

James J. McNulty, Esquire

- 2 -

November 22, 2000

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

Very truly yours,

A handwritten signature in cursive script that reads "Paul E. Russell". The signature is written in black ink and is positioned above the printed name.

Paul E. Russell

Enclosures

cc: The Honorable John M. Quain, Chairman
The Honorable Robert K. Bloom, Vice Chairman
The Honorable Nora Mead Brownell
The Honorable Aaron Wilson, Jr.
The Honorable Terrance J. Fitzpatrick
Bohdan R. Pankiw, Esquire
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

NOV 22 2000

PA PUBLIC UTILITY COMMISSION
PROTHONOTARY'S OFFICE

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

CERTIFICATION OF SERVICE

ORIGINAL

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

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Dated: November 22, 2000



Paul E. Russell

RECEIVED

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

NOV 22 2000

PA PUBLIC UTILITY COMMISSION
PROTHONOTARY'S OFFICE

Application of Pennsylvania Power &
Light Company For Approval of Its
Restructuring Plan Under Section 2806
of the Public Utility Code

Docket No. R-00973954

ORIGINAL

PETITION FOR CLARIFICATION
REGARDING PUC APPROVAL
FOR TRANSFER OF GENERATING ASSETS

PPL Electric Utilities Corporation ("PPL"), by its counsel, requests that the Pennsylvania Public Utility Commission (the "Commission") issue an Order clarifying the terms and conditions of PPL's transfer of its generating assets and facilities to unregulated affiliates. In support thereof, PPL represents as follows:

1. On August 27, 1998, the Commission entered a Final Order approving a Joint Petition for Full Settlement of PP&L's Restructuring Plan And Related Court Proceedings, at the above-captioned docket ("Joint Petition"). The Joint Petition, inter alia, authorized PPL to transfer its generating assets and related facilities to third parties, including affiliates, at book value. The Joint Petition also provided for the recovery of \$128,989,000 in stranded costs (on a net present value basis) associated with decommissioning the Susquehanna Steam Electric Station ("Susquehanna"). Joint Petition, p. 21.

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2. On December 7, 1999, PPL filed a "Letter Request" asking the Commission to issue Certificates of Public Convenience evidencing its prior approval of the above-referenced transfer of generating assets to PPL affiliates. As set forth in the Letter Request, PPL proposed to transfer the Susquehanna plant to PPL Susquehanna LLC, a subsidiary of PPL Generation, Inc. As shown on the schedule of assets attached to the December 7 "Letter Request," this transfer included PPL's nuclear decommissioning trust funds.¹ These funds consist of past amounts accumulated to fund decommissioning of the Susquehanna plant upon its retirement. Also attached to the Letter Request was a Purchase Power Agreement under which PPL would purchase energy to meet its provider of last resort obligation from its affiliate, PPL EnergyPlus LLC. That agreement included a provision requiring PPL to pay to PPL EnergyPlus amounts collected in the Competitive Transaction Charge ("CTC") for decommissioning Susquehanna. These amounts, in turn, will be transferred to PPL Susquehanna LLC, the new owner of Susquehanna, and deposited into the nuclear decommissioning trust funds.

3. On April 13, 2000, the Commission issued the requested Certificates of Public Convenience and granted other approvals associated with the transfer of PPL's generating assets. Effective July 1, 2000, PPL transferred its generating assets to its affiliates.

4. In addition to the Commission approvals referenced above, transfer of PPL's generating facilities required several other regulatory approvals,

¹ Separate trust funds are maintained for each Susquehanna unit.

including filings with the Federal Energy Regulatory Commission, Nuclear Regulatory Commission, Securities and Exchange Commission and the Internal Revenue Service ("IRS").

5. With respect to the IRS, amounts contributed to a qualified nuclear decommissioning trust fund are currently tax deductible if certain requirements are met. In the past, PPL, as a regulated, integrated public utility, satisfied these requirements, and amounts contributed to its nuclear decommissioning trust funds historically have been tax deductible on a current basis. The tax deductible nature of these contributions has been reflected in all previous calculations of the amounts needed to decommission Susquehanna, including prior PPL base rate cases and PPL's electric restructuring proceeding.

6. The transfer of Susquehanna and the nuclear decommissioning trust funds to an unregulated affiliate of PPL created some uncertainty as to the continued current tax deductibility of amounts paid into the nuclear decommissioning trust fund. PPL therefore sought a private letter ruling from the IRS to confirm the continued current tax deductibility of these payments.

7. On November 3, 2000, the IRS issued the private letter ruling. Subject to the condition discussed below, the IRS granted PPL's request and found:

- That the qualified nuclear decommissioning trust funds will not be disqualified upon the transfer of Susquehanna and the funds to PPL Susquehanna LLC; and
- That PPL Susquehanna LLC may make deductible contributions to its qualified nuclear decommissioning funds consisting of

decommissioning costs collected by PPL and transferred to PPL
Susquehanna LLC.

