachment 2
Schedule 1

	Annual Amortization	Balance $ 2,864,719,000	ROR 10.86%	S. C. Recovery	Rate Reduction $ 70,000,000	Annual Revenue Requirement
	[1]	[2]	[3]	[4=1+3]	[5]	[6=4-5]
1999	$ 318,302,111	$ 2,546,416,889	$ 301,410,195	$ 619,712,306		$ 619,712,306
2000	$ 318,302,111	$ 2,228,114,778	$ 278,721,838	$ 597,023,949		$ 597,023,949
2001	$ 318,302,111	$ 1,909,812,667	$ 253,443,105	$ 571,745,217		$ 571,745,217
2002	$ 318,302,111	$ 1,591,510,556	$ 225,278,249	$ 543,580,360		$ 543,580,360
2003	$ 318,302,111	$ 1,273,208,444	$ 193,897,755	$ 512,199,866		$ 512,199,866
2004	$ 318,302,111	$ 954,906,333	$ 158,934,487	$ 477,236,599		$ 477,236,599
2005	$ 318,302,111	$ 636,604,222	$ 119,979,393	$ 438,281,504		$ 438,281,504
2006	$ 318,302,111	$ 318,302,111	$ 76,576,718	$ 394,878,829		$ 394,878,829
2007	$ 318,302,111	$ -	$ 28,218,673	$ 346,520,784		$ 346,520,784
	$ 2,864,719,000		$ 1,636,460,415		$ -	

Attachment 2
Schedule 2

Initial Data

LOAN DATA

Loan amount:	$2,864,719,000
Annual interest rate:	10.86%
Term in years:	9
Payments per year:	12
First payment due:	1/1/99

TABLE DATA

Table starts at date:	
or at payment number:	1

PERIODIC PAYMENT

Entered payment:	
Calculated payment:	$41,677,587.17

The table uses the calculated periodic payment amount, unless you enter a value for "Entered payment."

CALCULATIONS

Use payment of:	$41,677,587.17	Beginning balance at payment 1:	$2,864,719,000
1st payment in table:	1	*Cumulative interest prior to payment 1:*	$0.00

Table

No.	Payment Date	Beginning Balance	Interest	Principal	Ending Balance	Cumulative Interest
1	1/1/99	2,864,719,000	25,925,707	15,751,880	2,848,967,120	25,925,707
2	2/1/99	2,848,967,120	25,783,152	15,894,435	2,833,072,685	51,708,859
3	3/1/99	2,833,072,685	25,639,308	16,038,279	2,817,034,406	77,348,167
4	4/1/99	2,817,034,406	25,494,161	16,183,426	2,800,850,980	102,842,329
5	5/1/99	2,800,850,980	25,347,701	16,329,886	2,784,521,094	128,190,030
6	6/1/99	2,784,521,094	25,199,916	16,477,671	2,768,043,423	153,389,946
7	7/1/99	2,768,043,423	25,050,793	16,626,794	2,751,416,629	178,440,739
8	8/1/99	2,751,416,629	24,900,320	16,777,267	2,734,639,362	203,341,059
9	9/1/99	2,734,639,362	24,748,486	16,929,101	2,717,710,261	228,089,546
10	10/1/99	2,717,710,261	24,595,278	17,082,309	2,700,627,952	252,684,823
11	11/1/99	2,700,627,952	24,440,683	17,236,904	2,683,391,047	277,125,506
12	**12/1/99**	**2,683,391,047**	**24,284,689**	**17,392,898**	**2,665,998,149**	**301,410,195**
13	1/1/00	2,665,998,149	24,127,283	17,550,304	2,648,447,845	325,537,479
14	2/1/00	2,648,447,845	23,968,453	17,709,134	2,630,738,711	349,505,932
15	3/1/00	2,630,738,711	23,808,185	17,869,402	2,612,869,309	373,314,117
16	4/1/00	2,612,869,309	23,646,467	18,031,120	2,594,838,189	396,960,584
17	5/1/00	2,594,838,189	23,483,286	18,194,302	2,576,643,888	420,443,870
18	6/1/00	2,576,643,888	23,318,627	18,358,960	2,558,284,928	443,762,497
19	7/1/00	2,558,284,928	23,152,479	18,525,109	2,539,759,819	466,914,976
20	8/1/00	2,539,759,819	22,984,826	18,692,761	2,521,067,058	489,899,802
21	9/1/00	2,521,067,058	22,815,657	18,861,930	2,502,205,128	512,715,459
22	10/1/00	2,502,205,128	22,644,956	19,032,631	2,483,172,497	535,360,415
23	11/1/00	2,483,172,497	22,472,711	19,204,876	2,463,967,621	557,833,126
24	**12/1/00**	**2,463,967,621**	**22,298,907**	**19,378,680**	**2,444,588,941**	**580,132,033**
25	1/1/01	2,444,588,941	22,123,530	19,554,057	2,425,034,884	602,255,563
26	2/1/01	2,425,034,884	21,946,566	19,731,021	2,405,303,862	624,202,129
27	3/1/01	2,405,303,862	21,768,000	19,909,587	2,385,394,275	645,970,129
28	4/1/01	2,385,394,275	21,587,818	20,089,769	2,365,304,506	667,557,947
29	5/1/01	2,365,304,506	21,406,006	20,271,581	2,345,032,925	688,963,953
30	6/1/01	2,345,032,925	21,222,548	20,455,039	2,324,577,886	710,186,501
31	7/1/01	2,324,577,886	21,037,430	20,640,157	2,303,937,728	731,223,931
32	8/1/01	2,303,937,728	20,850,636	20,826,951	2,283,110,778	752,074,567
33	9/1/01	2,283,110,778	20,662,153	21,015,435	2,262,095,343	772,736,720

No.	Payment Date	Beginning Balance	Interest	Principal	Ending Balance	Cumulative Interest
34	10/1/01	2,262,095,343	20,471,963	21,205,624	2,240,889,719	793,208,682
35	11/1/01	2,240,889,719	20,280,052	21,397,535	2,219,492,183	813,488,734
36	**12/1/01**	**2,219,492,183**	**20,086,404**	**21,591,183**	**2,197,901,000**	**833,575,139**
37	1/1/02	2,197,901,000	19,891,004	21,786,583	2,176,114,417	853,466,143
38	2/1/02	2,176,114,417	19,693,835	21,983,752	2,154,130,666	873,159,978
39	3/1/02	2,154,130,666	19,494,883	22,182,705	2,131,947,961	892,654,861
40	4/1/02	2,131,947,961	19,294,129	22,383,458	2,109,564,503	911,948,990
41	5/1/02	2,109,564,503	19,091,559	22,586,028	2,086,978,474	931,040,549
42	6/1/02	2,086,978,474	18,887,155	22,790,432	2,064,188,042	949,927,704
43	7/1/02	2,064,188,042	18,680,902	22,996,685	2,041,191,357	968,608,606
44	8/1/02	2,041,191,357	18,472,782	23,204,805	2,017,986,552	987,081,387
45	9/1/02	2,017,986,552	18,262,778	23,414,809	1,994,571,743	1,005,344,166
46	10/1/02	1,994,571,743	18,050,874	23,626,713	1,970,945,030	1,023,395,040
47	11/1/02	1,970,945,030	17,837,053	23,840,535	1,947,104,495	1,041,232,092
48	**12/1/02**	**1,947,104,495**	**17,621,296**	**24,056,291**	**1,923,048,204**	**1,058,853,388**
49	1/1/03	1,923,048,204	17,403,586	24,274,001	1,898,774,203	1,076,256,974
50	2/1/03	1,898,774,203	17,183,907	24,493,681	1,874,280,522	1,093,440,881
51	3/1/03	1,874,280,522	16,962,239	24,715,348	1,849,565,174	1,110,403,120
52	4/1/03	1,849,565,174	16,738,565	24,939,022	1,824,626,151	1,127,141,684
53	5/1/03	1,824,626,151	16,512,867	25,164,721	1,799,461,431	1,143,654,551
54	6/1/03	1,799,461,431	16,285,126	25,392,461	1,774,068,970	1,159,939,677
55	7/1/03	1,774,068,970	16,055,324	25,622,263	1,748,446,707	1,175,995,001
56	8/1/03	1,748,446,707	15,823,443	25,854,144	1,722,592,562	1,191,818,444
57	9/1/03	1,722,592,562	15,589,463	26,088,124	1,696,504,438	1,207,407,907
58	10/1/03	1,696,504,438	15,353,365	26,324,222	1,670,180,216	1,222,761,272
59	11/1/03	1,670,180,216	15,115,131	26,562,456	1,643,617,759	1,237,876,403
60	**12/1/03**	**1,643,617,759**	**14,874,741**	**26,802,846**	**1,616,814,913**	**1,252,751,143**
61	1/1/04	1,616,814,913	14,632,175	27,045,412	1,589,769,501	1,267,383,318
62	2/1/04	1,589,769,501	14,387,414	27,290,173	1,562,479,328	1,281,770,732
63	3/1/04	1,562,479,328	14,140,438	27,537,149	1,534,942,178	1,295,911,170
64	4/1/04	1,534,942,178	13,891,227	27,786,360	1,507,155,818	1,309,802,397
65	5/1/04	1,507,155,818	13,639,760	28,037,827	1,479,117,991	1,323,442,157
66	6/1/04	1,479,117,991	13,386,018	28,291,569	1,450,826,421	1,336,828,175
67	7/1/04	1,450,826,421	13,129,979	28,547,608	1,422,278,813	1,349,958,154
68	8/1/04	1,422,278,813	12,871,623	28,805,964	1,393,472,849	1,362,829,777
69	9/1/04	1,393,472,849	12,610,929	29,066,658	1,364,406,192	1,375,440,707
70	10/1/04	1,364,406,192	12,347,876	29,329,711	1,335,076,480	1,387,788,583
71	11/1/04	1,335,076,480	12,082,442	29,595,145	1,305,481,335	1,399,871,025
72	**12/1/04**	**1,305,481,335**	**11,814,606**	**29,862,981**	**1,275,618,354**	**1,411,685,631**
73	1/1/05	1,275,618,354	11,544,346	30,133,241	1,245,485,113	1,423,229,977
74	2/1/05	1,245,485,113	11,271,640	30,405,947	1,215,079,166	1,434,501,617
75	3/1/05	1,215,079,166	10,996,466	30,681,121	1,184,398,046	1,445,498,084
76	4/1/05	1,184,398,046	10,718,802	30,958,785	1,153,439,261	1,456,216,886
77	5/1/05	1,153,439,261	10,438,625	31,238,962	1,122,200,299	1,466,655,511
78	6/1/05	1,122,200,299	10,155,913	31,521,674	1,090,678,624	1,476,811,424
79	7/1/05	1,090,678,624	9,870,642	31,806,946	1,058,871,679	1,486,682,066
80	8/1/05	1,058,871,679	9,582,789	32,094,798	1,026,776,880	1,496,264,854
81	9/1/05	1,026,776,880	9,292,331	32,385,256	994,391,624	1,505,557,185
82	10/1/05	994,391,624	8,999,244	32,678,343	961,713,281	1,514,556,429
83	11/1/05	961,713,281	8,703,505	32,974,082	928,739,199	1,523,259,934
84	**12/1/05**	**928,739,199**	**8,405,090**	**33,272,497**	**895,466,702**	**1,531,665,024**

No.	Payment Date	Beginning Balance	Interest	Principal	Ending Balance	Cumulative Interest
85	1/1/06	895,466,702	8,103,974	33,573,614	861,893,088	1,539,768,998
86	2/1/06	861,893,088	7,800,132	33,877,455	828,015,633	1,547,569,130
87	3/1/06	828,015,633	7,493,541	34,184,046	793,831,588	1,555,062,672
88	4/1/06	793,831,588	7,184,176	34,493,411	759,338,176	1,562,246,848
89	5/1/06	759,338,176	6,872,010	34,805,577	724,532,600	1,569,118,858
90	6/1/06	724,532,600	6,557,020	35,120,567	689,412,032	1,575,675,878
91	7/1/06	689,412,032	6,239,179	35,438,408	653,973,624	1,581,915,057
92	8/1/06	653,973,624	5,918,461	35,759,126	618,214,498	1,587,833,518
93	9/1/06	618,214,498	5,594,841	36,082,746	582,131,752	1,593,428,360
94	10/1/06	582,131,752	5,268,292	36,409,295	545,722,458	1,598,696,652
95	11/1/06	545,722,458	4,938,788	36,738,799	508,983,659	1,603,635,440
96	**12/1/06**	**508,983,659**	**4,606,302**	**37,071,285**	**471,912,374**	**1,608,241,742**
97	1/1/07	471,912,374	4,270,807	37,406,780	434,505,593	1,612,512,549
98	2/1/07	434,505,593	3,932,276	37,745,312	396,760,282	1,616,444,825
99	3/1/07	396,760,282	3,590,681	38,086,907	358,673,375	1,620,035,505
100	4/1/07	358,673,375	3,245,994	38,431,593	320,241,782	1,623,281,499
101	5/1/07	320,241,782	2,898,188	38,779,399	281,462,383	1,626,179,688
102	6/1/07	281,462,383	2,547,235	39,130,353	242,332,030	1,628,726,922
103	7/1/07	242,332,030	2,193,105	39,484,482	202,847,548	1,630,920,027
104	8/1/07	202,847,548	1,835,770	39,841,817	163,005,731	1,632,755,797
105	9/1/07	163,005,731	1,475,202	40,202,385	122,803,346	1,634,230,999
106	10/1/07	122,803,346	1,111,370	40,566,217	82,237,129	1,635,342,370
107	11/1/07	82,237,129	744,246	40,933,341	41,303,788	1,636,086,616
108	**12/1/07**	**41,303,788**	**373,799**	**41,303,788**	**0**	**1,636,460,415**

PENNSYLVANIA POWER & LIGHT COMPANY
Docket No. R-00973954

Interrogatories and Requests for Documents to
Office of Consumer Advocate
Set I

Question for Douglas C. Smith

PPL-I-8 *Question:*

Provide all documentation, calculations, working papers and related material that support the use of a 12.75 percent real-levelized carrying charge rate.

PPL-I-8 Answer:

The 12.75 percent real-levelized carrying charge rate reflects a review of the carrying charge rates presented by PECO in Docket R-00973953, and of related carrying cost analyses associated with non-utility generators. The carrying charge calculations presented by PECO witnesses Bustard (12.83 percent) and Hieronymus (12.0 percent) are attached; the non-utility generator information is confidential. The 12.75 percent value was selected as representative (although probably somewhat optimistic) reflection of the carrying charge rate that developers of new capacity will require.

In Responses SBA-I-24 and OCA-III-74, PP&L declined to provide the carrying charge rate assumption(s) underlying Dr. Jones' market price analysis.

CAPITAL CHARGE RATE																	
Calculations																	
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Book Net Asset	1000	950	900	850	800	750	700	650	600	550	500	450	400	350	300	250	200
Depreciation	50	50	50	50	50	50	50	50	50	50	50	50	50	50	50	50	50
Interest	34	32	31	29	27	26	24	22	20	19	17	15	14	12	10	9	7
Preferred	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Equity	72	68	65	61	58	54	50	47	43	40	36	32	29	25	22	18	14
Income taxes	25	26	27	28	28	29	27	25	23	21	19	17	16	14	12	10	8
Other	10	10	9	9	8	8	7	7	6	6	5	5	4	4	3	3	2
Total	191	187	182	177	171	166	158	151	143	135	127	120	112	104	96	89	81
NPV	1155																
Real Annuity	120																
Real CCR	12.0%																
Tax Net Asset	1000	925	856	791	732	677	626	576	526	476	426	376	326	276	226	176	126
Tax Depreciation	75	69	64	59	55	51	50	50	50	50	50	50	50	50	50	50	50
Book Depreciation	50	50	50	50	50	50	50	50	50	50	50	50	50	50	50	50	50
Tax Effect	25	19	14	9	5	1	0	0	0	0	0	0	0	0	0	0	0
PAT	72	68	65	61	58	54	50	47	43	40	36	32	29	25	22	18	14
PBT	72	75	78	80	81	82	78	72	66	61	55	50	44	39	33	28	22
Tax PBT	72	75	78	80	81	82	78	72	66	61	55	50	44	39	33	28	22
Tax	25	26	27	28	28	29	27	25	23	21	19	17	16	14	12	10	8
Input Assumptions																	
Asset		1000		Capital Charge Rate			12.0%										
Book Depreciation		5%															
Tax Depreciation		150%															
% Debt		40.0%															
% Preferred		0.0%															
% Equity		60.0%	100%		Life	20											
Cost of Debt		8.5%															
Cost of Preferred		7.5%															
Cost of Equity		12.0%															
Tax Rate		35.0%															
Other		1.0%															
Consumer's Discount Rate		12.0%															
Inflation Rate		3.5%															
Real Discount Rate		8.2%															
WACC- AT		9.4%															
WACC-BT		14.5%															

CAPITAL CHARGE RA													
Calculations													
	18	19	20	21	22	23	24	25	26	27	28	29	30
Book Net Asset	150	100	50										
Depreciation	50	50	50										
Interest	5	3	2										
Preferred	0	0	0										
Equity	11	7	4										
Income taxes	6	17	29	0	0	0	0	0	0	0	0	0	0
Other	2	1	1	0	0	0	0	0	0	0	0	0	0
Total	73	78	85	0	0	0	0	0	0	0	0	0	0
NPV													
Real Annuity													
Real CCR													
Tax Net Asset	76	26	0										
Tax Depreciation	50	26	0	0	0	0	0	0	0	0	0	0	0
Book Depreciation	50	50	50	0	0	0	0	0	0	0	0	0	0
Tax Effect	0	-24	-50	0	0	0	0	0	0	0	0	0	0
PAT	11	7	4	0	0	0	0	0	0	0	0	0	0
PBT	17	47	82	0	0	0	0	0	0	0	0	0	0
Tax PBT	17	47	82	0	0	0	0	0	0	0	0	0	0
Tax	6	17	29	0	0	0	0	0	0	0	0	0	0
Input Assumptions													
Asset													
Book Depreciation													
Tax Depreciation													
% Debt													
% Preferred													
% Equity													
Cost of Debt													
Cost of Preferred													
Cost of Equity													
Tax Rate													
Other													
Consumer's Discount													
Inflation Rate													
Real Discount Rate													
WACC- AT													
WACC-BT													

REVENUE REQUIREMENTS WORKSHEET: VERSION 1

Calculates:Yearly Rev Req, NPV Rev Req, Levelized Values,and Fixed Charge Rates for a nominal $100 capital expenditure

	Inputs=		BEFORE TAX WEIGHTED	AFTER TAX WEIGHTED
COST OF CAPITAL:	RATIO (%)	COST (%)	COST	COST
DEBT:	40.00%	8.50%	3.40%	2.21%
PREFERRED:	0.00%	0.00%	0.00%	0.00%
COMMON:	60.00%	12.00%	7.20%	7.20%
			10.60%	9.41%

PROPERTY TAX RATE:	2.50%	BOOK LIFE (yrs)	30 <= 30
INSURANCE COST RATE:	1.00%	TAX LIFE (yrs)	20 <= 30
REVENUE TAX RATE:	1.47%	INFLATION RATE	3.00% used for ECC calc
EFFECTIVE INCOME TAX RATE:	35.00%		

Assumptions

1) In-service date tax value equals in-service date book value for current/def tax calculations. The tax value will not be equal to the book value (AFUDC rate will not equal capitalized interest rate) but the difference is small enough to ignore
2) Revenue requirements are End of Yr (EOY) basis
3) Property / Insurance tax based on original book value
4) Rate base is reduced by accumulated deferred taxes
5) Tax depreciation method is 150% declining balance to straight-line
6) Income Tax Rate should,in general, be the effective combined federal/state rate. This combined tax rate can be calculated by: Composite Rate = federal tax rate + (state tax rate (1-federal tax rate))
7) Income Taxes = [Revenues - Tax Deductable Exp] * [Inc tax rate/1-inc tax rate)

equity return		
debt return	=	interest exp
book depr		tax depr
def taxes		
prop taxes	=	prop taxes
insur cost	=	insur cost
rev tax	=	rev tax

[equity ret +book depr +def tax - tax depr] * (Inc tax rate/1-inc tax rate)

8) Economic Carrying Charge calc uses after tax discount rate for PRV

YR	GROSS PLANT	ACCUM DEPR	ACCUM DEF TAX	EOY RATE BASE	BOOK DEPR	DEBT RETURN	EQUITY RETURN	CURRENT TAXES	DEF TAXES	PROP TAXES	INSUR-ANCE
0											
1	100.00	3.33	0.15	96.52	3.33	3.28	6.95	3.60	0.15	2.50	1.00
2	100.00	6.67	1.51	91.83	3.33	3.12	6.61	2.20	1.36	2.50	1.00
3	100.00	10.00	2.68	87.32	3.33	2.97	6.29	2.22	1.17	2.50	1.00
4	100.00	13.33	3.67	83.00	3.33	2.82	5.98	2.22	1.00	2.50	1.00
5	100.00	16.67	4.50	78.83	3.33	2.68	5.68	2.22	0.83	2.50	1.00
6	100.00	20.00	5.19	74.81	3.33	2.54	5.39	2.22	0.68	2.50	1.00
7	100.00	23.33	5.73	70.94	3.33	2.41	5.11	2.21	0.54	2.50	1.00
8	100.00	26.67	6.15	67.19	3.33	2.28	4.84	2.19	0.42	2.50	1.00
9	100.00	30.00	6.54	63.46	3.33	2.16	4.57	2.07	0.39	2.50	1.00
10	100.00	33.33	6.94	59.73	3.33	2.03	4.30	1.92	0.39	2.50	1.00
11	100.00	36.67	7.33	56.00	3.33	1.90	4.03	1.78	0.39	2.50	1.00
12	100.00	40.00	7.73	52.27	3.33	1.78	3.76	1.63	0.39	2.50	1.00
13	100.00	43.33	8.12	48.54	3.33	1.65	3.50	1.49	0.39	2.50	1.00
14	100.00	46.67	8.52	44.82	3.33	1.52	3.23	1.34	0.39	2.50	1.00
15	100.00	50.00	8.91	41.09	3.33	1.40	2.96	1.20	0.39	2.50	1.00
16	100.00	53.33	9.31	37.36	3.33	1.27	2.69	1.05	0.39	2.50	1.00
17	100.00	56.67	9.70	33.63	3.33	1.14	2.42	0.91	0.39	2.50	1.00
18	100.00	60.00	10.10	29.90	3.33	1.02	2.15	0.76	0.39	2.50	1.00
19	100.00	63.33	10.49	26.18	3.33	0.89	1.88	0.62	0.39	2.50	1.00
20	100.00	66.67	10.89	22.45	3.33	0.76	1.62	0.48	0.39	2.50	1.00
21	100.00	70.00	10.50	19.50	3.33	0.66	1.40	1.14	-0.39	2.50	1.00
22	100.00	73.33	9.33	17.33	3.33	0.59	1.25	1.84	-1.17	2.50	1.00
23	100.00	76.67	8.17	15.17	3.33	0.52	1.09	1.75	-1.17	2.50	1.00
24	100.00	80.00	7.00	13.00	3.33	0.44	0.94	1.67	-1.17	2.50	1.00
25	100.00	83.33	5.83	10.83	3.33	0.37	0.78	1.59	-1.17	2.50	1.00
26	100.00	86.67	4.67	8.67	3.33	0.29	0.62	1.50	-1.17	2.50	1.00
27	100.00	90.00	3.50	6.50	3.33	0.22	0.47	1.42	-1.17	2.50	1.00
28	100.00	93.33	2.33	4.33	3.33	0.15	0.31	1.33	-1.17	2.50	1.00

29	100.00	96.67	1.17	2.17	3.33	0.07	0.16	1.25	-1.17	2.50	1.00
30	100.00	100.00	0.00	0.00	3.33	0.00	0.00	1.17	-1.17	2.50	1.00

			BOOK DEPR	DEBT RETURN	EQUITY RETURN	CURRENT TAXES	DEF TAXES	PROP TAXES	INSUR-ANCE
	PRESENT VALUE (@	9.41%) =	33.04	21.28	45.07	19.74	4.53	24.78	9.91
	FIXED CHG RATE (	9.41%) =	3.33	2.15	4.55	1.99	0.46	2.50	1.00
PRV	**PRESENT VALUE (@.**	**9.41%) =**	36.15	23.28	49.31	21.59	4.96	27.11	10.84
PRV	**FIXED CHG RATE (**	**9.41%) =**	3.65	2.35	4.97	2.18	0.50	2.74	1.09
	PRESENT VALUE (@	10.60%) =	29.92	19.89	42.12	18.24	4.43	22.44	8.97
	FIXED CHG RATE (	10.60%) =	3.33	2.22	4.69	2.03	0.49	2.50	1.00
PRV	**PRESENT VALUE (@**	**10.60%) =**	33.09	22.00	46.58	20.18	4.90	24.82	9.93
PRV	**FIXED CHG RATE (**	**10.60%) =**	3.69	2.45	5.19	2.25	0.55	2.77	1.11

DEFERRED TAX CALCULATION

	ANNUAL SL AMOUNT	ACCUM SL BALANCE	ANNUAL 150%-SL AMOUNT	ACCUM 150%-SL BALANCE	BEGIN ACCUM DEF TAX	ANNUAL DEF TAX AMOUNT	END ACCUM DEF TAX
1	3.33	3.33	3.75	3.75	0.00	0.15	0.15
2	3.33	6.67	7.22	10.97	0.15	1.36	1.51
3	3.33	10.00	6.68	17.65	1.51	1.17	2.68
4	3.33	13.33	6.18	23.82	2.68	1.00	3.67
5	3.33	16.67	5.71	29.54	3.67	0.83	4.50
6	3.33	20.00	5.28	34.82	4.50	0.68	5.19
7	3.33	23.33	4.89	39.71	5.19	0.54	5.73
8	3.33	26.67	4.52	44.23	5.73	0.42	6.15
9	3.33	30.00	4.46	48.69	6.15	0.39	6.54
10	3.33	33.33	4.46	53.15	6.54	0.39	6.94
11	3.33	36.67	4.46	57.62	6.94	0.39	7.33

12	3.33	40.00		4.46	62.08		7.33	0.39	7.73
13	3.33	43.33		4.46	66.54		7.73	0.39	8.12
14	3.33	46.67		4.46	71.00		8.12	0.39	8.52
15	3.33	50.00		4.46	75.46		8.52	0.39	8.91
16	3.33	53.33		4.46	79.92		8.91	0.39	9.31
17	3.33	56.67		4.46	84.38		9.31	0.39	9.70
18	3.33	60.00		4.46	88.85		9.70	0.39	10.10
19	3.33	63.33		4.46	93.31		10.10	0.39	10.49
20	3.33	66.67		4.46	97.77		10.49	0.39	10.89
21	3.33	70.00		2.23	100.00		10.89	-0.39	10.50
22	3.33	73.33		0.00	100.00		10.50	-1.17	9.33
23	3.33	76.67		0.00	100.00		9.33	-1.17	8.17
24	3.33	80.00		0.00	100.00		8.17	-1.17	7.00
25	3.33	83.33		0.00	100.00		7.00	-1.17	5.83
26	3.33	86.67		0.00	100.00		5.83	-1.17	4.67
27	3.33	90.00		0.00	100.00		4.67	-1.17	3.50
28	3.33	93.33		0.00	100.00		3.50	-1.17	2.33
29	3.33	96.67		0.00	100.00		2.33	-1.17	1.17
30	3.33	100.00		0.00	100.00		1.17	-1.17	0.00

0.128 = 1.1612/1.0303 -1 (rev.req. / inflation - 1)>

0.128

										0.128	535	1.197	81.9706
REVENUE REQMT	REVENUE TAX	TOTAL REVENUE REQMT		DATA FOR GRAPH								K=	0.94141
			YR	BK DEPR	P TAXES	INSUR	EQ RET	DEBT RET	INC TAX	REV TAX	EVELIZE	ECC	
20.81	0.31	21.12	1	3.33	2.50	1.00	6.95	3.28	3.74	0.31	17.74	12.31	
20.13	0.30	20.43	2	3.33	2.50	1.00	6.61	3.12	3.56	0.30	17.74	12.68	
19.48	0.29	19.77	3	3.33	2.50	1.00	6.29	2.97	3.39	0.29	17.74	13.06	
18.85	0.28	19.13	4	3.33	2.50	1.00	5.98	2.82	3.22	0.28	17.74	13.46	
18.25	0.27	18.52	5	3.33	2.50	1.00	5.68	2.68	3.06	0.27	17.74	13.86	
17.66	0.26	17.93	6	3.33	2.50	1.00	5.39	2.54	2.90	0.26	17.74	14.28	
17.10	0.26	17.36	7	3.33	2.50	1.00	5.11	2.41	2.75	0.26	17.74	14.70	
16.56	0.25	16.81	8	3.33	2.50	1.00	4.84	2.28	2.60	0.25	17.74	15.14	
16.02	0.24	16.26	9	3.33	2.50	1.00	4.57	2.16	2.46	0.24	17.74	15.60	
15.48	0.23	15.71	10	3.33	2.50	1.00	4.30	2.03	2.32	0.23	17.74	16.07	
14.94	0.22	15.16	11	3.33	2.50	1.00	4.03	1.90	2.17	0.22	17.74	16.55	
14.40	0.21	14.62	12	3.33	2.50	1.00	3.76	1.78	2.03	0.21	17.74	17.05	
13.86	0.21	14.07	13	3.33	2.50	1.00	3.50	1.65	1.88	0.21	17.74	17.56	
13.32	0.20	13.52	14	3.33	2.50	1.00	3.23	1.52	1.74	0.20	17.74	18.08	
12.78	0.19	12.97	15	3.33	2.50	1.00	2.96	1.40	1.59	0.19	17.74	18.63	
12.24	0.18	12.42	16	3.33	2.50	1.00	2.69	1.27	1.45	0.18	17.74	19.18	
11.70	0.17	11.88	17	3.33	2.50	1.00	2.42	1.14	1.30	0.17	17.74	19.76	
11.16	0.17	11.33	18	3.33	2.50	1.00	2.15	1.02	1.16	0.17	17.74	20.35	
10.62	0.16	10.78	19	3.33	2.50	1.00	1.88	0.89	1.01	0.16	17.74	20.96	
10.08	0.15	10.23	20	3.33	2.50	1.00	1.62	0.76	0.87	0.15	17.74	21.59	
9.66	0.14	9.80	21	3.33	2.50	1.00	1.40	0.66	0.76	0.14	17.74	22.24	
9.34	0.14	9.48	22	3.33	2.50	1.00	1.25	0.59	0.67	0.14	17.74	22.91	
9.03	0.13	9.16	23	3.33	2.50	1.00	1.09	0.52	0.59	0.13	17.74	23.59	
8.72	0.13	8.85	24	3.33	2.50	1.00	0.94	0.44	0.50	0.13	17.74	24.30	
8.40	0.13	8.53	25	3.33	2.50	1.00	0.78	0.37	0.42	0.13	17.74	25.03	
8.09	0.12	8.21	26	3.33	2.50	1.00	0.62	0.29	0.34	0.12	17.74	25.78	
7.77	0.12	7.89	27	3.33	2.50	1.00	0.47	0.22	0.25	0.12	17.74	26.56	
7.46	0.11	7.57	28	3.33	2.50	1.00	0.31	0.15	0.17	0.11	17.74	27.35	

7.15	0.11	7.25	29	3.33	2.50	1.00	0.16	0.07	0.08	0.11	17.74	28.17
6.83	0.10	6.94	30	3.33	2.50	1.00	0.00	0.00	0.00	0.10	17.74	29.02
										PV check	175.82	175.82

REVENUE REQMT	REVENUE TAX	TOTAL REVENUE REQMT
158.34	2.36	160.70
15.98	0.24	16.21
173.24	2.58	175.82
17.48	0.26	17.74
146.02	2.18	148.19
16.27	0.24	16.51
161.49	2.41	163.90
17.99	0.27	18.26

1.0941

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 June 26, 1998, I served a true copy of the "**PETITION OF PP&L, INC. FOR RECONSIDERATION, CLARIFICATION, AMENDMENT, CORRECTION, AND SUPERSEDEAS OF THE ORDER ENTERED ON JUNE 15, 1998 AND FOR EXPEDITED CONSIDERATION OF THIS PETITION**" as indicated below upon the following participants, in accordance with the requirements of Section 1.54 (relating to service by a participant):

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for Enron Corporation

VIA FEDERAL EXPRESS AND FACSIMILE

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

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

VIA FEDERAL EXPRESS AND FACSIMILE

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Suite 600
Washington, DC 20036-3006
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2308 Brandywine Drive
Harrisburg, PA 17110
Pro se

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Vough & Mecadon
Greater Pittston Professional Center
126 South Main Street
Pittston, PA 18640
for Comm'n on Economic Opportunity

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

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

VIA FEDERAL EXPRESS AND FACSIMILE

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for IBEW, Local 1600

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P.O. Box 15746
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for CNG

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905 Denston Drive
Ambler, PA 19002
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Environmental Energy Project
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for Environmentalists

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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

COMMONWEALTH OF PENNSYLVANIA

DATE: June 29, 1998

SUBJECT: R-00973954

REP

TO: Office of Special Assistants

FROM: James J. McNulty, Secretary

APPLICATION OF PENNSYLVANIA POWER & LIGHT COMPANY
FOR APPROVAL OF ITS RESTRUCTURING PLAN

Attached is copy of PP&L.Inc.'s Petition for Reconsideration, Clarification, Amendment, Correction, and Supersedeas of the Order Entered on June 15, 1998 and for Expedited Consideration of this Petition filed in connection with the above docketed proceeding.

This matter is assigned to your Office for appropriate action.

Attachment

cc: Law Bureau - w/copy of petition

wjz

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

IN REPLY PLEASE
REFER TO OUR FILE

June 29, 1998

R-973954

Ms. Janet K. Weidensaul, Chairman
Commissioners' Office
Monroe County
Administrative Center
One Quaker Plaza
Stroudsburg, PA 18360-2192

98 JUN 30 PM 1:18
RECEIVED
SECRETARY'S BUREAU

KJR

Dear Ms. Weidensaul:

Thank you for your June 5, 1998 letter to Governor Tom Ridge regarding the Public Utility Commission's recent decision in the matter of PP&L's final restructuring plan under the Electricity Generation Customer Choice and Competition Act.

Please know that the Commission's decision of June 4, 1998, is final, and that PP&L is now free to decide whether it will appeal the Commission's final order. Please know that the Commission made its decision according to evidence which was placed on the record by PP&L and other parties during the litigation phase of its restructuring case. Also, the Commission is not bound to accept the recommendation of the Administrative Law Judge who presided over the case. The Commission has full authority to either approve, reject, or modify the decision of the Administrative Law Judge based on the Commission's review of the evidence on the record.

I am sorry I cannot give you a more favorable response to this matter, but we do greatly appreciate having the benefit of your thinking on this issue. Please know I have taken the liberty of forwarding your letter to the Secretary of the Commission for inclusion into the official file of this proceeding.

Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: The Hon. Tom Ridge
PUC Chairman John Quain
Secretary James McNulty

DOCUMENT
DOCKETED FOLDER
JUL 01 1998

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

IN REPLY PLEASE
REFER TO OUR FILE

June 29, 1998

R-155200

Mr. Greg Christine, Vice Chairman
Commissioners' Office
Monroe County
Administrative Center
One Quaker Plaza
Stroudsburg, PA 18360-2192

Dear Mr. Christine:

Thank you for your June 5, 1998 letter to Governor Tom Ridge regarding the Public Utility Commission's recent decision in the matter of PP&L's final restructuring plan under the Electricity Generation Customer Choice and Competition Act.

Please know that the Commission's decision of June 4, 1998, is final, and that PP&L is now free to decide whether it will appeal the Commission's final order. Please know that the Commission made its decision according to evidence which was placed on the record by PP&L and other parties during the litigation phase of its restructuring case. Also, the Commission is not bound to accept the recommendation of the Administrative Law Judge who presided over the case. The Commission has full authority to either approve, reject, or modify the decision of the Administrative Law Judge based on the Commission's review of the evidence on the record.

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Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: Governor Tom Ridge
PUC Chairman John Quain
Secretary James McNulty

COMMISSIONERS' OFFICE

MONROE COUNTY

June 5, 1998

The Honorable Thomas J. Ridge
Room 225C Main Capitol Building
Harrisburg, PA 17120

DearGovernor Ridge:

On behalf of the people of Monroe County, we are writing to ask you to lend your voice to urge the Public Utility Commission to reconsider PP&L's cost recovery. This is a very serious matter that deserves the highest degree of consideration, in the broadest possible context, by the PUC.

We believe it is reasonable that PP&L seeks to recover $4 billion of the documented $4.5 billion in stranded costs. This belief is supported by an administrative law judge's recommendation on April 7th. The May 14th action by the PUC to allow only $2.86 billion in cost recovery punishes a soundly managed corporation and places it on the brink of financial peril.

A PP&L that is forced into financial peril cannot continue to play a strong role in the economic development and neighborhood revitalization of our area. This will have far-reaching negative effects on those who depend on this company to partner with them in projects that have a very positive impact on the quality of life, we in government strive to achieve for our communities. Collaboration with PP&L has provided this county with opportunities for job creation. In addition, the company and their employees have demonstrated commitment to "Monroe 2020", a sustainable development task force; major fund raising for the United Way of Monroe County; downtown revitalization in Stroudsburg and Mount Pocono; rail service; and numerous other projects of importance.

Administrative Center, One Quaker Plaza, Stroudsburg, PA 18360-2192 • 717-420-3450 • Fax 717-420-3458

The Honorable Thomas J. Ridge

June 5, 1998

We strongly urge you to use your good office to urge the PUC to reconsider PP&L's cost recovery.

Respectfully yours,

Janet K. Weidensaul, Chairman

Greg Christine, Vice-Chairman

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

IN REPLY PLEASE
REFER TO OUR FILE

June 29, 1998

Mr. Joseph Capita
President
United Way of the Capital Region
One United Way
Harrisburg, PA 17110

RECEIVED
SECRETARY'S BUREAU
98 JUN 30 PM 1:02

Dear Mr. Capita:

Thank you for your June 18, 1998 letter to Chairman John Quain of the Public Utility Commission regarding the Commission's recent decision in the matter of PP&L's final restructuring plan under the Electricity Generation Customer Choice and Competition Act.

Please know that the Commission's decision of June 4, 1998, is final, and that PP&L is now free to decide whether it will appeal the Commission's final order. Please know that the Commission made its decision according to evidence which was placed on the record by PP&L and other parties during the litigation phase of its restructuring case. Also, the Commission is not bound to accept the recommendation of the Administrative Law Judge who presided over the case. The Commission has full authority to either approve, reject, or modify the decision of the Administrative Law Judge based on the Commission's review of the evidence on the record.

I am sorry I cannot give you a more favorable response to this matter, but we do greatly appreciate having the benefit of your thinking on this issue. Please know I have taken the liberty of forwarding your letter to the Secretary of the Commission for inclusion into the official file of this proceeding.

Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain
Secretary McNulty

KC

United Way of the Capital Region
One United Way • Harrisburg, PA 17110 • 717-255-1010 • fax: 717-257-1908

RECEIVED
JUN 19 PM 2:15
CHAIRMAN QUAIN'S OFFICE

June 18, 1998

Mr. John M. Quain
Chairman
Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

Dear Mr. Quain:

Enclosed please find a copy of a letter which United Way of the Capital Region recently sent to William F. Hecht, Chairman, President & CEO of PP&L Resources Inc.

Over the years, PP&L has proven to be a strong supporter and we have enjoyed working with them to make the Capital Region of South Central Pennsylvania a better place to live and work.

We hope you will recognize the good work of this exemplary corporate citizen as you consider their request before the PUC recover stranded costs.

Thank you for your consideration to this matter.

Sincerely,

Joseph M. Capita
President

JMC/mpg

Enclosure

United Way of the Capital Region

One United Way • Harrisburg, PA 17110 • 717-255-1010 • fax: 717-257-1908

June 15, 1998

Mr. William F. Hecht
Chairman President & CEO
PP&L Resources Inc.
2 North 9th Street
Allentown, PA 18101-1179

Dear Mr. Hecht:

We received your letter of June 1, 1998, in which you inform The United Way of the Capital Region (UWCR) of the projected adverse consequences of the Public Utility Commission's (PUC) preliminary motion to modify the decision of an administrative law judge concerning your request to recover stranded costs. We understand that if finalized, this decision will decrease the stranded costs you will be allowed to recover from $4 billion to $2.86 billion and will necessitate a substantial deduction in your operational budget.

We hope that prior to making a decision which could impact your company's viability and its capacity to provide generous support for many community activites, the PUC will consider the long history of PP&L's involvement as community partners in the areas in which you serve. I know here at UWCR we are particularly grateful for the financial and volunteer support provided to us by PP&L over the years. We hope, in the competitive environment which will continue to evolve in the utility industry, service to community will remain a priority for PP&L and a way for you to distinguish yourself from your competition.

I am forwarding a copy of this letter to Senator Jeffrey Piccola and the PUC, so they are aware of our support of your fine organization.

Sincerely,

Joseph M. Capita
President/CEO

JMC/mpg

cc: Senator Jeffrey Piccola
PUC

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

IN REPLY PLEASE
REFER TO OUR FILE

June 29, 1998

Mr. Howard G. Graeffe
Executive Director
National Institute for Environmental Renewal
1300 Old Plank Road
Mayfield, PA 18433

Dear Mr. Graeffe:

Thank you for your June 15, 1998 letter to Governor Tom Ridge regarding the Public Utility Commission's recent decision in the matter of PP&L's final restructuring plan under the Electricity Generation Customer Choice and Competition Act.

Please know that the Commission's decision of June 4, 1998, is final, and that PP&L is now free to decide whether it will appeal the Commission's final order. Please know that the Commission made its decision according to evidence which was placed on the record by PP&L and other parties during the litigation phase of its restructuring case. Also, the Commission is not bound to accept the recommendation of the Administrative Law Judge who presided over the case. The Commission has full authority to either approve, reject, or modify the decision of the Administrative Law Judge based on the Commission's review of the evidence on the record.

I am sorry I cannot give you a more favorable response to this matter, but we do greatly appreciate having the benefit of your thinking on this issue. Please know I have taken the liberty of forwarding your letter to the Secretary of the Commission for inclusion into the official file of this proceeding.

Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: The Hon. Tom Ridge
PUC Chairman John Quain
Secretary James McNulty

PUC
CC/CHRS/C

NATIONAL INSTITUTE FOR ENVIRONMENTAL RENEWAL

1300 OLD PLANK ROAD, MAYFIELD, PA 18433
TEL: (717) 282-0302
FAX: (717) 282-3381
INTERNET: info@nier.org

June 15, 1998

Honorable Thomas Ridge
Governor of Pennsylvania
225 Main Capitol
Harrisburg, PA 17120

Dear Governor Ridge:

I have just learned that the Public Utility Commission soon will render its final order on PP&L's proposed restructuring plan. I am writing to urge the Commission to carefully consider in its deliberations the impact that the final order will have on communities and customers served by PP&L and the employees and families who depend on PP&L for their livelihood and well-being.

May we remind the Commission of the considerable difference between the April 7, 1998 recommendation of the Administrative Law Judge regarding PP&L's transition costs and the results of the Commission's non-binding poll on May 14, 1998. I hope you agree that for effective restructuring to occur, the transition to meaningful competition must allow for the recovery by utilities of a reasonable portion of their legitimate stranded costs. To impose unreasonable transition costs on a utility which has strived to be one of the lowest-priced power suppliers in the state seems inconsistent with efforts to create a level playing field for customer choice.

PP&L has been committed to environmental issues over many years and has established a solid reputation for community service as well. It is important that PP&L have a reasonable opportunity to compete in the new electricity marketplace. Business and residential customers, communities in the company's current service area, and the families of PP&L employees stand to benefit from a balanced restructuring plan for the company.

Thank you for considering these comments.

Sincerely,

Howard G. Graeffe
Executive Director

HGG/cds

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

IN REPLY PLEASE
REFER TO OUR FILE

June 29, 1998

Mr. Daniel Henning, Chairman
The Jacob Stroud Corporation
22 N. Seventh Street
Stroudsburg, PA 18360

Dear Mr. Henning:

Thank you for your June 9, 1998 letter to Governor Tom Ridge regarding the Public Utility Commission's recent decision in the matter of PP&L's final restructuring plan under the Electricity Generation Customer Choice and Competition Act.

Please know that the Commission's decision of June 4, 1998, is final, and that PP&L is now free to decide whether it will appeal the Commission's final order. Please know that the Commission made its decision according to evidence which was placed on the record by PP&L and other parties during the litigation phase of its restructuring case. Also, the Commission is not bound to accept the recommendation of the Administrative Law Judge who presided over the case. The Commission has full authority to either approve, reject, or modify the decision of the Administrative Law Judge based on the Commission's review of the evidence on the record.

I am sorry I cannot give you a more favorable response to this matter, but we do greatly appreciate having the benefit of your thinking on this issue. Please know I have taken the liberty of forwarding your letter to the Secretary of the Commission for inclusion into the official file of this proceeding.

Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: The Hon. Tom Ridge
PUC Chairman John Quain
Secretary James McNulty

the Jacob Stroud corporation

22 NORTH SEVENTH STREET STROUDSBURG, PA 18360 PHONE 717 • 424 • 9131

June 9, 1998

The Honorable Tom Ridge
Governor of the Commonwealth of Pennsylvania
225 Capitol Building
Harrisburg, PA 17105

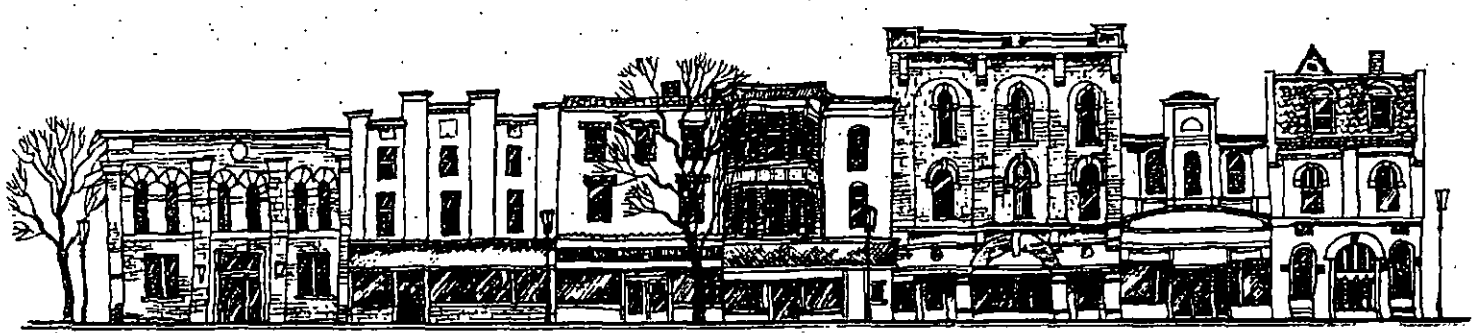
Re: Pennsylvania Power and Light Company - Restructuring

Dear Governor Ridge:

I serve as Chairman of the Board of the Jacob Stroud Corporation. The Jacob Stroud Corporation is a non-profit corporation designated by the Borough Council of the Borough of Stroudsburg as the official organization to promulgate the revitalization of the Downtown Area of Stroudsburg, Pennsylvania. The Jacob Stroud Corporation is a participant in the Commonwealth's Main Street Program and has won several awards for its work in Downtown Stroudsburg over the past several years.

Among the undertakings of the Jacob Stroud Corporation the most important single success has been its recipientship of grants from Pennsylvania Power and Light Company during 1997 and 1998 totaling more than $150,000.00. These funds, when coupled with local matching funds, constituted an investment in the Downtown Stroudsburg Area approximating $250,000.00. The funds were used exclusively for the rehabilitation of the facades on Downtown buildings, new signage throughout the town and the implementation of benches and waste receptacles for the Downtown Area. It is our understanding that this program as conducted by Pennsylvania Power and Light involves an expenditure by that company of $3,000,000.00 per year in Pennsylvania municipalities.

A recent news article indicated that the Pennsylvania Public Utility Commission has determined to permit Pennsylvania Power and Light Company to recoup only approximately seventy (70%) of the transition costs involved in the restructuring of utilities presently underway.



DEDICATED TO A VIBRANT & PROSPEROUS DOWNTOWN

The news reports indicate that the failure of the PUC to recognize and permit a total recovery of these costs (approximating $1.2 Billion) would mandate that PP&L re-evaluate all of its Community Participation Programs and in all likelihood terminate same. While I don't presuppose to understand all of the nuances of this restructuring concept, certainly from the standpoint of those of us who are interested in the smaller downtowns throughout the Commonwealth, to eliminate Pennsylvania Power and Light Company as a major "partner" would appear to be totally self defeating from whatever other benefits might supposedly result from the restructuring.

Looking at the matter in a different light, the Jacob Stroud Corporation has tried in vein to seek even minimal financial assistance from PP&L's main competitor in our area, GPU. It would therefore seem that the recent actions of the PUC are designed to essentially hurt the "good guy" and benefit the "bad guy". While I am sure that all of the foregoing is probably de minimis given the magnitude of these issues, the hundreds of downtowns throughout PP&L's service area that have benefited from its programs or stand to benefit in the future are not, in my view, minor constituencies in any respect.

I apologize for the fact that I am not sufficiently learned in these matters to seek any specific assistance from the Governor's office but I do feel that our concerns are sufficiently legitimate to bring them to your attention.

Sincerely yours,

Daniel Henning, Chairman

DH/cab

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

IN REPLY PLEASE
REFER TO OUR FILE

June 29, 1998

Mr. Ronald T. Bailey, AICP
Planning Director
Lancaster County Planning Commission
50 North Duke Street
P. O. Box 83480
Lancaster, PA 17608-3480

Dear Mr. Bailey:

Thank you for your June 8, 1998 letter to Governor Tom Ridge regarding the Public Utility Commission's recent decision in the matter of PP&L's final restructuring plan under the Electricity Generation Customer Choice and Competition Act.

Please know that the Commission's decision of June 4, 1998, is final, and that PP&L is now free to decide whether it will appeal the Commission's final order. Please know that the Commission made its decision according to evidence which was placed on the record by PP&L and other parties during the litigation phase of its restructuring case. Also, the Commission is not bound to accept the recommendation of the Administrative Law Judge who presided over the case. The Commission has full authority to either approve, reject, or modify the decision of the Administrative Law Judge based on the Commission's review of the evidence on the record.

I am sorry I cannot give you a more favorable response to this matter, but we do greatly appreciate having the benefit of your thinking on this issue. Please know I have taken the liberty of forwarding your letter to the Secretary of the Commission for inclusion into the official file of this proceeding.

Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: The Honorable Tom Ridge
PUC Chairman John Quain
Secretary James McNulty

LANCASTER COUNTY

LANCASTER COUNTY PLANNING COMMISSION

50 NORTH DUKE STREET
PO BOX 83480,
LANCASTER, PA 17608-3480
TELEPHONE: 717-299-8333
FAX: 717-295-3659

RONALD T. BAILEY
Planning Director

8 June 1998

The Honorable Thomas Ridge
Governor
Commonwealth of Pennsylvania
225 Main Capitol
Harrisburg, PA 17120

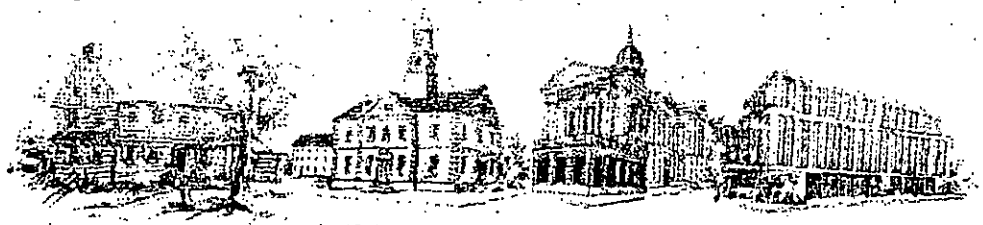
Dear Governor Ridge:

The Lancaster County Planning Commission is responsible for developing comprehensive plans and for advising the Board of County Commissioners for Lancaster County on the physical development of this county. Based on the recommendations of the planning commission, the board of county commissioners has adopted a comprehensive plan which is based on a series of goals. One of these goals is to develop and maintain a healthy and diversified economy. The Pennsylvania Power and Light Company (PP&L)has been a major partner with the Board of County Commissioners in promoting sound economic development.

We are extremely concerned with the 14 May 1998 and 4 June 1998 decision from the state Public Utilities Commission (PUC). A review of the background information in the case, the facts presented at the proceedings, and the decision of the PUC will show that, in our judgement, the Pennsylvania Power and Light Company (PP&L) is being penalized when compared to other electrical utilities. The result of the PUC decision could be a significant reduction in the economic development services offered by PP&L.

The Lancaster County Planning Commission strongly supports your efforts as Governor of the Commonwealth to deregulate the power industry. Deregulation, however, should not result in an erosion of economic development recruitment and retention efforts undertaken by private industry. The effects of the PUC decision, as it presently stands, would come at great cost to the economic future of this region. The PUC decision will place PP&L at a competitive disadvantage in relation to other providers who have not exercised the same level of corporate involvement and community responsibility.

The projected negative impacts upon PP&L by the PUC decision include eliminating corporate resources devoted to the state's overall economic development effort. The decision will also have negative impacts upon Lancaster County.



LANCASTER COUNTY ● ESTABLISHED 1729

For years, PP&L has provided financial and technical support to community and economic development initiatives. The planning and development assistance provided by PP&L over the years has been extremely valuable in attracting new industry to Lancaster County. Moreover, the support and expertise of Lawrence Downing, PP&L community development director, has been especially helpful to the planning commission and to the implementation of Lancaster County's economic development planning goals.

The community and economic development efforts of PP&L are a necessary component of both the state and the county's economic expansion efforts. As you know, Lancaster County strongly supports and participates in your partnership efforts. We, likewise, initiate, structure, and participate, in county-level partnerships. Diminishing the resources that PP&L devotes to economic development will leave a void. If the PUC decision is allowed to stand, as is, the inevitable loss of economic development support by PP&L will result in either lost opportunities for economic growth in the state and the county; or, the replacement of services presently provided by PP&L with state or county tax dollars.

Thank you for your attention and consideration to this critical matter. Should a member of your staff wish to discuss this in greater detail, please contact me.

Respectfully,

Ronald T. Bailey, AICP
Planning Director

cc: Terry L. Kauffman, Chairman
Paul Thibault, Vice Chairman
Ron Ford Commissioner
Board of County Commissioners for Lancaster County

Charles Smithgall, Mayor, City of Lancaster, and Chairman of Excel, Lancaster Campaign

S:\USERS\LYONS\PP&L\PP&L.RTD

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

1551967

IN REPLY PLEASE
REFER TO OUR FILE

June 29, 1998

Mr. Robert Uguccioni
Executive Director
Pocono Mountains Vacation Bureau
Chamber of Commerce
1004 Main Street
Stroudsburg, PA 18360

98 JUN 30 PM 4:19
RECEIVED
SECRETARY'S BUREAU

Dear Mr. Uguccioni:

Thank you for your June 3, 1998 letter to Governor Tom Ridge regarding the Public Utility Commission's recent decision in the matter of PP&L's final restructuring plan under the Electricity Generation Customer Choice and Competition Act.

Please know that the Commission's decision of June 4, 1998, is final, and that PP&L is now free to decide whether it will appeal the Commission's final order. Please know that the Commission made its decision according to evidence which was placed on the record by PP&L and other parties during the litigation phase of its restructuring case. Also, the Commission is not bound to accept the recommendation of the Administrative Law Judge who presided over the case. The Commission has full authority to either approve, reject, or modify the decision of the Administrative Law Judge based on the Commission's review of the evidence on the record.

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Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: The Hon. Tom Ridge
PUC Chairman John Quain
Secretary James McNulty

POCONO MOUNTAINS VACATION BUREAU CHAMBER OF COMMERCE
1004 Main Street, Stroudsburg, Pennsylvania 18360
Phone: 717.421.5791
Fax: 717.421.6927
E-Mail: pocomts@poconos.org

THE POCONOS
Get Away To It All.
http://www.poconos.org

June 3, 1998

Governor Thomas Ridge
Room 225 Main Capitol
Harrisburg, PA 17120

Dear Governor Ridge:

The Pocono Mountains Vacation Bureau, Inc., which represents the tourism industry in Carbon, Monroe, Pike and Wayne counties, here in Northeastern Pennsylvania, supports the efforts of the Pennsylvania Power & Light Company.

We understand that the Public Utility Commission (PUC) rejected a judge's recommendation and only allowed $2.86 billion of its stranded costs to be utilized in a preliminary motion. PP&L has been an excellent partner with the tourism industry in the Pocono Mountains and throughout Pennsylvania. We have worked with their representatives on many marketing and environmental issues, which have greatly benefitted the number one industry in our area and the number two industry in the Commonwealth.

The relationship that we have with PP&L is excellent. Their personnel are very involved in the community. They are active in our United Way campaigns. They provide guidance and support on major issues that our industry is interested in. More importantly, on a personal basis, they are real people involved with real issues throughout this part of Northeastern Pennsylvania. It would be extremely unfortunate if the PUC were to damage this fine organization's financial stability in any way. I have been doing my job for thirty years now as Executive Director and can truthfully say that we have never had a relationship with any other utility or major organization that has been better than the one we have enjoyed with the Pennsylvania Power & Light Company. They have helped the tourism business in the Pocono Mountains and Pennsylvania to grow into a major economic activity. We would strongly urge your support for their position on this matter and I personally would be available to talk with you at any time concerning our support.

Your Friend in the Poconos,

Robert Uguccioni
Executive Director
RU/ks

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

IN REPLY PLEASE
REFER TO OUR FILE

June 29, 1998

98 JUN 30 PM 4:19
RECEIVED
SECRETARY'S BUREAU

Matthew J. Connell, Ph.D.
Dean, Monroe Campus
Northampton Community College
P. O. Box 639
Tannersville, PA 18372

Dear Dr. Connell:

Thank you for your June 4, 1998 letter to Governor Tom Ridge regarding the Public Utility Commission's recent decision in the matter of PP&L's final restructuring plan under the Electricity Generation Customer Choice and Competition Act.

Please know that the Commission's decision of June 4, 1998, is final, and that PP&L is now free to decide whether it will appeal the Commission's final order. Please know that the Commission made its decision according to evidence which was placed on the record by PP&L and other parties during the litigation phase of its restructuring case. Also, the Commission is not bound to accept the recommendation of the Administrative Law Judge who presided over the case. The Commission has full authority to either approve, reject, or modify the decision of the Administrative Law Judge based on the Commission's review of the evidence on the record.

I am sorry I cannot give you a more favorable response to this matter, but we do greatly appreciate having the benefit of your thinking on this issue. Please know I have taken the liberty of forwarding your letter to the Secretary of the Commission for inclusion into the official file of this proceeding.

Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: The Hon. Tom Ridge
PUC Chairman John Quain
Secretary James McNulty

Northampton Community College
Monroe Campus

June 4, 1998

The Honorable Thomas Ridge
Governor
State Capital Building
Harrisburg, PA

Dear Governor Ridge,

I am writing to request your assistance for Monroe County. As you are aware, the Public Utilities Commission will render a decision on PP&L's future in the next few days. I am requesting that you urge the PUC to offer a balanced judgment-one that will benefit the citizens of Monroe County.

It is no secret that Monroe County, one of the fastest growing counties in the state, is in dire need of organizations that can assist us as the County plans for the future. PP&L has been a major player in this process. The company has had a positive impact on the community by encouraging planned, balanced growth, and by contributing financial and personnel resources to these efforts. A balanced judgment by the PUC will enable PP&L to continue its involvement in the community, thus giving the community the ability to plan for economic and community development.

On a personal note, PP&L and Northampton Community College have had a long history of working together to better the region. I believe it is important that we continue with this partnership; again, a balanced decision by the PUC will enable our relationship to continue.

If you have any questions about this letter, please feel free to contact me at the phone number below. In advance, thank you for your time and consideration.

Sincerely,

Matthew J. Connell

Matthew J. Connell, Ph.D.
Dean, Monroe Campus

P.O. Box 659, Tannersville, Pennsylvania 18372
VOICE (717) 620-9221 • FAX (717) 620-9317

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

IN REPLY PLEASE
REFER TO OUR FILE

R-00982213

June 29, 1998

Ms. Ruth Zimmerman, Chairperson
Union County Commissioners
103 South Second Street
Lewisburg, PA 17837-1996

Dear Ms. Zimmerman:

Thank you for your June 10, 1998 letter to Chairman John Quain of the Public Utility Commission regarding the Commission's recent decision in the matter of PP&L's final restructuring plan under the Electricity Generation Customer Choice and Competition Act.

Please know that the Commission's decision of June 4, 1998, is final, and that PP&L is now free to decide whether it will appeal the Commission's final order. Please know that the Commission made its decision according to evidence which was placed on the record by PP&L and other parties during the litigation phase of its restructuring case. Also, the Commission is not bound to accept the recommendation of the Administrative Law Judge who presided over the case. The Commission has full authority to either approve, reject, or modify the decision of the Administrative Law Judge based on the Commission's review of the evidence on the record.

I am sorry I cannot give you a more favorable response to this matter, but we do greatly appreciate having the benefit of your thinking on this issue. Please know I have taken the liberty of forwarding your letter to the Secretary of the Commission for inclusion into the official file of this proceeding.

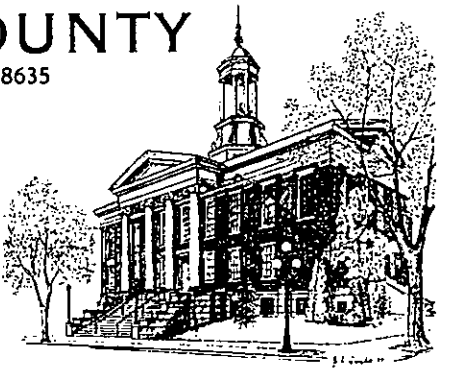
Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain
Secretary McNulty

COMMISSIONERS OF UNION COUNTY

103 SOUTH SECOND STREET - LEWISBURG, PENNSYLVANIA 17837-1996 - 717/524-8686 - FAX: 717/524-8635



June 10, 1998

Public Utility Commission
C/O Chairman John M. Quain
North Office Building
PO Box 3265
Harrisburg, PA 17105-3265

Dear Chairman Quain:

As Chairperson for the Union County Commissioners representing the citizens of Union county, I am writing to ask your Board, the Public Utility Commission, to reconsider the stand they have taken on PP&L, Inc. to reduce the transition cost recovery by 36 percent—to only 2.86 billion.

In talking with our Community Development Director from PP&L, Inc. Robert E. Ruffaner, it would put PP&L, Inc. in a financial position that would prevent PP&L to continue their support in our economic development plans for Union County, as we are developing a High Technology Park and look forward to their support.

As one of only 29 Fortune 500 Companies with its headquarters in Pennsylvania, PP&L, Inc. has held electricity costs to our citizens to the same price as we paid in 1986.

In closing, I cannot express enough the importance to encourage you to reconsider and return to PP&L, Inc. the 4.0 billion that they requested.

Sincerely,

Ruth W. Zimmerman

Ruth W. Zimmerman, Chairperson
Union County Commissioners

Cc: Robert E. Ruffaner

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

IN REPLY PLEASE
REFER TO OUR FILE

June 29, 1998

R-973954

98 JUN 30 PM 4:20
RECEIVED
SECRETARY'S BUREAU

KJR

The Honorable Michael Hanna
House of Representatives
House Post Office - Main Capitol
Harrisburg, PA

Dear Representative Hanna:

Thank you for your June 10 and June 16, 1998 letters to Chairman John Quain of the Public Utility Commission and the enclosed letters from Mr. Richard Marcinkevage, Manager, City of Lock Haven, and Wesley Grand, Chief Operating Officer, Clinton County Economic Partnership, regarding the Commission's recent decision in the matter of PP&L's final restructuring plan under the Electricity Generation Customer Choice and Competition Act.

Please know that the Commission's decision of June 4, 1998, is final, and that PP&L is now free to decide whether it will appeal the Commission's final order. Please know that the Commission made its decision according to evidence which was placed on the record by PP&L and other parties during the litigation phase of its restructuring case. Also, the Commission is not bound to accept the recommendation of the Administrative Law Judge who presided over the case. The Commission has full authority to either approve, reject, or modify the decision of the Administrative Law Judge based on the Commission's review of the evidence on the record.

I am sorry I cannot give you a more favorable response to this matter, but we do greatly appreciate having the benefit of your thinking on this issue. Please know I have taken the liberty of forwarding your letter to the Secretary of the Commission for inclusion into the official file of this proceeding.

Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain
Secretary McNulty

DOCUMENT
FOLDER

MICHAEL K. HANNA, MEMBER
29 BELLEFONTE AVENUE
LOCK HAVEN, PENNSYLVANIA 17745
PHONE: (717) 748-5480
TOLL-FREE: 1 (800) 845-7846

508 BENNER PIKE
SUITE 5
BELLEFONTE, PENNSYLVANIA 16823
PHONE: (814) 353-8780

ROOM 102-B EAST WING
HOUSE BOX 202020
HARRISBURG, PENNSYLVANIA 17120-2020
PHONE: (717) 772-2283

House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

AGRICULTURE AND RURAL AFFAIRS
GAME AND FISHERIES
TOURISM AND RECREATIONAL DEVELOPMENT

CAUCUSES

NORTHWEST CAUCUS
RURAL PENNSYLVANIA
CENTRAL PENNSYLVANIA
TIMBER
FIREFIGHTERS
IRISH

June 16, 1998

John Quain
PUC Chairman
104 North Office Bldg
Harrisburg PA 17105

Dear Chairman Quain:

Enclosed is additional correspondence from constituents indicating concern over the PUC's planned action with respect to PP&L. I share my constituents' concerns and urge PUC to reevaluate this situation.

I am available to discuss this recommendation should you have any questions.

Very truly yours,

Mike

Mike Hanna
76th District
State Representative

MKH/jey

cc: Wes Grand
Don Stringfellow

Clinton County
Economic Partnership

P.O. Box 506
Lock Haven, PA 17745

(717) 748-5782
(717) 893-4040
FAX (717) 893-4098

Clinton County Economic Partnership

June 8, 1998

JUN 10 1998

The Honorable Michael K. Hanna
76th District State Representative
29 Bellefonte Avenue
Lock Haven, Pa. 17745

Dear Mike,

I am writing with grave concerns over the apparent decision by the PUC to allow PP & L to recover only $ 2.86 billion of the estimated $ 4.5 billion of stranded costs relative to the deregulation of the electric industry. This decision is a rejection of the decision of an administrative law judge that would have allowed PP & L to recover $ 4 billion in stranded costs.

There are many other factors that need to be considered. PP & L has shown fiscal responsibility and has reduced their rates over the years and does not have as much room to cut rates. PP & L's customers pay essentially the same price for electricity as they did in 1986. After factoring in inflation this amounts to a 40% decrease in prices.

There are many more concerns but let me discuss what will have a major impact on those of us who work in the rural economic development arena. PP & L is the leader in assistance to economic developers. They not only provide financial support; they also provide their many professional staff to work with us. PP & L has directly provided the Clinton County Economic Partnership with well over $150,000.00 in grants and no interest loans over the past five years. It would be impossible to assess a dollar value to the support provided by their Community Development Directors and professional Economic Development staff, suffice it to say it would easily triple the $150,000.00 investment.

I urge you to do everything possible to insure that the 6,400 jobs of this Fortune 500 company are protected. A profitable PP & L is absolutely essential to a vital Centre region and ultimately to a vital Pennsylvania.

With warmest regards,

Wesley P. Grand

Wesley P. Grand
Chief Operating Officer

MICHAEL K. HANNA, MEMBER

29 BELLEFONTE AVENUE
LOCK HAVEN, PENNSYLVANIA 17745
PHONE: (717) 748-5480
TOLL-FREE: 1 (800) 845-7846

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PHONE: (814) 353-8780

ROOM 102-B EAST WING
HOUSE BOX 202020
HARRISBURG, PENNSYLVANIA 17120-2020
PHONE: (717) 772-2283

House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

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CAUCUSES

NORTHWEST CAUCUS
RURAL PENNSYLVANIA
CENTRAL PENNSYLVANIA TIMBER
FIREFIGHTERS
IRISH

June 10, 1998

JOHN M QUAIN CHAIRMAN
PUBLIC UTILITY COMMISSION
ROOM 104
NORTH OFFICE BLDG

Dear Chairman Quain:

Enclosed is further correspondence from constituents expressing concerns with the PUC's proposal with regard to PP&L.

I agree with my constituents concerns and would urge you to consider them in your deliberations.

Please provide me with a prompt response.

Very truly yours,

MIKE HANNA
State Representative
76th District

MKH:mks
enclosure

cc: City of Lock Haven

CITY OF LOCK HAVEN

20 E. CHURCH STREET
LOCK HAVEN, PA 17745-2599
FAX (717) 893-5905

June 3, 1998

JUN - 4 1998

Honorable Michael K. Hanna
House of Representatives
Commonwealth of Pennsylvania
29 Bellefonte Avenue
Lock Haven, PA 17745

Dear Representative Hanna:

This letter is to express the City of Lock Haven's concern over the events which have recently taken place by the state Public Utility Commission regarding PP&L, Inc's restructuring plan.

It is my understanding that on April 7th a recommendation was made by an administrative law judge that PP&L be permitted to recover about $4.0 billion of its stranded costs, which PP&L had documented in the plan filed with the Commission a year ago to be $4.5 billion. The PUC, however, in a preliminary motion on May 14th, rejected the judge's recommendation and stated that PP&L should be allowed to recover only $2.86 billion of its stranded costs. This unfortunate and unexpected PUC motion, if adopted as final and unchanged on appeal, could jeopardize PP&L's financial strength.

The City of Lock Haven strongly supports PP&L's efforts to recover its stranded costs in the full, documented amount submitted to the PUC. PP&L has always taken its responsibility to the community seriously and provided much needed financial support to hundreds of organizations and projects throughout Pennsylvania.

In the City of Lock Haven, PP&L has provided financial support totaling $55,000 over the past two years, through their Community Partnership Program. Under a First Time Homebuyers Program, Community Partnership funds were used to provided much needed downpayment assistance to help ten lower income families achieve their dream of homeownership.

The City also received Community Partnership funds to assist in creating a Microenterprise Grant and Loan Program, which, to date, has assisted five small, start-up businesses to locate in the City. I have enclosed two newspaper articles about these programs which have received funding from PP&L for your review.

I am sure you will agree that sustaining PP&L as a financially strong, economically viable company is of utmost importance.

On behalf of City Council, I would like to express our wholehearted support of PP&L's efforts to recover its stranded costs and would also like to request your support and assistance on this matter.

It is my understanding that the PUC is scheduled to vote on the PP&L, Inc. restructuring plan on June 4, 1998, and therefore, your immediate attention to this matter would be greatly appreciated.

Sincerely,

Richard W. Marcinkevage

Richard W. Marcinkevage
City Manager

Enclosures

Susquehanna Valley turns keys, title and home over to buyers

LOCK HAVEN – Susquehanna Valley Development Group, Inc. recently transferred title for the first two homes under the Lock Haven First Time Homebuyers Program.

Greg Patryna of Susquehanna Valley Development Group, Inc., handed the keys to Susan Frazier for a property located on Barton Street.

Dale Shreck of Susquehanna Valley Development Group, Inc., handed the keys to David Allen and Joni Bennett for a property located on East Main Street.

Mortgage loans were provided by Jersey Shore State Bank in conjunction with the Pennsylvania Housing Finance Agency.

SVDG, Inc. has partnered with the City of Lock Haven to provide new affordable single family homes in the City of Lock Haven. A total of ten new two story, three bedroom homes will be constructed at three locations within the city and will be offered to qualifying first time homebuyers. The housing package includes completed house on landscaped lot with all city utilities.

The City of Lock Haven will provide a grant to cover closing costs and through a grant from the Pennsylvania Power and Light Company, the homeowners are also eligible to receive $2,500 toward their downpayment. The average monthly mortgage is $383 (based on 7.5% interest rate which is subject to change). Anyone interested in purchasing one of the homes should contact Susquehanna Valley Development Group, Inc. at (717) 649-6273.

First time home buyers David Allen and Joni Bennett in their new home.

Susan Frazier accepted the keys to her new home.

A total of ten new two story, three bedroom homes will be constructed at three locations within the city and will be offered to qualifying first time homebuyers. The housing package includes completed house on landscaped lot with all city utilities.

The Express 3/12/98

Micro-enterprise program helps spark the business of business in Lock Haven

By JIM RUNKLE
Express Staff Writer

LOCK HAVEN – Innovative businesses like "Daggers and Dragons," which recently opened in Lock Haven, are being given a chance at birth or growth, thanks to a development program fostered by the City of Lock Haven.

The Lock Haven "Micro-Enterprise" loan and grant program has funds available for start-up businesses and existing small businesses in the City of Lock Haven. The program, created to spark business development and expansion with in incentives for locating in the city, has already provided four grants or loans since its beginning last year.

To qualify for the program, the applicant must have no more than five employees and the firm must be owned by a person meeting the income guidelines established by the Department of Housing and Urban Development.

The maximum household income for a family of four is $28,150.

A qualified business may be eligible to receive a maximum grant or "forgiveness loan" of $6,000. The amount is forgiven at a rate of 20 percent per year over a five year period. The applicant can also get a $4,000 loan at no interest, to be repaid over five years.

Each applicant must provide a minimum of five percent cash contribution or equity in the business. All applications are reviewed and approved by the Lock Haven Area Enterprise Committee.

The Lock Haven University Small Business Development Center has agreed to provide technical assistance to small business participating in the program. The Center can offer help in accounting, loan packaging, marketing, record keeping, advertising and business plan development.

Funding for the program was made possible through a $35,000 grant from Pennsylvania Power & Light Company's "Community Partnership Program," and $50,000" from the city's Community Development Block Grant Program.

Anyone interested in learning more about the Micro-Enterprise Business Loan-Grant Program can contact Leonora Hannagan, city planner, at 893-5803.

SHOP

Continued from p. 1

Gargoyles, for the uninitiated and those who don't watch Disney films, are wild-looking creatures who adorn many churches and buildings in medieval times. Functionally, their gaping mouths and long tongues served as waterspouts. They also served as an emotional sentinel or protector, of sorts, for the property owners.

Dawes said his is the only store of its kind in the area, and he points to a catalogue center, with thousands of items to choose from. He also emphasizes he will not sell any bladed items to anyone under the age of 18.

The shop was created in part with the assistance of the City of Lock Haven's micro-enterprise program.

The store is open Tuesday, Wednesday and Thursday, 1 to 7 p.m.; Friday, 1 to 9 p.m. and Saturday, 10 a.m. to 9 p.m.

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

IN REPLY PLEASE
REFER TO OUR FILE

June 29, 1998

R-973954

98 JUN 30 PM 4:20
RECEIVED
SECRETARY'S BUREAU

The Honorable Joseph Battisto
House of Representatives
House Post Office - Main Capitol
Harrisburg, PA

Dear Representative Battisto:

KJR

Thank you for your June 16, 1998 letter to Chairman John Quain of the Public Utility Commission regarding the Commission's recent decision in the matter of PP&L's final restructuring plan under the Electricity Generation Customer Choice and Competition Act.

Please know that the Commission's decision of June 4, 1998, is final, and that PP&L is now free to decide whether it will appeal the Commission's final order. Please know that the Commission made its decision according to evidence which was placed on the record by PP&L and other parties during the litigation phase of its restructuring case. Also, the Commission is not bound to accept the recommendation of the Administrative Law Judge who presided over the case. The Commission has full authority to either approve, reject, or modify the decision of the Administrative Law Judge based on the Commission's review of the evidence on the record.

I am sorry I cannot give you a more favorable response to this matter, but we do greatly appreciate having the benefit of your thinking on this issue. Please know I have taken the liberty of forwarding your letter to the Secretary of the Commission for inclusion into the official file of this proceeding.

Sincerely,

Rosemary Chiavetta

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain
Secretary McNulty

DOCUMENT
FOLDER

JOSEPH W. BATTISTO, MEMBER
POCONO AMBULANCE BUILDING
P.O. BOX #170
TANNERSVILLE, PENNSYLVANIA 18372-0170
PHONE: (717) 629-5322
FAX: (717) 620-9091

MAIN CAPITOL BUILDING
HOUSE BOX 202020
HARRISBURG, PENNSYLVANIA 17120-2020
PHONE: (717) 783-9077
FAX: (717) 787-7588

House of Representatives

COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

RC COMMITTEES

TRANSPORTATION, DEMOCRATIC CHAIRMAN

STATE TRANSPORTATION COMMISSION
RAIL FREIGHT ADVISORY COMMITTEE
RAILROAD SYSTEM CHANGES
TASK FORCE

June 16, 1998

John M. Quain, Chairman
Pennsylvania Public Utility Commission
118 North Office Building
Harrisburg PA 17105-3265

Dear Mr. Quain:

This correspondence is directed to your good office as a formal request for reconsideration of a ruling that the Commission rendered May 14, 1998, relative to the filing of the Pennsylvania Power and Light with respect to their stranded cost recovery and associated transitional surcharge. The May 14th motion, as approved by the Commission, contradicted the previous recommendation of the administrative law judge, and it could have an adverse effect on the way PP&L is able to operate in my legislative district.

As such, I write to you as a means to seek reconsideration from the Commission to amend the May 14th motion to include the deferential stranded costs omitted from the prior ruling. In reviewing the substantive filing of the utility, I took note that Pennsylvania Power and Light absorbed approximately one/ninth of the allocated stranded costs before taking formal action to seek recovery.

Moreover, the basis of these stranded costs, as deemed through the legislative intent of Act 138 of 1996, known as the Electricity Generation Choice for Customers of Electric Cooperatives Act, provides for recovery of the utility stranded costs as part of the transition to the competitive market and specified those costs that properly could be recovered. I realize that in your capacity as Chairman of the Commission, you are already aware of these dynamics; however, I feel that the Commission has failed to properly account for the utility's previous efforts, prior to our enactment of the law, to reduce or moderate customer rate levels while continuing to provide efficient and safe operation to their respective customers.

To my knowledge, Pennsylvania Power and Light remains one of the few, if not only, electric utilities in the Commonwealth to hold fast on their customer rates. In real dollars this equates to customer rates which are comparable to those paid in 1986. Should you factor in elements such as inflation or increases in costs related to operations, then the utility's actual price savings to the consumer would be a savings of approximately 40%.

The real impact, were this ruling to remain in place, would be on the people of the Commonwealth served by Pennsylvania Power and Light. The very people that you propose to render your ruling in favor of would ultimately be the unwitting recipients of the cause and effect of this ruling by limiting the real dollars that the utility would have for contributions to community and economic development.

Therefore, I would respectfully request that the Public Utility Commission reconsider its previous ruling and amend that decision to include the 1.136 billion omitted from the restructuring motion . As you probably know, House Resolution 493 has been introduced requesting the PUC to reconsider its decision with respect to PP&L's stranded costs; and I felt compelled to cosponsor HR493.

In conclusion, allow me to thank you for taking the time to consider this request. Should you have any concerns which you wish to discuss with me regarding this correspondence, please do not hesitate to call upon me.

Sincerely,

Joe Battisto

JOE BATTISTO

JWB:bv

Thomas, Thomas, Armstrong & Niesen
Attorneys and Counsellors at Law

CHARLES E. THOMAS
CARROLL F. PURDY
CHARLES E. THOMAS, JR.
D. MARK THOMAS
PATRICIA ARMSTRONG
THOMAS T. NIESEN
JOHN A. ALZAMORA
REGINA L. MATZ
MICHAEL L. SWINDLER

SUITE 500
212 LOCUST STREET
P. O. BOX 9500
HARRISBURG, PA 17108-9500

FIRM (717) 255-7600

FAX (717) 236-8278
(VERIFY (717) 255-7616)

OF COUNSEL
JOHN E. FULLERTON

JACK F. ASCHINGER
(1914-1995)

WRITER'S DIRECT DIAL NUMBER
717/255-7622

June 30, 1998

ORIGINAL

RECEIVED
98 JUN 30 AM 11:53
PA.P.U.C.
SECRETARY'S BUREAU

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

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

Dear Secretary McNulty:

Enclosed for filing on behalf of Anthracite Region Independent Power Producers Association ("ARIPPA"), are an original and three (3) copies of ARIPPA's Petition for Reconsideration of the Commission's June 15, 1998 Order in the above referenced proceeding. Copies have been served in accordance with the attached Certificate of Service.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By Regina L. Matz
Regina L. Matz

Encls.

I:\CLIENTS\UTILITY\ARIPPA\PPL\LETTERS\063098.LTR

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Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

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

PETITION OF ANTHRACITE REGION INDEPENDENT POWER PRODUCERS ASSOCIATION FOR RECONSIDERATION AND CLARIFICATION

Patricia Armstrong
Thomas T. Niesen
Regina L. Matz

Attorneys for
Anthracite Region Independent
Power Producers Association

THOMAS, THOMAS, ARMSTRONG & NIESEN
212 Locust Street
P.O. Box 9500
Harrisburg, PA 17108-9500
(717) 255-7627

DATED: June 30, 1998

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

PETITION FOR
RECONSIDERATION
OF
ANTHRACITE REGION INDEPENDENT
POWER PRODUCERS ASSOCIATION

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION

NOW COMES, the Anthracite Region Independent Power Producers Association ("ARIPPA") by its attorneys, pursuant to 52 Pa. Code §5.572, and requests reconsideration of the Opinion and Order of the Pennsylvania Public Utility Commission ("Commission") entered June 15, 1998 ("Restructuring Order"), in the above-captioned proceeding. In support thereof, ARIPPA respectfully represents as follows:

I. INTRODUCTION

1. This proceeding began on April 1, 1997, when Pennsylvania Power & Light Company ("PP&L"), pursuant to the Electric Generation Customer Choice and Competition Act, 66 Pa. C.S.§§2801-2812 ("Competition Act") filed its Application for Approval of Restructuring Plan proposing to implement direct access to competitive electric generators.

2. On June 15, 1998, the Commission entered its final Opinion and Order in the proceeding, concluding, inter alia, that PP&L was entitled to recover through a fixed CTC approximately $2.8 billion in stranded costs, approximately $635 million of which are related to stranded non-utility generation costs.

3. ARIPPA is a trade association comprising eleven (11) operating non-utility generation ("NUG") power plants across Pennsylvania, all of which use waste coal as a source of fuel. Five of ARIPPA's members sell power to PP&L under long-term contracts approved by the Commission in 1986. ARIPPA and two of its members, Schuylkill Energy Resources, Inc. ("Schuylkill Energy") and Gilberton Power Company ("Gilberton Power"), intervened and actively participated in this proceeding. In aggregate, ARIPPA's members have invested over $2 billion in Pennsylvania over the last ten years in the development of NUGs and has contributed significantly to the economic and overall general well-being of the Commonwealth.

4. In this proceeding, ARIPPA is concerned specifically with the mechanism pursuant to which the Commission has authorized PP&L to continue to recover the cost of NUG power purchases.

5. ARIPPA strongly supports the need for a true-up mechanism for payments made under contracts with NUGs. As argued by ARIPPA, absent a true-up for NUG-related stranded costs, PP&L would have a significant economic incentive to curtail or eliminate purchases from NUGs through inappropriate means. Such activity would allow PP&L to recover from ratepayers but retain for its shareholders those payments that were included in the valuation of the CTC to

capture the estimated future cost of NUG power purchases. See, ARIPPA February 10, 1998 letter/brief. Schuylkill Energy and Gilberton Power similarly described for the Commission the need for a true-up of NUG stranded costs. Schuylkill Energy/Gilberton Power Main Brief ("M.B.") at 27-28; Schuylkill Energy/Gilberton Power Reply Brief (R.B. at 2-7).

6. In its Restructuring Order, the Commission aptly summarized ARIPPA's and the NUGs' position as follows:

> The Anthracite Region Independent Power Producers Association ("ARIPPA"), Gilberton Power Company, and Schuylkill Energy Resources argue that the determination of recoverable NUG contracts costs as stranded costs in this proceeding provides an economic incentive for PP&L to engage in "contractual gamesmanship." In Exceptions, ARIPPA notes that the Recommended Decision ignored the testimony arguing that PP&L will receive stranded costs related to the NUG contracts regardless of the actual power purchased. ARIPPA indicates that the NUGs only get paid based on actual power generated and delivered to PP&L, providing PP&L with an incentive to undermine the contracts or minimize delivered amounts, thereby permitting PP&L to retain the stranded cost without incurring the associated expense.

Restructuring Order at 75.

7. Despite this recitation, the Commission failed in its Restructuring Order to address the specifics of this issue, concluding solely as follows:

> Thus, in sum, we find that PP&L has documented $2.864 billion in total stranded costs that actually exist. We find that it is just and reasonable for PP&L to recover 100% of these costs over the transition period as calculated and discussed in the next section.

Restructuring Order at 75.

II. LEGAL STANDARD

8. In the case of Duick v. Pennsylvania Gas and Water Company, 56 Pa. PUC 553 (1982) ("Duick"), the Commission enumerated the standards that must be met, and which the Commission has consistently applied, in order for reconsideration to be granted. In Duick, the Commission stated as follows:

> A Petition for Reconsideration, under the provisions of 66 Pa.C.S. §703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard, we agree with the Court in the Pennsylvania Railroad Company case, wherein it was said that "[p]arties . . . cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them. . ." What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considered which appear to have been overlooked or not addressed by the Commission.
>
> Additionally, a Petition for Reconsideration is properly before the Commission where it pleads newly discovered evidence, alleges errors of law, or a change in circumstances.

Duick at 559.

9. As argued more fully below, ARIPPA respectfully submits that this Petition satisfies the Commission's criteria for reconsideration. Although the Commission *summarized* ARIPPA's concerns in the proceeding, the Commission failed to *address* those concerns as they related to the Commission's CTC determination; the Commission's CTC determination as it relates to collection of NUG-related stranded costs is contrary to and preempted by federal law; and, as demonstrated by evidence adduced after the close of the record in this proceeding,

the Commission's CTC determination, if not subject to reconciliation, will allow PP&L to overrecover NUG costs, to the benefit of PP&L's shareholders and the detriment of PP&L's ratepayers and operating NUG projects.

III. ARGUMENT

A. The Commission Failed to Address ARIPPA's and the NUGs' Issues.

10. Although the Commission acknowledged ARIPPA's concerns that failure to provide some form of reconciliation of NUG costs to NUG stranded cost recoveries would provide PP&L economic incentives to disrupt its NUG contracts for its own pecuniary gain, the Commission failed to substantively address those concerns when it concluded that a static CTC determination of roughly $635 million is appropriate for PP&L's NUG-related stranded costs.

11. ARIPPA's concerns are neither hypothetical nor theoretical. They are, in fact, very real. As this Commission is aware, the ink was not even dry on PECO Energy Company's ("PECO") Restructuring Order[1] when PECO, using as ammunition this Commission's Order, illegally repudiated a contract it had with an operating NUG project. See, Grays Ferry Cogeneration Partnership, et al. v. PECO Energy Company, et al., Civil Action No. 98-CV-1243 (E.D. Pa.), in which the Commission was a named defendant. Although the federal action was dismissed on jurisdictional grounds, the Grays Ferry project has since filed a complaint in state court. See, Grays Ferry Cogeneration Partnership, et al. v. PECO Energy

[1]Application of PECO Energy Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code and Joint Petition for Partial Settlement, Docket Nos. R-00973953 et al., Opinion and Order entered December 23, 1997 ("PECO Order").

Company, et al. Court of Common Pleas, Philadelphia County (No. 544 April Term 1998) ("Grays Ferry State Action"). Although only recently filed, the presiding judge in the Grays Ferry State Action has already entered three preliminary orders in the proceeding in which she, inter alia, granted Grays Ferry's request for a preliminary injunction; enjoined PECO from terminating its Grays Ferry Power Purchase Agreement ("PPA"); obligated PECO to abide by all terms and conditions of the PPA, including the obligation to pay for energy and capacity at contract rates; required PECO to file a bond or other security in the amount of $50,000.00; and, held PECO in civil contempt of a prior order, compelling PECO to pay all sums required under the PPAs within 24 hours or be subject to a coercive sanction. Finally, finding PECO guilty of "contumacious conduct," the Judge held PECO liable for all Grays Ferry's reasonable attorney's fees and costs related to the Petition.[2]

12. ARIPPA does not intend to impugn PP&L by association with PECO's repugnant behavior. The fact remains, however, that from their inception, utilities were uneasy and reluctant partners with NUG projects. As a result of actions taken two decades ago by state and federal legislatures and regulatory bodies to encourage independent power production and competitive electric generation and to ease the country's dependence on foreign energy supplies, utilities were dragged to the NUG negotiating tables kicking and screaming. Although quieted by the dollar-for-dollar recovery of NUG costs afforded under the ECR recovery mechanism, the disinclination of utilities to honor the integrity of NUG projects and

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[2]*See*, Orders of Judge Pamela P. Dembe, dated May 6, 1998, and May 20, 1998, in the Grays Ferry State Action, attached hereto as Appendix A.

their contracts apparently has never subsided. In the newly restructured competitive environment, PECO has confirmed the worst fear of every operating NUG. Given the slightest pretense of opportunity to abandon NUG projects, the utilities will choose to repudiate their obligations now and face the consequences later only if successfully challenged. In the interim, however, NUGs such as Grays Ferry and potentially Schuylkill Energy and Gilberton Power face lost revenue streams, lost time and resources as a result of unnecessary litigation and, in short, a serious threat to the continued viability of their projects.[3]

13. The costs to PP&L for NUG power purchases vary intensely and, thus, are not conducive to recovery through a fixed CTC that is not subject to periodic review and reconciliation. The level of payments made to NUGs depends on the NUGs' generating performance. NUG-related stranded costs will vary depending on NUG mWh generation and price, mWh sales and the market value of the NUG output at the time in which the power is delivered. Actual payments cannot be known until incurred and estimates can only be characterized as inaccurate proxies. Without the guaranteed recover of actual costs, the estimates adopted by the Commission will provide PP&L the economic incentive and means to "game" the projects, affording the NUGs no real recourse except costly litigation.

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[3]In addition to the example of PECO's attempt to profit from electric restructuring at Grays Ferry's expense, ARIPPA refers the Commission's attention to a FERC action brought by PP&L against Schuylkill Energy, the net effect of which will be to enrich PP&L's shareholders, at the expense of the Schuylkill Energy NUG project and PP&L's ratepayers. *See*, Section III C, *infra*.

14. NUG costs are further distinguished from other stranded costs in that they represent a statutory and regulatory obligation to make future cash payments, and do not involve the valuation and recovery of previously incurred, company-made investments and costs over which the utility exercises control. Again, these points of distinction together with the latitude afforded the Commission under the Competition Act vis-a-vis the recovery of NUG-related stranded costs further support according them a true-up mechanism within the CTC.

15. Given their unique status among generation-related stranded costs and the sizeable opportunity for their fluctuation in magnitude, recovery of NUG-related stranded costs through a fixed and non-reconcilable CTC is particularly inadequate and inappropriate. Attributing an inflexible value to NUG stranded costs will only provide PP&L a financial bogey, the achievement of any amount below which will result in unadulterated shareholder profit. Without the accountability that comes with reconciling estimates with actual costs incurred, PP&L will be free to pursue mitigation, perhaps abusively, with no corresponding obligation to pass the savings through to ratepayers. PP&L will be free to retain all financial rewards of mitigation, reconstruction or out-right repudiation.

16. As a further example, a non-reconcilable CTC with an end-date that precedes the expiration date of PP&L's NUG contracts also provides a strong economic incentive for PP&L to seek to terminate its NUG contracts at the expiration of the CTC, most particularly if it has under collected NUG costs. This perverse incentive is easily avoided by approval of a reconcilable component to the CTC for recovery of NUG-related stranded costs.

17. Notwithstanding the very real creation of substantial and serious economic incentives for PP&L to disrupt its NUG contracts if the Commission fails to hold PP&L accountable to NUG projects and ratepayers for *actual incurred NUG costs*, the Commission failed to address the need for a reconciliation mechanism for NUG-related stranded costs short of summarizing ARIPPA's and the NUGs' position on the matter.

18. ARIPPA respectfully submits that Commission reconsideration of its Restructuring Order is appropriate on the grounds that the Commission has failed to address the negative financial impact, on NUGs and ratepayers, of its CTC determination as it pertains to NUG-related stranded costs.

B. The Commission's Action is Inconsistent With Federal and State Law Which Requires the Commission To Afford Dollar-for-Dollar Recovery of Purchase Power Costs to Non-utility Generators.

19. ARIPPA also submits that the Commission has failed to fully consider the impact of the Public Utility Regulatory Policies Act of 1978 ("PURPA") in its determination and calculation of an inflexible and non-reconcilable CTC for recovery of NUG-related stranded costs.

20. Under PURPA and related state and federal precedent, the Commission must allow PP&L dollar-for-dollar recovery of the expenses it incurs in connection with its NUG PPAs.

21. Operating NUG PPAs were expressly conditioned on the prior approval of the Commission providing dollar-for-dollar recovery of NUG purchased power costs through the ECR mechanism. Since their inception, these contracts have been a revenue neutral generation source, with PP&L neither profiting from nor

losing money on them. A non-reconcilable CTC for NUG stranded costs runs afoul of Section 210(e) of PURPA (16 U.S.C. §824a-3), however, because recovery of NUG costs is governed by the unalterable terms and conditions of the Commission orders approving the NUG contracts. The Commission is precluded from modifying contractual provisions affording utilities the full, complete and timely recovery of NUG payments approved in these contracts. A non-reconcilable CTC has the same effect as altering the NUG contracts' payment terms, and therefore must fail under federal law. See, Freehold Cogeneration Associates, L.P. v. Board of Regulatory Commissioners of New Jersey, 44 F.3d 1178 (3d Cir. 1995), cert. denied sub nom. Jersey Central Power & Light Company v. Freehold Cogeneration Associates, L.P., 116 S. Ct. 68 (1995) ("Freehold").

22. Moreover, without fail, the Commission has steadfastly recognized the right of the utility to fully and timely recover all NUG costs. See, e.g., Re Pennsylvania Electric Co. (Scrubgrass), Docket No. P-870248, 1988 Pa. PUC Lexis 327 (January 21, 1988) ("Given the fact that a utility is obligated by law to enter into a long-term agreement with a QF at rates based on its avoided cost projections then in effect, the utility has a corresponding *right to collect the costs* paid to the QF under the agreement from its ratepayers. To hold otherwise could, *in our view*, frustrate the intent of Congress as expressed by the enactment of PURPA 210[.] Therefore, any future decision by this Commission to disallow rate recovery of amounts previously approved could result in a challenge on the basis of the doctrine of federal preemption as violative of the Supremacy Clause of the United States Constitution. . . . *If this Commission would*, in the future, attempt to deprive a QF of

the revenue stream to which it was entitled, or *would attempt to deprive the utility of its corresponding entitlement to rate recovery of this stream of revenues under color of state law, in our opinion this attempt would be subject to a substantial federal preemption challenge.").* See also, West Penn Power Company v. Pennsylvania Public Utility Commission, 659 A.2d 1055 (Pa. Cmwlth. 1995) ("West Penn") (The Commission is preempted from reconsidering its prior orders approving NUG contracts or the rates under those agreements.) Thus the Commission's own prior interpretations of the impact of PURPA on these contracts and the Federal law's interplay with state action, support the conclusion that the Commission's adoption of a static and non-reconcilable CTC for the recovery of operating NUG power purchase costs violates PURPA.

23. An opportunity to recover an estimate of costs is not equivalent to the *right to collect those costs.* By failing to ensure full cost recovery of future NUG payments, a failure which is guaranteed by locking in the value of NUG-related stranded costs in a one time only calculation and disallowing reconciliation, the Commission is denying the Companies ***full*** recovery of NUG-related stranded costs. In failing to provide a CTC ***that ensures full stranded NUG-cost recovery***, the Commission has impermissibly reopened and revised orders, final long ago, which granted the Companies full passthrough of NUG payments. Although the Commission is not bound to the ECR mechanism, it is bound to a mechanism that ensures the full, complete and timely recovery of such costs.[4] Further, a non-

[4]*Accord, In the Matter of the Petition of Atlantic City Electric Company for a Final* (continued...)

reconcilable CTC does not comport with the mandate in the Competition Act that the Commission ***shall*** allow the recovery of stranded NUG-costs. See, 66 Pa.C.S. §2808(c)(1).

24. Unlike ***other*** generation-related stranded costs, NUG costs and their level and manner of recovery are the subject of prior final, non-appealable Commission orders. The time for challenge to these orders has long passed, and they are not subject to collateral attack in these proceedings.

25. Moreover, it would be violative of the state and federal constitutional provisions prohibiting the impairment of contracts for the Commission to revise the cost recovery mechanism in such a way as to limit the parties' rights to full, dollar-for-dollar recovery of NUG costs.

26. As stated above, NUG-related stranded costs are clearly most ill-suited to a market analysis and projection approach that is appropriate for the calculation and inclusion of other generation related stranded costs in a "once and done" CTC. Calculation now of any future NUG purchased power cost is speculation at best. Therefore, absent some reconsideration of the NUG CTC component to account for actual, as opposed to projected, NUG costs will equate to a denial of some costs.

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[4](...continued)
Increase in its Energy Adjustment Charge, 1998 WL 210756 (N.J. Super. A.D.), May 1, 1998 (holding that once a state utility commission approved a NUG contract with costs consistent with avoided costs, any action by the commission to reconsider approval of the contracts or deny the passthrough of these costs was preempted by PURPA; the Court adopted the Third Circuit's judgment in *Freehold* that "any attempt to revisit a previously approved NUG contract as a result of changed circumstances deprived the NUG of the 'benefits of the bargain.'"). Nothing justifies the Commission's modification of the NUG cost recovery mechanism in a manner which substantially alters the quality and character of the previously approved mechanism so as to deprive the utility of full recovery.

27. In addition to having previously recognized the existence and impact of PURPA and Freehold in prior NUG pronouncements (see Scrubgrass and West Penn Power, supra), the Commission, in interpreting the terms of the Competition Act as that Act relates to the recovery of stranded NUG costs, stated "that utilities still have the right to recover NUG-related costs. . . . the law is quite clear on the utilities' ability to recover such costs; however, the mechanism by which these costs will be recovered is within the discretion of this Commission." Re: Utility Recovery of the NUG Related Expenses Under the Electricity Generation Customer Choice and Competition Act, Docket No. M-00970939, Slip Op. at 3 (Order entered July 18, 1997) thus, the Commission cannot evade its clear duty under the law by using assumptions and projections in lieu of actual data in authorizing a static, non-reconcilable CTC.

C. A Change in PP&L's Circumstances Has Resulted in PP&L Overrecovering NUG-related Stranded Costs, to the Exclusive Benefit of PP&L's Shareholders, If the Commission Does Not Reconsider its Determination and Allow for the Reconciliation of NUG Costs within the CTC.

28. Further evidence of the need for a reconcilable component of the CTC for the recovery of NUG-related stranded costs is provided by a recent action undertaken by PP&L against its NUG contract with Schuylkill Energy at the Federal Energy Regulatory Commission ("FERC").

29. On May 19, 1998, FERC issued an order in the case of Pennsylvania Power & Light Company v. Schuylkill Energy Resources, Inc., Docket Nos. EL96-65-000 and QF85-720-004, in which the FERC granted PP&L's motion for revocation of Schuylkill Energy's certification as a qualifying cogeneration facility. The FERC

Order is attached hereto as Appendix B. This order was precipitated by PP&L's request to FERC to revoke Schuylkill Energy's certification of its topping-cycle cogeneration facility as a qualifying facility ("QF") under PURPA for allegedly failing to meet the operating standard for cogeneration QFs during the period 1990 - 1995.

30. Under Schuylkill Energy's contract, the NUG is entitled to a higher rate when operating as a cogeneration facility as opposed to a small power producer. If successful in its challenge to Schuylkill Energy's status under PURPA, PP&L could significantly reduce its cost obligations to that NUG. Indeed, as attested to in an affidavit of Schuylkill Energy's Chief Financial Officer attached to a Request for Rehearing and Motion for Stay filed with FERC on June 18, 1998 on behalf of Schuylkill Energy, on May 29, 1998 (a mere ten days after the FERC issued its order) PP&L reduced the level of payments made to Schuylkill Energy for electricity delivered to PP&L during the previous month by nearly one million dollars. PP&L reduced this monthly payment in direct contravention of FERC's statement in the order that the determination was without prejudice to Schuylkill Energy's cogeneration QF status for calendar year 1996 and forward. FERC Order at 1, note 1.

31. Moreover, as further averred in the Request for Rehearing, Schuylkill Energy anticipates that PP&L will seek to obtain a refund for the alleged overpayments for Schuylkill Energy's electricity from 1990 - 1995 that could amount to more than $52 million.

32. Absent a reconcilable component to the CTC for PP&L's recovery of NUG-related stranded costs, PP&L's ratepayers would continue to pay PP&L a CTC

computed using Schuylkill Energy's higher cogeneration rates (as opposed to the lower small power producer rates retroactively determined for the five year period in question but not implemented or adjusted until *after* the Commission's calculation of PP&L's CTC), while PP&L is at the same time pocketing the difference. The value of this one adjustment, to this one NUG contract, is potentially a refund of $52 million plus $1 million per month on a going forward basis. Yet, ratepayers will not see one penny credited to them, and NUGs will assuredly see further actions against them.

33. In addition to the financial impact of this one decision, which will be enjoyed solely by PP&L's shareholders, to the detriment of the utility's ratepayers and Schuylkill Energy, PP&L's very pursuit of the action further evidences the economic incentives and creative maneuvering PP&L has at its disposal with the objective of evading and avoiding its obligations under its NUG contracts.

IV. CONCLUSION

34. ARIPPA submits that it has met the criteria established by the Commission to grant reconsideration of its PP&L Restructuring Order.

35. Although cognizant of ARIPPA's concerns for "contractual gamesmanship" and financial misdeeds should the Commission in any way disrupt the full, complete and timely recovery of NUG-related stranded costs, the Commission nonetheless failed to address these concerns in a substantive manner.

36. Further, although cognizant of the preemptive standards clearly set out under PURPA and applicable case law, the Commission nevertheless failed to fully

consider the impact under PURPA of its static, non-reconcilable CTC determination for NUG-related stranded costs.

37. Finally, since the close of the record in the PP&L case and even as recent as the Commission's entry of its Restructuring Order in this proceeding, fires adverse to the NUG industry continue to ignite, always at the instigation of the utilities with whom the NUGs have otherwise iron-clad contracts.

38. The Commission now has notice of two instances in which a utility has sought to invalidate or otherwise impair its NUG contracts. In Grays Ferry, PECO argued the Commission's restructuring order precluded it from fully recovering its NUG costs and, with that excuse, illegally attempted to invalidate its contractual commitments. Although the NUG has successfully obtained a preliminary injunction and an order compelling complete compliance with the NUG contract, including its payment terms and conditions, it was not obtained without significant cost to the NUG, and the battle is far from over. In the PP&L/Schuylkill Energy case, the utility has already taken steps to undermine its contractual commitments, with the result that it stands in prime position to retain the resulting "avoided" payments as a pure windfall profit to its shareholders.

39. For each of these reasons, ARIPPA respectfully requests the Commission to reconsider its determination of PP&L's NUG-related stranded cost recovery mechanism to allow for a reconcilable component to the CTC that would continue to provide full, complete and timely recovery of *all* actual and incurred NUG costs for existing plants.

40. Specifically, in order to assure dollar-for-dollar recovery mandated by PURPA and maintain the integrity of these contracts as decreed in Freehold, ARIPPA proposes that the NUG costs be treated separately from other stranded costs and amounts and be recovered under a separate non-bypassable charge over the life of the projects. 66 Pa.C.S. §2804(4)(iii)(B). In order to assure dollar-for-dollar recovery, ARIPPA proposes that a surcharge be designed reflecting the monthly purchase power expense and a true up for existing plants. For example, if in any month revenues exceed the project purchase price, the recovery mechanism would provide a credit to customers' bills. The surcharge avoids the need to administratively determine a value for electricity 30 years into the future and synchronizes the value of the capacity and kilowatt hours delivered with the amount of capacity and kilowatt hours delivered. A mechanism of this type complies fully with PURPA and related precedent and is entirely consonant with the spirit and letter of the Competition Act.

WHEREFORE, for all of the foregoing reasons, the Anthracite Region Independent Power Producers Association respectfully urges the Commission to reconsider its determination of PP&L's CTC *as it pertains to the recovery of NUG-related stranded costs*, and allow for a reconcilable component to the CTC to account fully for PP&L's incurrence of these costs.

Respectfully submitted,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By _____
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DATED: June 30, 1998

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APPENDIX A

CONTROL # 041016

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GRAYS FERRY COGENERATION PARTNERSHIP, TRIGEN-SCHUYLKILL COGENERATION, INC., NRGG (SCHUYLKILL) COGENERATION, INC. and TRIGEN-PHILADELPHIA ENERGY CORPORATION, Plaintiffs	:	COURT OF COMMON PLEAS PHILADELPHIA COUNTY APRIL TERM, 1998 NO. 544
v.	:	
PECO ENERGY COMPANY, ADWEN (SCHUYLKILL) COGENERATION, INC. and THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, Defendants	:	

ORDER

AND NOW, this 6 day of May, 1998, upon consideration of Plaintiffs' Petition for Preliminary Injunction and the responses thereto, following hearing and receipt and

consideration of post-hearing briefs, it is hereby ORDERED that the Motion is GRANTED as to Counts I and II of the Amended Verified Complaint. It is further ORDERED that:

1. PECO is enjoined from terminating the Power Purchase Agreements (the "PPAs") entered into by PECO and Grays Ferry Cogeneration Partnership;

2. PECO shall continue to abide by all terms and conditions of the PPAs, including, without limitation, the obligation to pay for electric energy and capacity at the rates set forth in the PPAs and otherwise specifically to perform the PPAs; and

3. This Injunction shall take effect immediately, provided, however, that Plaintiffs shall file with the Prothonotary their bond or other security in the amount of $ 50,000.

BY THE COURT:

PAMELA P. DEMBE, J.

FOX, ROTHSCHILD, O'BRIEN & FRANKEL, LLP
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GRAYS FERRY COGENERATION PARTNERSHIP, TRIGEN-SCHUYLKILL COGENERATION, INC., NRGG (SCHUYLKILL) COGENERATION, INC. and TRIGEN-PHILADELPHIA ENERGY CORPORATION, Plaintiffs	COURT OF COMMON PLEAS PHILADELPHIA COUNTY
v.	APRIL TERM, 1998
PECO ENERGY COMPANY, ADWIN (SCHUYLKILL) COGENERATION, INC. and THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, Defendants	NO. 544

ORDER

AND NOW, this 6 day of May, 1998, upon consideration of defendant PECO Energy Company's ("PECO") preliminary objections to the amended complaint challenging, inter alia,: 1) plaintiffs' discontinuance pursuant to Pa.R.Civ.P. 229(b) of the action against the Pennsylvania Public Utility Commission (Section "A" of PECO's preliminary objections); and 2) the Court's jurisdiction

pursuant to Pa.R.Civ.P. 1028(a)(1) and (5) (Section "B" of PECO's preliminary objections), and after arguments of counsel at the preliminary injunction hearing held on April 21, 22 and 23, 1998, and consideration of the parties' briefs on the issues, it is hereby ORDERED and DECREED that the above preliminary objections are hereby DISMISSED. IT IS FURTHER ORDERED that the discontinuance as to the Pennsylvania Public Utility Commission shall be without prejudice. The remaining preliminary objections alleged by PECO shall be considered in due course.

BY THE COURT

PAMELA PRYOR DEMBE, J.

FOX, ROTHSCHILD, O'BRIEN & FRANKEL, LLP
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GRAYS FERRY COGENERATION PARTNERSHIP, TRIGEN-SCHUYLKILL COGENERATION, INC., NRGG (SCHUYLKILL) COGENERATION, INC. and TRIGEN-PHILADELPHIA ENERGY CORPORATION, Plaintiffs	COURT OF COMMON PLEAS PHILADELPHIA COUNTY APRIL TERM, 1998 NO. 544
v.	
PECO ENERGY COMPANY, EDWIN (SCHUYLKILL) COGENERATION, INC. and THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, Defendants	

ORDER

AND NOW, this 20 day of May, 1998, upon consideration of the Petition for Civil Contempt filed by the Plaintiffs, the Defendant PECO Energy Company's response thereto and following hearing, it is hereby

ORDERED that the Petition is GRANTED and the Defendant PECO Energy Company is ADJUDGED in civil contempt of this Court's Order of May 6, 1998; and it is

FURTHER ORDERED that Defendant PECO Energy Company will comply immediately with this Court's Order of May 6, 1998 by paying to the Plaintiff Grays Ferry, within 24 hours, all sums due and owing under the Power Purchase Agreements to date and thereafter paying all such sums as become due and owing consistent with the terms of the Power Purchase Agreements; and it is

FURTHER ORDERED that, should the payments required under the Power Purchase Agreements not be made within 24 hours or should any payment which hereafter becomes due and owing under the Power Purchase Agreements not be paid consistent with the terms of the Power Purchase Agreements, the Defendant PECO Energy Company shall pay to Grays Ferry a coercive sanction in the amount of $50,000.00 per day for each day, or portion thereof, that such amount remains unpaid; and it is

FURTHER ORDERED that, as a sanction for its contumacious conduct to date, the Defendant PECO Energy Company shall reimburse Plaintiffs for their reasonable attorneys' fees and costs incurred on this Petition.

BY THE COURT:

PAMELA P. DEMBE, J.

FOX, ROTHSCHILD, O'BRIEN & FRANKEL, LLP
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GRAYS FERRY COGENERATION PARTNERSHIP, TRIGEN-SCHUYLKILL COGENERATION, INC., NRGG (SCHUYLKILL) COGENERATION, INC. and TRIGEN-PHILADELPHIA ENERGY CORPORATION, Plaintiffs	:	COURT OF COMMON PLEAS PHILADELPHIA COUNTY
	:	APRIL TERM, 1998
	:	NO. 544
v.	:	
PECO ENERGY COMPANY, ADWIN (SCHUYLKILL) COGENERATION, INC. and THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, Defendants	:	

ORDER

AND NOW, this 20 day of May, 1998, upon consideration of Defendant PECO Energy Company's Emergency Motion for Stay or Supersedeas of the Injunctive Relief granted by this Court by Order dated May 6, 1998 and entered of record on May 8, 1998, and the response of Plaintiffs, it hereby

ORDERED that the Motion is DENIED. PECO Energy Company shall immediately make all payments for electricity and capacity currently due under the Power Purchase Agreements.

PAMELA PRYOR DEMBE, J.

APPENDIX B

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: James J. Hoecker, Chairman;
Vicky A. Bailey, William L. Massey,
Linda Breathitt, and Curt Hébert, Jr.

Pennsylvania Power & Light Company	)	
v.	)	Docket Nos. EL96-65-000 and QF85-720-004
Schuylkill Energy Resources, Inc.	)	

ORDER GRANTING MOTION FOR REVOCATION
OF CERTIFICATION AS A QUALIFYING COGENERATION FACILITY

(Issued May 19, 1998)

In this proceeding, Pennsylvania Power & Light Company (PP&L) requests that the Commission revoke the certification of a topping-cycle cogeneration facility owned and operated by Schuylkill Energy Resources, Inc. (Schuylkill Energy) as a qualifying facility (QF) under the Public Utility Regulatory Policies Act of 1978 (PURPA). PP&L contends that Schuylkill Energy has failed to meet the Commission's requirements for certification as a qualifying cogeneration facility: (1) by failing to conform to material representations made to the Commission upon which its certification is based; and (2) because the facility has never satisfied the Commission's regulations regarding useful thermal output applicable to cogeneration QFs. Schuylkill Energy disputes PP&L's allegations.

As explained below, we find that Schuylkill Energy's facility failed to meet the operating standard for cogeneration QFs during the calendar years 1990-1995. We will therefore revoke Schuylkill Energy's certification as a cogeneration QF for those years. 1/ PP&L does not dispute, however, that the facility retains status as a qualifying small power production facility.

1/ Our revocation of Schuylkill Energy's cogeneration QF status is based upon the information available on this record for the calendar years 1990-1995. The determination in this order is without prejudice to Schuylkill Energy's cogeneration QF status for calendar year 1996 and thereafter.

On October 1, 1997, Schuylkill Energy filed a notice of self-certification for its facility pursuant to 18 C.F.R. (continued...)

Background

Schuylkill Energy owns and operates an 80 MW topping-cycle cogeneration facility in Shenandoah, Pennsylvania. The facility provides electric power to PP&L and steam to Reading Anthracite Company (Reading). The facility was synchronized with PP&L's system in December 1989 and has operated to date. The facility was certified by the Commission as a cogeneration QF by delegation order issued October 3, 1986 (October 1986 Order). 2/

The facility consists of a circulating fluidized bed combustion boiler, an extraction/condensing steam turbine generator, and related equipment. The primary energy source for the facility is waste in the form of anthracite coal culm. 3/ The thermal energy output of the facility, process steam, is used by Reading in a drying operation to reduce the moisture content of anthracite silt. 4/ The anthracite silt processed by Reading is used, primarily as boiler fuel, by entities not affiliated with Schuylkill Energy.

The October 1986 Order certifying Schuylkill Energy's facility determined that the requirement for a useful thermal

(...continued)
§ 292.207(a)(1)(iii). Schuylkill Energy states that it intends to accommodate an additional thermal energy customer, the New Tilapia Company (NTC). Schuylkill Energy states that it plans to sell process steam to NTC to heat water to raise Tilapia, a warm water fish. The Commission does not review or approve notices of self-certification. We note here only that Schuylkill Energy's proposed fish farming thermal use is subject to the same standards for useful thermal output we have applied previously and are applying in this case.

2/ Schuylkill Energy Resources, Inc., 37 FERC ¶ 62,005 (1986).

3/ Anthracite coal culm is waste material left over from the coal extraction process that contains discarded anthracite coal mixed with rock and other non-combustible materials.

4/ Anthracite silt is a waste product which remains when settlement ponds associated with coal cleaning processes fill up with solids.

output independent of the power production process 5/ would be satisfied based on information submitted by Schuylkill Energy indicating the existence of a market for Reading's processed anthracite silt. The order noted that the facility would meet the operating standard for topping-cycle cogeneration QFs 6/ provided the steam was used to dry at least 210,000 tons of anthracite silt per year, based on a 92 percent plant availability. In 1987, Schuylkill Energy filed a notice of self-certification to reduce the required tonnage to 194,000, based on an 85 percent plant availability. 7/

In 1992, Schuylkill Energy proposed to construct and operate wet silt processing equipment and install a catalytic dryer to complement Reading's existing silt drying equipment. 8/ Schuylkill Energy's application for recertification as a topping-cycle cogeneration QF was granted, finding, among other things, the silt drying to be "presumptively useful." 9/

In 1994 and 1995, PP&L sought from Schuylkill Energy information concerning Schuylkill Energy's compliance with their Power Purchase Agreement (Agreement) and the QF certification requirements. This led to a Pennsylvania state court proceeding

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5/ The requirement that the thermal output of the plant have a purpose independent of generating electric power is discussed in more detail below.

6/ 18 C.F.R. § 292.205(a)(1) (1997) requires that the useful thermal output of the facility be no less than 5 percent of the total energy output of the facility during each calendar year.

7/ See Docket No. QF85-720-002 submitted February 10, 1987, PP&L Motion, Exhibits K & M.

8/ The original drying equipment used steam to heat fluid contained in heat exchangers. The heat exchangers provided heat to remove moisture directly from the anthracite silt. In contrast, the wet silt processing equipment uses steam to heat mine-pool water, which is mixed with anthracite silt. The resulting slurry is passed through a series of water separation devices. According to Schuylkill Energy, heating the water for the wet silt processing removes or eliminates the ash and impurities in the silt, thereby improving the quality of the processed anthracite silt.

9/ Schuylkill Energy Resources, Inc., 61 FERC ¶ 62,074 (1992) (the October 1992 Order).

by PP&L against Schuylkill Energy and Reading. 10/ In the state court proceeding, PP&L asserted various claims and sought damages pertaining to alleged overpayments based on the facility's failure to maintain cogeneration QF status. 11/ The court found that questions concerning the QF operational and compliance status of the facility are not within the court's jurisdiction but rather the Commission's jurisdiction. Consequently, on July 16, 1996, PP&L filed the instant motion for revocation.

PP&L sought revocation of the facility's cogeneration QF status for all years during which the facility had operated as of the date of its filing. In support of its motion, PP&L submitted data and affidavits purporting to demonstrate that the facility has never met the Commission's operating standard for topping cycle cogeneration QFs. 12/

Notice and Interventions

Notice of PP&L's motion was published in the Federal Register, 61 Fed. Reg. 42,015 (1996), with comments, protests or motions to intervene due on or before August 26, 1996.

Schuylkill Energy filed a motion to intervene and answer in opposition to PP&L's motion, seeking summary dismissal. A motion to intervene was also filed by Gilberton Power Company

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10/ Pennsylvania Power & Light Company v. Schuylkill Energy Resources, Inc. and Reading Anthracite Company, Pennsylvania Court of Common Pleas, Civil Action No. 95-C-2810.

11/ Article 5 of the Agreement establishes different payment rates for power depending on whether the facility operates as a cogeneration QF, small power production QF, or non-QF. A higher rate is paid for power from a cogeneration QF than from a small power QF. If the facility does not operate as either a cogeneration or a small power production QF, PP&L may elect not to purchase Schuylkill Energy's power. PP&L asserts that during the term of the contract it has overpaid approximately $55 million, based on the rate differential between a cogeneration QF and a small power production QF. PP&L does not contest the status of Schuylkill Energy's facility as a small power production QF.

12/ Much of the data submitted in support of PP&L's motion consists of information obtained in the state court proceeding, which is subject to a confidentiality stipulation. Thus, while we have used portions of this information in our analysis, none of the specific information subject to the stipulation appears in this order.

(Gilberton). Gilberton owns a facility that burns waste culm to generate electricity and sells steam to another entity for use in drying waste anthracite culm and anthracite silt. Gilberton's facility is certified as a cogeneration QF and sells power to PP&L. 13/ Gilberton challenges that portion of PP&L's motion in which PP&L contends that Schuylkill Energy has not satisfied the operating standard because Schuylkill Energy's process steam is used to dry materials which are then sold to other producers of electricity. Gilberton states that it is similarly situated to Schuylkill Energy in this regard.

A timely letter supporting Schuylkill Energy was filed by the Anthracite Region Independent Power Producers Association, an association of non-utility power generators in Pennsylvania that use waste coal to generate power for sale to utilities. Untimely letters supporting Schuylkill Energy were filed by the Pennsylvania Anthracite Council, the Schuylkill County Chamber of Commerce, the Chairman of the Board of Commissioners of Schuylkill County, and State Representative Bob Allen.

On September 10, 1996, PP&L filed an answer to the motions to intervene and answers of Schuylkill Energy and Gilberton. Schuylkill Energy filed an answer opposing PP&L's request for leave to file an answer. Schuylkill Energy also states that portions of PP&L's September 10, 1996, filing make material changes to its original motion, and submits additional information responsive to the purported changes.

Discussion

I. Procedural Matters

Under Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (1997), the timely, unopposed motions to intervene of Schuylkill Energy and Gilberton serve to make them parties to this proceeding.

Rule 213(a)(2) of our Rules of Practice and Procedure, 18 C.F.R. § 385.214 (1997), prohibits an answer to an answer unless otherwise ordered by the decisional authority. We will accept the parties' various answers and responses. We find that, given the complex facts presented, these pleadings have aided us in understanding the various positions of the parties.

13/ Electrodyne Research Corporation, 29 FERC ¶ 62,258 (1984), appeal denied, 32 FERC ¶ 61,102 (1985) (Electrodyne). The facility was transferred to Gilberton in 1986. On December 30, 1988, Gilberton filed a notice reporting other uses of the process steam, including drying of anthracite coal and silt.

Schuylkill Energy argues that PP&L, having not challenged the 1992 recertification, is estopped from challenging Schuylkill Energy's compliance for periods prior to issuance of the 1992 recertification order. Schuylkill Energy's estoppel argument is meritless. A QF certification order is no more than a before-the-fact judgment that if the applicant's representations supporting its request for certification are correct, the facility will qualify. 14/ Thus, in acting on an application for QF certification the Commission does not normally consider whether a QF met the technical standards for QF status for past periods. The 1992 certification order did not address whether Schuylkill Energy's facility had in fact met the operating standard for prior periods. Moreover, PP&L had no obligation to raise such an issue in the context of a request for prospective certification. Finally, nothing in section 292.207(d)(1)(ii) of the regulations or Commission precedent indicates that recertification absolves a facility's operator from having to demonstrate compliance with the certification requirements for past periods, should such an issue arise. 15/ Therefore, PP&L is not estopped from raising a compliance issue under these circumstances.

II. PP&L's Allegations and Schuylkill Energy's Responses

PP&L asserts that Schuylkill Energy has failed to comply with the Commission's requirements in three respects. First, PP&L states that Reading has failed in any calendar year to dry the amount of silt specified in the 1986 and 1992 certification orders as required to meet the 5 percent operating standard. In support, PP&L submits data purporting to show amounts of silt dried and/or sold by Reading in years 1990-1995 far below 194,000 tons, with the highest amount of processed silt for any year being approximately 50,000 tons, and much lower amounts of dried silt actually sold. 16/

In response, Schuylkill Energy disputes the applicability of the 194,000 tons figure. Schuylkill Energy states that the amount of silt required to be dried is a function of the amount

14/ See Electrodyne, 32 FERC at 61,281, n.9; EcoEléctrica, L.P., 77 FERC ¶ 61,344 at 62,510 (1996).

15/ See Megan-Racine Associates, Inc., 73 FERC ¶ 61,308 at 61,860-61 (1995), reh'g denied in pertinent part, 76 FERC ¶ 61,354 at 62,668 (1996) (Megan-Racine).

16/ PP&L Motion at 26. PP&L requests confidential treatment of the specific sales figures, consistent with confidentiality requirements for these figures in the state court litigation.

of power expected to be produced. Schuylkill Energy notes that it has seldom produced as much power as the amount on which the 194,000 ton figure was predicated. 17/ Schuylkill Energy also states that the amount of energy needed to dry silt is a function of the moisture level of the raw silt, and that the certification application and Commission's analysis were based on specific assumed moisture levels. 18/

Schuylkill Energy also seeks to bolster the representations made in its certification applications with new information. Specifically, Schuylkill Energy submits affidavits from persons who state that there are commercially valid ancillary uses of steam at the Reading facilities that are required even when the silt processing equipment is idle, to avoid equipment damage caused by thermal cycling, freeze damage in winter, and pluggages during equipment repair and maintenance. 19/ Schuylkill Energy asserts that these ancillary uses give it great flexibility in achieving regulatory compliance.

Second, PP&L alleges that in Schuylkill Energy's 1992 application for recertification, which included a technical and economic justification for the wet silt processing and catalytic dryer, Schuylkill Energy knowingly misrepresented to the Commission the commercial market for Reading's dried silt. Specifically, PP&L contends that Schuylkill Energy's application grossly exaggerated existing sales of dried silt, particularly sales of silt to PP&L and to Scott Paper Company. PP&L claims that this misrepresentation contradicts Schuylkill Energy's statement in its application that, except for the additional useful thermal outputs represented by the wet silt processor and catalytic dryer, all the information contained in the application

17/ Schuylkill Energy Answer at 28-32.

18/ The 1986 certification was based on a reduction in the moisture content of the silt from 21 percent in its raw state to 10 percent in its processed state. The 1992 application states that the material leaving the wet silt processing unit has a moisture content of 12 percent and that additional moisture reduction will yield a moisture level of 11 percent.

19/ Schuylkill Energy Answer at 36-37. "Thermal cycling" refers to temperature changes in the silt processing equipment that occur as a result of repeated start-up and shut-down of the equipment. "Pluggages" appears to refer to blockage of passages in the equipment used to transfer frozen, raw silt to the wet silt processing plant or catalytic dryer.

for the 1986 certification and the 1987 notice of self-certification remained the same. 20/

Schuylkill Energy disputes PP&L's allegation that the Commission was misled in the 1992 recertification application. In support, Schuylkill Energy provides a report by a consulting engineer based on a computer model of Reading's processes and data provided by Reading purporting to show that the energy theoretically needed to perform the silt processing closely approximates the actual thermal energy received by Reading from Schuylkill Energy. 21/ In addition, Schuylkill Energy submits affidavits from some of the people whose statements are relied on by PP&L that contradict their purported statements to PP&L's affiants.

Schuylkill Energy also defends the silt market data provided in support of the 1992 application. Schuylkill Energy does not dispute that the data it provided for existing and projected sales do not distinguish between raw silt, which requires no thermal energy, and processed silt. Schuylkill Energy states that it should have been apparent from the context that its figures referred to both raw and processed silt. Schuylkill Energy also states that it expected that PP&L would, over time, have to purchase processed silt rather than raw silt, and that sales of silt, raw and processed, to another customer are not apparent because they were made through a broker. 22/

In addition, Schuylkill Energy asserts that the product market information in the 1992 application is irrelevant because the recertification order found the wet silt processing to be presumptively useful. Therefore Schuylkill Energy claims that the Commission could not have relied on the market information to recertify the facility. 23/

Finally, PP&L asserts that Schuylkill Energy has included, as part of its useful thermal energy output, steam used to process fuel for Schuylkill Energy itself and other electric power producers. Thus, asserts PP&L, the steam has no business purpose independent of the power production process, contrary to Commission precedent. In support, PP&L submits an affidavit and documents purporting to show that silt dried by Reading was delivered directly by Reading, and independently via a third

20/ PP&L Motion at 11-13.

21/ Affidavit of Gordon A. Chirdon, P.E., Id. at 38-41.

22/ Id. at 44.

23/ Id. at 43-48.

party, to Schuylkill Energy's power plant for use as fuel. PP&L also submits documents indicating that Reading's other sales of processed silt were to entities that used it as boiler fuel in electric generating facilities.

In response to PP&L's allegation that drying silt serves no independent business purpose because the silt is used to generate electricity, Schuylkill Energy argues that Commission precedent does not bar the use of thermal energy to prepare fuel for use in unaffiliated electric generating plants. Rather, asserts Schuylkill Energy, only the direct use of the cogenerator's steam in another electric generating plant is barred. Schuylkill Energy supplements its argument with affidavits from Schuylkill Energy and Reading employees that contradict PP&L's assertion that Schuylkill Energy has used processed silt from Reading in Schuylkill Energy's cogeneration facility. 24/

In its September 10, 1996 filing, PP&L responds that: (1) even with reductions in power production by Schuylkill Energy, an insufficient amount of silt has been dried or sold for the facility to meet the 5 percent operating standard; (2) Schuylkill Energy's claimed ancillary uses are unsupported; and (3) the supporting study of Schuylkill Energy's consulting engineer is flawed. In response, Schuylkill Energy attacks the credibility of PP&L's additional affidavits concerning processing of silt and disputes PP&L's attack on Schuylkill Energy's consultant's analysis of steam requirements. Each party continues to dispute the other's reading of Commission precedent.

III. QF Status

The resolution of this proceeding rests on two questions. First, does Schuylkill Energy's facility produce useful thermal output? Second, has the facility satisfied the operating standard of the Commission's regulations which require that the useful thermal output of a qualifying topping-cycle cogeneration facility be no less than 5 percent of the total energy output of the facility in each calendar year? 18 C.F.R. § 292.205(a)(1) (1997).

A. Use of Thermal Output

If the Commission finds that Schuylkill's use of the thermal output to dry silt is not "useful", Schuylkill will not satisfy the statutory definition of a cogeneration facility. By statute, a cogeneration facility is defined as a facility which produces

24/ Schuylkill Energy's August 26, 1996 Answer; Exhibits C (Frank Derrick), D (Vincent Devine), and G (John LeTarte). Id. at 51-65.

electric energy and "steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes." Section 3(18)(A) of the FPA. The Commission tracked this language in its regulations, where it stated that a cogeneration facility means:

> equipment used to produce electric energy and forms of useful thermal energy (such as heat or steam), used for industrial, commercial, heating, or cooling purposes, through the sequential use of energy.

18 C.F.R. § 292.202(c) (1997). The Commission subsequently through case law described how it would determine whether a particular facility produces useful thermal energy for purposes of QF status. If the use of a cogeneration facility's thermal output constitutes a common industrial or commercial application, it is presumptively useful and the Commission performs no further analysis regarding the usefulness of the thermal output. On the other hand, in those rare cases in which the use involves a technology which is not common, separate standards apply depending upon whether the user is an affiliate of the cogenerator (or the cogenerator itself), or is an unaffiliated entity. In the case of a thermal host that is not affiliated with the cogenerator, plausible evidence of either an arm's-length market for the thermal output or an end product produced with the aid of the thermal output establishes usefulness. Kamine/Besicorp Allegany L.P., 63 FERC ¶ 61,320 at 63,157-58 (1993); Polk Power Partners, L.P., 61 FERC ¶ 61,300, appeal dismissed sub nom. Liquid Carbonic Industries Corporation v. FERC, 29 F.3d 697 (D.C. Cir 1994); and Arroyo Energy, Limited Partnership, 62 FERC ¶ 61,257, reh'g denied, 63 FERC ¶ 61,198 (1993). There is no statutory requirement that the Commission find that the thermal output is being used in an economic manner. Indeed, the Commission looks at the economic viability of the use of thermal output to assess whether the energy is "useful" only in very limited circumstances -- only when the thermal host is an affiliate of the cogenerator (or the cogenerator itself), and then only when the technology is previously unproven.

PP&L's request that we revoke Schuylkill's QF status indicates a misunderstanding about what the Commission means by "presumptively useful." PP&L would have us view this "presumption" as an evidentiary presumption which is rebuttable upon a subsequent showing. But this has never been the Commission's intention or practice. The Commission, upon finding that the usefulness of a thermal application has been established by common practice, is making a finding that a particular use of cogenerated thermal energy is economic and it thus "presumes" that the thermal output is useful. Indeed, the Commission has stated that a more accurate word to describe its process is that it "assumes" that energy is useful within the meaning of the

statute when it is used in a common process or used to produce a common product. Bayside Cogeneration, L.P., 67 FERC ¶ 61,290 at 62,006 & n.4 (1994).

The Commission recognizes that there may be cases in which a particular facility, employing its thermal output for a common use, may not be economic. Likewise, in cases in which the theoretical economic viability of a facility employing a new technology is established by evidence in a proceeding (the independent business purpose test), it does not necessarily mean that the facility will make money on the thermal use, but means merely that the facility is in theory capable of making money using the technology. Id.

Moreover, the Commission, once satisfied that the proposed use of cogenerated thermal output in a particular manner is common, will not inquire further into how the product produced by the thermal output is being used, e.g., into the economics of the application. Brooklyn Navy Yard Cogeneration Partners, L.P., 74 FERC ¶ 61,015 (1996). As noted above, the use of Schuylkill Energy's thermal output to dry anthracite silt was found to be presumptively useful. 25/ We thus look no further into the issue of whether Schuylkill Energy's use of thermal output is "useful" for purposes of QF status..

PP&L also has alleged that the drying of silt is not independent of Schuylkill Energy's production of electricity. PP&L in essence alleges that Schuylkill may be burning the silt Reading dries to produce electricity. The Commission often has found the drying of materials for use as boiler fuel in unrelated electric generating facilities or for other heating uses by entities unaffiliated with the cogeneration facility to be independent of the power production cycle. 26/ Thus, the use of Schuylkill Energy's steam to process silt for use as a boiler fuel in separate, unaffiliated facilities is permissible. As to the alleged use of Reading's silt in Schuylkill Energy's own facilities, Schuylkill Energy's pleadings do not indicate that it used silt dried by Reading to generate electricity and we find that PP&L has not demonstrated otherwise.

25/ Supra n.9.

26/ See York Canyon Cogeneration Associates, 44 FERC ¶ 61,101 (1988) (dried bituminous coal fines); ENESCO - The Energy Systems Company, 35 FERC ¶ 62,374 (1986) (dried anthracite silt); Electrodyne, 32 FERC ¶ 61,102 (1985) (dried anthracite coal, culm, and silt).

B. The Five Percent Operating Standard

We now turn to the issue of whether the facility used enough thermal output to satisfy the Commission's operating standard. 27/ Based on our review of the parties' submissions, we conclude that Schuylkill Energy has not met this requirement.

As noted above, a qualifying topping-cycle cogeneration facility, such as Schuylkill Energy's, must satisfy section 292.205(a)(1) of our regulations, which requires that the "useful thermal output" of the facility be no less than 5 percent of the total energy output of the facility during each calendar year. Our review of the parties' submissions indicates that five percent of the thermal output of the facility has not been applied to drying silt in each of calendar years 1990-1995.

We agree with Schuylkill Energy that the specific figures for tons of dried silt in the 1986 certification order and the 1997 notice of self-certification are not determinative. The amount of silt that would need to be dried in any given year at Schuylkill Energy's facility is a function of the plant availability and the moisture content of the raw and processed silt. When less power is produced, less thermal output needs to be applied to the commercial or industrial process in order to satisfy the operating standard.

In none of the years for which full calendar year information is available in this proceeding (i.e., 1993 through 1995) was a sufficient amount of silt dried to meet the five percent operating standard. 28/ Even under best case conditions, such as in 1995 when the facility attained its highest availability factor, Reading dried only 25 percent of the required amount of silt needed to meet the operating standard. For calendar year 1992, prorating the amount of silt dried during the eight-month period for which actual data are available for the remainder of the year, the amount of silt dried is only approximately 24 percent of that needed to meet the operating standard for 1992. For January 1990 through May 1992, Schuylkill Energy supplied no data on the amount of silt dried. Schuylkill Energy states that after its facility was recertified in 1992, it saw no need to retain data from prior periods. However, as noted

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27/ The efficiency standard of 18 C.F.R. § 292.205(a)(2) (1997) does not apply to waste-fueled cogeneration facilities.

28/ Our conclusion is based upon information provided in Schuylkill Energy's 1986 application, Schuylkill Energy's 1992 application (which indicated that the information in the 1986 application had not changed) and information from the pleadings filed in this proceeding.

above, nothing in our regulations or precedent indicates that a facility operator is absolved by a recertification from having to demonstrate compliance for prior periods, or that the Commission's revocation authority lapses at any point. 29/ Therefore, in light of the lack of data to the contrary and Schuylkill's non-compliance with the operating standard for the years 1993 - 1995, we conclude that Schuylkill Energy has failed to demonstrate compliance with the operating standard for the years 1990 - 1992.

We also give no credence to Schuylkill Energy's consultant's computer model of Reading's drying processes, which purports to demonstrate that the energy theoretically required to process Reading's silt approximated the actual thermal energy received from Schuylkill Energy and used by Reading. First, when historical and factual data are or should be available, the use of a model is unnecessary. Second, the model's output is based on the input assumptions and values used to correlate with the present silt drying operation. Some of these values include ancillary uses of thermal output alleged for the first time in the current pleading. Schuylkill Energy has not in this proceeding or in any of its prior filings for certification provided any data on how much steam is required for each of the claimed ancillary uses. Additionally, Schuylkill Energy has failed to demonstrate how such ancillary uses qualify as useful thermal output.

The Commission orders:

(A) Schuylkill Energy's facility did not meet the operating standard for calendar years 1990-1995, and accordingly did not operate as a qualifying cogeneration facility during that period.

(B) PP&L's motion is hereby granted to the extent discussed in the body of this order.

By the Commission.

(S E A L)

David P. Boergers,
Acting Secretary.

29/ See Megan-Racine at 61,861.

CERTIFICATE OF SERVICE

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

I hereby certify that I have this 30th day of June, 1998, served a true and correct copy of the foregoing Petition for Reconsideration upon the persons and in the manner indicated below:

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July 2, 1998

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SECRETARY'S BUREAU

James J. McNulty, Secretary
PA Public Utility Commission
Room B-20, North Office Bldg.
Harrisburg, PA 17105-3265

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

Dear Secretary McNulty:

Enclosed please find for filing an original and three copies of the Office of Consumer Advocate's Answer to the Petition of PP&L, Inc. For Reconsideration, Clarification, Amendment, Correction, and Supersedeas of the Order Entered June 15, 1998 and for Expedited Consideration in the above-captioned proceeding.

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

Sincerely,

Craig R. Burgraff
Senior Assistant Consumer Advocate

Enclosures
cc: All parties of record

46

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 Utility Code	:	Docket No. R-00973954

ANSWER OF THE OFFICE OF CONSUMER ADVOCATE TO THE PETITION OF PP&L, INC. FOR RECONSIDERATION, CLARIFICATION, AMENDMENT, CORRECTION, AND SUPERSEDEAS OF THE ORDER ENTERED JUNE 15, 1998 AND FOR EXPEDITED CONSIDERATION

Pursuant to Section 5.572 of the Pennsylvania Public Utility Commission's ("Commission") Rules of Practice and Procedure, 52 Pa. Code § 5.572, the Office of Consumer Advocate ("OCA") respectfully submits this Answer to PP&L, Inc.'s ("PP&L") Petition for Reconsideration, Clarification, Amendment, Correction and Supersedeas ("PP&L Petition") filed with the Commission on June 26, 1998. The Petition was in response to the Commission's June 15, 1998 Opinion and Order in PP&L's restructuring case. Application of Pennsylvania Power & Light Company For Approval of Restructuring Plan Under Section 2806 of the Public Utility Code, Docket No. R-00973954, Slip op., (June 15, 1998). ("PP&L"). The OCA respectfully submits that

PP&L's substantive requests, along with several of its requested corrections, should be denied.

I. STANDARDS FOR RECONSIDERATION

Petitions for reconsideration are brought before the Commission under Section 703(g) of the Public Utility Code, 66 Pa. C.S. § 703(g). It has been held that because a grant of relief on such petitions may result in the disturbance of final orders, it should be granted judiciously and only under appropriate circumstances. West Penn Power v. Pennsylvania Public Utility Commission, 659 A. 2d 1055 (Pa.Comwlth. Ct. 1995), petition for allowance of appeal denied, No. 576 W.D. Allocatur Docket (April 9, 1996); City of Pittsburgh v. Pennsylvania Department of Transportation (Appeal of Pennsylvania Public Utility Commission), 490 Pa. 264, 416 A. 2d 461 (1980). The Commission, in Duick v. Pennsylvania Gas and Water Co., 56 Pa. PUC 553, 51 PUR 4th 284 (1982), has set forth the standard for determining whether to grant reconsideration of a prior order as follows:

> A petition for reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein it was said that "[p]arties ..., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them ... "What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

56 Pa. PUC at 559.

II. ANSWER

A. Introduction

PP&L has requested reconsideration in its Petition of several issues impacting upon the market value of PP&L's generation assets that would, not coincidentally, if granted allow PP&L recovery of stranded costs at a level slightly in excess of $4 billion. This is the level of recovery it posited in its restructuring case that it would be able to recover under the rate cap. The four issues raised by PP&L consist of three issues that it raised below based upon identical arguments, and one issue that is completely new and directly contradicts the treatment accorded the issue by PP&L itself in the trial of this proceeding. As the OCA will demonstrate, the reconsideration requested by PP&L fails to meet the Duick standards and should be rejected.

PP&L's continued insistence that it is entitled to excessive levels of stranded cost recovery over and above the $2.864 billion arrived at by the Commission in its June 15, 1998 Order is utterly without merit. The OCA submits that the Commission in the PP&L decision was more than fair to the Company. Indeed, PP&L is the only company for which the Commission rejected the assumed life extension for the Keystone and Conemaugh generating stations, jointly owned units, in determining the market value of generating assets. Plus, the Competitive Transition Charge ("CTC") approved by the Commission for collection of stranded costs is subject to an annual reconciliation proceeding pursuant to Section 1307(e) of the Code based on actual sales. Thus, PP&L's risk of recovery is mitigated. The Commission has provided the Company with more than adequate compensation for any stranded costs that it may incur over the lives of its existing generating assets.

The OCA submits that if PP&L did not wish to be subject to the net present valuation methodology provided for in the Electric Generation Customer Choice and Competition Act ("Act"), it was free to divest its generation assets and establish an actual stranded cost amount. What the Company cannot be allowed to do, however, is to retain valuable generating assets, claim that these assets are effectively worth little through exaggerated stranded cost claims, and recover an additional $1.2 billion of stranded costs that do not exist.

The OCA agrees with Commissioner Brownell's June 26, 1998 Motion concerning West Penn Power's Petition for Reconsideration. As with West Penn, the issues raised by PP&L have been exhaustively litigated in the course of the restructuring proceeding. Repetition here serves no purpose and does not rise to the level necessary for a grant of reconsideration.

The OCA also submits that there is no basis to change the starting rate for unbundling, the sales figures assumed as a starting point for the recovery of stranded costs, the transmission and distribution rate, or provide a tracker for the recovery of nuclear decommissioning expenses.

The Company has also failed to justify the reversal of the Commission's application of the January 1, 1999 rate reduction arising out of PP&L's 1994 base rate case, and has failed to show that the Commission's treatment of its generation division should be reconsidered.

The OCA agrees that there appears to be transposition errors in the Commission's calculation of certain of its shopping credits in Attachment A of its June 15, 1998 Order, and that Appendix A of that Order used an incorrect CTC amortization rate. These issues however, can be addressed in the compliance filing.

In support of its position, the OCA respectfully submits the following.

B. Reconsideration

1. There Is No Need To Reconsider The Commission's Susquehanna Depreciation Determination.

PP&L, at pages 8-13 of its Petition, asks the Commission to reconsider and reverse the Commission's decision reducing the revenue requirement of each year's recoverable CTC by $70 million to use the savings to mitigate stranded costs and ensure that customers receive the benefit of the savings. PP&L at 26. The $70 million annual amount results from PP&L's 1994 base rate case, in which the Commission approved PP&L's proposal to increase depreciation beyond what it otherwise would have been and then to switch Susquehanna station depreciation in 1999 from the modified sinking fund method to straight line depreciation. This approval had the effect of reducing the annual depreciation expense for Susquehanna by $70 million. The 1994 rate case order required PP&L to reduce base rates by $70 million in 1999 to reflect the reduced annual depreciation expense. See 85 Pa. PUC 306, 354-356(1995); PP&L at 25. The OCA submits that the Commission's decision is appropriate and should not be reversed.

In support of its request, PP&L raises several arguments that it raised in its briefs in the case. These arguments are that the scheduled January 1, 1999 reduction of the bundled regulated rate is no longer appropriate because of the transition to competition and the rate caps under the Act (PP&L Petition at ¶'s 25, 26 and 29), as well as the prior ability of PP&L to file new rate cases requesting rate increases for other increased expenses. (PP&L Petition ¶'s 26 and 27). The Commission directly rejected these arguments. PP&L at 25. Thus, these arguments within PP&L's request for reconsideration fail to meet the Duick standards, which prohibit by a second motion the review and reconsideration of the same questions which were earlier specifically considered and

decided against them by the Commission.

The balance of PP&L's argument alleges that it was inappropriate to apply a mitigation adjustment to PP&L given its past mitigation efforts and its level of current rates. PP&L also opines that the adjustment is related to cost of service ratemaking principles, and it is contrary to the Act to impose on PP&L a continuation of rate regulation for generation when the generation market will be competitive with unregulated generation rates. PP&L Petition at 9, 10-11. The OCA submits that PP&L's arguments are erroneous.

As the Commission noted in its Order in this case, the $70 million annual reduction at issue here is based upon the requirement from the 1994 rate case that PP&L reduce rates in 1999. No other electric utility in Pennsylvania was under such a requirement to reduce its base rates. Thus, contrary to PP&L's portrayal, the Commission did not single out PP&L for singular treatment. Rather the Commission appropriately considered PP&L's obligation in setting just and reasonable rates under the Act.[1]

In fact, it is precisely the genesis of this adjustment that makes it required under the Act. Despite PP&L's assertion that it is contrary to the Act to impose on PP&L this "last vestige" of regulation of generation rates, the Act requires the Commission's treatment. Section 2803 of the Act, 66 Pa. C.S. § 2803, defines stranded costs as follows:

> An electric utility's known and measurable net electric generation - related costs, determined on a net present value basis over the life of

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[1] It is noteworthy that PP&L itself in this case recognized the mitigating impact of the dollars in question by proposing to use the $70 million to accelerate the amortization of regulatory assets and NUG stranded costs. PP&L at 25. While this treatment would not give consumers the necessary effect of a $70 million annual rate reduction, PP&L now in its Petition has apparently dropped this proposal since it undermines its arguments against any mitigation.

> the asset or liability as part of its restructuring plan, which traditionally would be recoverable under a regulated environment but which may not be recoverable in a competitive electric generation market . . . (Emphasis supplied).

The $70 million annual rate reduction beginning in 1999 arising out of the 1994 base rate case would have been flowed through to ratepayers under traditional regulation. Thus, it is not eligible for stranded cost recovery as the Commission has correctly ruled here. As the Commission recognized, in order to meet its duty under the Act in adopting a methodology that recovers a just and reasonable level of stranded costs, it was necessary to give consumers the full benefit of the generation expense adjustment. PP&L at 25-26.

Nor is the Commission's decision impacted by PP&L's alleged unfairness argument because it loses the ability to offset the rate reduction with a demonstrated need for increases in rates to cover increases in other costs. PP&L Petition at 13. First, PP&L at the time of the 1994 case never explicitly tied the 1999 rate reduction to any agreement to raise rates to cover increases in other costs. Second, the OCA's stranded cost analysis in this case specifically reflected escalated fuel expense, O&M expense, etc. in the future. OCA Main Brief at 29-38. Thus, future increases in generation-related expenses are already accounted for in the OCA's margin analysis adopted by the Commission.

The OCA submits that PP&L's request must be denied.

2. PP&L's Requested Reconsideration Of The Commission's Market Value Determination Fails To Meet The Standards For Reconsideration.

PP&L requests in its Petition that the Commission increase the amount of stranded costs that PP&L will be allowed to recover by "correcting certain errors" in its order that overstate

the market value of PP&L's generating assets. PP&L Petition at 1. The OCA submits that the Commission has made no errors in this portion of its Order, and that PP&L's request is based simply upon the presentation of identical arguments raised below relative to three issues, which does not meet the Duick standards for reconsideration, and the improper raising of a fourth issue, based upon no record evidence, for the first time in its current Petition. The Commission must reject PP&L's request.

Duick, as noted earlier, establishes the clear standard that petitions for reconsideration must properly raise new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Duick also imparts the tenet that parties cannot be permitted in reconsideration to raise the same questions which were specifically considered and decided against them in the original order. Duick at 559.

PP&L has requested reconsideration of three elements of the generation asset market value determination of its units based upon the identical arguments raised in its Main Brief in this case. These elements are the treatment of dual fuel generating units, energy imports, and the divergence of fuel prices within the DRI forecast. These elements are postulated to carry certain values under an asset valuation methodology from Table D of PP&L's Main Brief. PP&L Petition at 14-16.

The arguments raised by PP&L are identical to those raised in its Main Brief. These arguments relative to dual fuel generating units are at PP&L M.B. at 59. The arguments relative to energy imports are at PP&L M.B. at 60. The arguments relative to the divergence of fuel type price estimates are at PP&L M.B. at 71-74. The OCA submits that PP&L's argument fails to meet the Duick standards for reconsideration. Even if they did, the Commission properly rejected them on

the basis of the discussion at pages 12-14 and 27-29 of the OCA's Reply Brief.

The OCA agrees with Commissioner Brownell's sentiments expressed in her June 26, 1998 motion in Petition for Reconsideration, Recision or Amendment of West Penn Power Company, Docket No. R-00973981 (1998), in which she stated with reference to the Duick standards:

> West Penn's Petition fails on all counts. ... These issues have been exhaustively litigated in the course of the restructuring proceeding. Repetition here serves no purpose and does not rise to the level necessary for a grant of reconsideration.

Slip op. at 2.

With regard to PP&L's fourth alleged error, the OCA preliminarily notes once again PP&L's penchant for submitting non-record calculations. As the OCA noted at pages 24-26 of its Reply Brief, PP&L for the first time in its Main Brief presented a bevy of calculated adjustments to derive a value under the asset valuation methodology for a laundry list of alleged errors in the OCA's analysis. PP&L had to include unexplained miscellaneous adjustments to allow the alleged reconciliation of the asset valuation methodology to equal the $4.499 billion stranded cost result of PP&L's revenue requirements methodology. See PP&L Main Brief, Table B at 1, Table D at 1.[2] As the OCA noted, the calculation of the adjustments has no record support since PP&L chose not to present these calculations during the trial of the case. These calculations include the dollar values for the three errors just discussed.

PP&L continues this approach by inappropriately arguing an entirely new adjustment

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[2] Based upon the rate cap, PP&L estimated that it could collect $4.026 billion of stranded costs. See PP&L Main Brief at 5, Table E.

for the first time in its Petition, once again with a value for the alleged understatement of PP&L's stranded costs that is not only not in the record, but is absent from Table D of its Main Brief.

The value of the alleged errors in the Commission's determination of the market value of PP&L's generation assets associated with dual fuel generating units, energy imports and fuel price differential is $615.751 million. Combined with the Commission's allowance of $2.865 billion, PP&L's stranded cost recovery level under its proposals would be $3.481 billion. PP&L in its fourth alleged error now for the first time argues that the Commission improperly applied a discount rate based on a regulated utility rate of return to determine the net present value of PP&L's future unregulated after-tax margins from the sale of electric generation. PP&L Petition at 16. PP&L now asserts that it is inconsistent and inappropriate to use a regulated utility return to discount future unregulated after-tax margins. Id. at 17. PP&L then applies an unstated future equity return based upon a competitive market.[3] This application results in a purported error of $600 million in the Commission's determination, which once again places PP&L in the position of requesting $4.081 billion in stranded cost recovery, or a slightly greater amount than it alleged it could recover in its Main Brief.

The OCA submits that this approach to the case cannot be tolerated by the Commission. The fourth error alleged by PP&L does not meet the Duick standards for reconsideration. While it may be charitably classified as a new and novel argument, it is not properly raised since it has no record support.

Not only does it fail to meet the Duick standards, but PP&L's argument is without

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[3] PP&L, in arguing this new iteration of its presentation, cites to an OCA response to a PP&L interrogatory that is, once again, not in the record. PP&L Petition at 18.

merit and diametrically opposed to the presentation it presented in Table D of its Main Brief. That Table, whose purpose was to develop a "reconciliation" of the asset valuation methodology, contained an adjustment of $135 million to reflect a discount rate including an 11.5% return on common equity advocated by PP&L in the case. PP&L Main Brief, Table D at 1, 4. The application of that discount rate to regulatory assets and NUG contracts acted to reduce stranded costs by $20.6 million. Id., Table D at 1, 5, 6. Thus, while PP&L made a passing reference at page 97 of its Main Brief to rates of return in a competitive market, it did so in arguing for its proffered 11.5% cost of equity. Clearly, its new $600 million adjustment is based upon an equity cost far in excess of this figure.

The OCA submits that PP&L's alleged error is unacceptable. It fails the Duick standards, it represents a position contrary to its own position during the case, and it continues a trend of inappropriately relying on non-record evidence and support.

3. The Company's Petition For Reconsideration Regarding Code of Conduct Fails To Raise Any Novel Issues Warranting Reconsideration Of The Commission's Order.

At page 19 of its Petition, the Company requests that the Commission reconsider its requirement that transactions between PP&L (as an electric distribution company or "EDC") and its generation division be treated as affiliate interests under Chapter 21 of the Public Utility Code. The Company asserts that such a requirement was not proposed by any party to the proceeding and, as a result, PP&L has had no opportunity to review or respond to such a requirement. PP&L submits that such a lack of notice, review and adequate response time constitute a violation of its procedural due process rights. The Company also asserts that the Commission's requirement will create an unfair "playing field" in favor of other electric generation suppliers while harming its last resort

customers. However, as explained below, the Commission was compelled to mandate such a requirement (and any similar to it) due to PP&L's insistence -- alone among the Pennsylvania utilities -- to continue its EDC and generation functions within the same corporate structure.

First of all, PP&L's due process rights were not violated in any form or fashion. PP&L was fully aware of other parties' concerns with the Company's ability to conduct its EDC and generation functions in an equitable fashion. These concerns are a part of the official record of these proceedings, therefore, the Company was on notice of this issue. To argue that the requirement by the Commission has deprived the Company of due process rights is without merit. In its Order, the Commission stated that:

> We find PP&L's proposed Code of Conduct to be inadequate...We agree with the comments of several parties that, given its organizational structure, PP&L will avoid non-comparable treatment of its competitive division only with great difficulty. PP&L must do so nonetheless. Certainly, the Commission cannot soften the standards that are applicable to other EGSs and EDCs because of the organizational form that PP&L has chosen.

Order at 120. (emphasis added).

The OCA submits that the Commission was correct to mandate such a requirement in light of PP&L's desire to operate as two divisions within the same corporation rather than creating a separate affiliate. As set forth in the testimony of OCA witness Barbara Alexander, by proposing that its distribution and generation/sales businesses operate within the same corporate structure, the Company is setting the stage for potential cross-subsidies and unfair trade practices. OCA St. 5 at 50. Throughout this proceeding, the OCA has continued to argue that certain additional provisions to the Code of Conduct were necessary to ensure that PP&L's EDC and generation functions are kept separate and operated in a fashion which does not harm competitive electric generation

suppliers in the Commonwealth. *See* OCA M.B. at 106-108. As stated by the Commission in its Order, many other parties also raised this issue. For instance, all but 14 pages of Enron witness Michael D. Dirmeier's 51-page Direct Testimony were devoted to this issue. Consequently, PP&L was fully aware of this issue and the Commission's action mandating that transactions between PP&L (as an EDC) and its generation division be subject to Chapter 21 of the Public Utility Code was reasonable and appropriate in light of the record evidence.

PP&L also argues that the Act does not specifically authorize the Commission to expand the scope of Chapter 21. Petition at 21. The OCA submits, however, that the Act contains no language which limits the Commission's authority. Indeed, the Act *requires* the Commission to ensure a workably competitive market. This attempt to handcuff the Commission as the Commonwealth moves towards retail access is meritless and should be rejected.

The Company's arguments for reconsideration of the Commission's Order regarding Code of Conduct should be rejected.

C. Corrections

1. Incorrect Starting Rate

PP&L at pages 5-6 of its Petition submits that the Commission adopted an incorrect starting average bundled rate of 7.21¢ per kWh in calculating the unbundled components of PP&L's rates after restructuring. It proposed the use of a 7.42¢ per kWh system average bundled rate at January 1, 1999, after correction for sales figures also sought by the Company.

While PP&L may be correct that the 7.21¢ per kWh figure is not the correct system average bundled rate to use since it was PP&L's system average bundled rate in 1995, the gravamen of PP&L's requested correction is unclear.

Section 2804(4) of the Act establishes rate caps at the level of the total charges to customers that have been approved by the Commission for each service as of the effective date of the Act, or January 1, 1997. These charges, contained in the tariffs, are the rate caps. The OCA presented schedules with a system average bundled rate for illustrative purposes in the case for purposes of a more easily understandable presentation. See OCA Exh. LS-11-R. PP&L's proposal in this case never presented a system average bundled rate.

PP&L's requested correction states that the most logical and consistent starting point for rate unbundling would be the system average bundled rate at January 1, 1999. As noted, that figure is purported to be 7.42¢ kWh. PP&L Petition at 6. If PP&L is requesting that this figure be used as a basis of restructuring rates for unbundling purposes, then PP&L's correction is violative of the actual customer rate cap provisions of the Act. If PP&L's request is that a different system average unbundled rate be used for illustrative purposes only, then that rate, though based upon a period beyond January 1, 1997, should be limited to illustration.

The OCA submits that the Commission should explicitly state that the rate cap provisions of the Act for each customer class are clear, and that illustrative system average rates do not change the appropriate tariffed rates for unbundled rate cap purposes. Tariffs have to be unbundled as they existed at January 1, 1997 into their component parts.

2. Incorrect Sales Figures

PP&L also opines that the Commission erred by calculating the CTC based upon annual 1999 sales of 33,090,377,000 kWh as a starting point. PP&L Petition at 6-7. This figure was provided by PP&L to OCA witness Lee Smith and employed in OCA Sch. LS-11-R.

PP&L's requested correction to 33,108,701, 350 kWh (PP&L Peititon, Attachment

1) is based upon the alleged fact that the PP&L interrogatory response relied upon by OCA witness Smith failed to include sales under PP&L's standby service rate and corrections to certain street and area lighting rate schedules.

The OCA submits that there is no basis for this correction. PP&L never raised this issue during the case, even though the sales figure was in the OCA's direct and rebuttal presentations. PP&L never rebutted the sales figure on the record. Thus, PP&L's correction is post record and inappropriate.

In addition, the correction is unnecessary. The Commission at page 79 of its Order in this case appropriately concluded that the Act requires an annual reconciliation proceeding pursuant to Section 1307(e) of the Code based upon actual sales. Thus, PP&L's sales levels can be addressed in the reconciliation.

3. Incorrect T & D Rates

PP&L seeks correction of the Commission's adopted 1.70¢ per kWh transmission and distribution charge based upon its postulation that OCA witness Lee Smith erroneously assumed in calculating the T&D unbundled rate, that the effect of PP&L's proposed depreciation reserve swap was accounted for in PP&L's average transmission and distribution rates. PP&L Petition at 7. The OCA submits that the requested correction should not be made since the only record evidence supports witness Smith's calculation.

As with system usage, PP&L failed throughout the proceeding to present on the record any evidence that OCA witness Smith's reversal of the depreciation swap on OCA Exh. LS-11-R was based upon the erroneous assumption that the efffect of PP&L's proposed T&D depreciation reserve swap was accounted for in PP&L's average transmission and distribution rates.

PP&L's witnesses testified in support of the swap, and Exhibits JMK 1 at 58 and JMK 2 at 7 cited by PP&L as support for its argument do not evidence that the adjustment had not been made. In rebuttal, PP&L's witness did not testify that PP&L had not accounted for the proposed depreciation reserve swap in its average T&D rates.

Given this, the OCA submits that there is no record evidence supporting the error cited by PP&L.

4. Incorrect Shopping Credits

PP&L suggests that the Commission's calculation of the shopping credits in Attachment A to its Order appears to be inconsistent. The OCA has reviewed this attachment and believes that the Commission may have made transpositional errors in the years beginning in 2002 on that sheet. These can be corrected in the compliance phase.

5. Incorrect Amoritization Rate

The OCA agrees that the Commission appears to have applied the incorrect CTC amortization rate in its Appendix due to a transpositional error. This issue can be addressed in the compliance phase.

D. Clarification

At pages 18 and 19 of its Petition, PP&L states that the Commission in its June 15, 1998 Order approved PP&L's proposal to recover nuclear decommissioning expense as a per kilowatt hour distribution charge for the duration of the useful lives of the nuclear facilities. PP&L seeks clarification of whether PP&L's collection of nuclear decommissioning expenses should include a "tracker."

The OCA submits that PP&L may have misread the Commission's Order. As the

Commission noted, the OCA in this case recommended that the established reasonable level of nuclear decommissioning costs should be recovered as part of the CTC and recovered over the CTC period established by the Commission. The OCA calculated its recommended CTC allowing these costs to be recovered over a seven year CTC period. OCA M.B. at 58-59. The Commission in its June 15, 1998 Order agreed that the stranded cost methodology is appropriate as opposed to a distribution charge over the life of the facilities. PP&L at 68-69.[4] Thus, PP&L is in error when it interprets the Commission's Order as approving its requested distribution charge over the life of the facilities.

The OCA submits that the Commission should make clear that the use of the stranded cost methodology requires recovery through the CTC over its determined CTC period. To the extent that PP&L's request in this case is interpreted as a request to reconsider the Commission's decision, PP&L's arguments for a distribution charge recovery are identical to those rejected by the Commission in its Order. See PP&L M.B. at 109-113.

E. Expedited Consideration or Supersedeas

PP&L has requested that the Commission address and resolve the issues raised in its Petition as expeditiously as possible. The OCA does not disagree that these issues should be resolved quickly so that competition may proceed as envisioned.

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[4] PP&L's confusion may arise from what may be a typographical error at page 69 of the Order. The Commission earlier noted that the OCA and PPLICA opposed PP&L's annuity method, and proposed that it is preferable for nuclear decommissioning to end upon the conclusion of the transition period. Id. at 68-69. It then stated that it agreed with the OCA and PP&L that the stranded cost methodology is appropriate and adopted the OCA's calculation. Id. at 69. The Commission may have meant PPLICA versus PP&L in this statement. Regardless of whether the inclusion of PP&L is a typographical error, the recommended stranded cost methodology for recovery of these costs is not a distribution charge over the life of the asset.

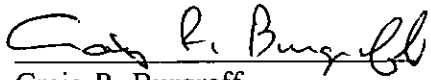
However, PP&L also requests that, if the Commission does not enter an order taking final action on its Petition by July 9, 1998, the Commission issue an order temporarily staying the June 15, 1998 Order pending the Commission's consideration of the instant Petition. The OCA submits that such a stay is unnecessary and should not be granted.

PP&L has failed to allege, let alone demonstrate, that it meets the requirements for a stay. It has failed to show that it has a likelihood to succeed on the merits, that the failure to grant a stay will result in irreparable harm to the Company or that the failure to grant a stay will result in harm to the public. The OCA submits that the Commssion should expeditiously reject PP&L's request for reconsideration and take such other action as noted in this Answer, and direct a compliance filing from PP&L. A stay in this proceeding is simply adverse to the public interest in an orderly transition to electric competition.

III. CONCLUSION

For all of the above reasons, the OCA submits that the Company's Petition should be denied except for the matters sought to be corrected detailed at page 16 above.

Respectfully submitted,



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Dated: July 2, 1998
47350

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'sAnswer of the Office of Consumer Advocate to the Petition of PP&L, Inc. For Reconsideration, Clarification, Amendment, Correction, and Supersedeas of the Order Entered June 15, 1998 and for Expedited Consideration , 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 2nd day of June, 1998.

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

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