The IRS expressly stated that these rulings are contingent upon the Commission issuing a clarifying order that provides as follows:

"In connection with the July 1, 2000 PPL corporate realignment and transfer of generation facilities, PPL Electric Utilities Corporation is directed to take appropriate action to provide that amounts recovered through the Competitive Transition Charge for nuclear decommissioning are transferred through to the owner of the Susquehanna Steam Electric Station, as long as said owner is an entity owned and controlled directly or indirectly by PPL Corporation."

8. To satisfy the IRS condition, PPL seeks an order from the Commission directing that amounts collected by PPL through the CTC for nuclear decommissioning be transferred through to the owner of Susquehanna, currently PPL Susquehanna LLC. For the reasons set forth below, this request is reasonable and in the public interest.

9. First, the requested order simply clarifies and confirms the intent of PPL and the Commission that CTC amounts collected for nuclear decommissioning be transferred to the owner of Susquehanna, deposited into the nuclear decommissioning trust funds, and used for their intended purpose. The December 7 Letter Request, which was approved by the Commission, specifically references transfer of the nuclear decommissioning trust funds to PPL Susquehanna LLC. The restructuring settlement specifically identifies \$128.989 million for nuclear decommissioning

funds in the stranded cost allowance to be collected through the CTC. The clear assumption of the settlement was that amounts collected in the CTC for nuclear decommissioning would be deposited into the nuclear decommissioning trust funds and used for that purpose. This is in accordance with long-established Commission practice, dating back to the 1980s, under which PPL has deposited amounts collected from ratepayers for nuclear decommissioning into a segregated trust account. See Pa. P.U.C. v. Pennsylvania Power & Light Co., 57 Pa. PUC 559, 604 (1983). The requested clarification simply confirms prior Commission practice and the understanding of the parties as to the procedures to be employed in connection with the restructuring settlement and associated generating asset transfer.

10. Second, approval of the requested clarification will help assure adequate funding for decommissioning Susquehanna. Without the requested clarification, amounts paid into the nuclear decommissioning trust funds will not be tax deductible on a current basis. If this occurs, 35 cents of each dollar collected through the CTC for decommissioning would be paid to the federal government and not into the nuclear decommissioning trust funds. In addition, the federal and state taxing authorities impose different tax rates on earnings of nuclear decommissioning trusts depending on whether the trust meets the criteria in the federal Internal Revenue Code. Without the requested order, the nuclear decommissioning trusts will pay 21 cents more in federal and state taxes on each dollar of earnings than they would with the requested order. Thus, without the requested order fewer funds will be available for contribution to the nuclear decommissioning trusts and earnings on the trusts will accumulate at a lower rate because the tax expense of the trusts will be increased.

The Commission has consistently recognized the need for adequate and appropriate advanced funding of nuclear decommissioning costs. Approval of the requested clarification will help achieve this goal.

WHEREFORE, PPL requests that the Commission issue an Order clarifying that amounts collected in the CTC for nuclear decommissioning are to be paid through to the owner of the Susquehanna plant. A proposed form of order is attached.

Respectfully submitted,



Paul E. Russell
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215-963-5448

Counsel for PPL Electric Utilities
Corporation

Dated: November 22, 2000
at Allentown, Pennsylvania

PROPOSED ORDER

Upon full consideration of the PPL Petition for Clarification, we find that its approval is in the public interest, THEREFORE IT IS ORDERED:

1. That the Petition for Clarification of PPL Electric Utilities Corporation (PPL) is hereby granted.

2. That in connection with the July 1, 2000 PPL corporate realignment and transfer of generation facilities, PPL Electric Utilities Corporation is directed to take appropriate action to provide that amounts recovered through the Competitive Transition Charge for nuclear decommissioning are transferred through to the owner of the Susquehanna Steam Electric Station, as long as said owner is an entity owned and controlled directly or indirectly by PPL Corporation.

3. That a copy of this Order shall be served on all active parties in PPL's restructuring proceeding at Docket No. R-00973954.

BY THE COMMISSION,

James J. McNulty
Secretary

(SEAL)

Order Adopted:

Order Entered:

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November 30, 2000

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SECRETARY'S BUREAU

James J. McNulty, Esquire
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265

DOCUMENT
FOLDER

Re:

**Response of Eric Epstein, Pro Se, to the Petition of PPL
Electric Utility Corporation ("PPL") for Clarification
Regarding Public Utilities Commission ("PUC")
Approval of Transfer of Generating Assets
Pursuant to 52 Pa. Code § 1.11;
Docket No. R-00973954-0**

Dear Secretary McNulty:

1) Mr. Epstein was a signatory to the JOINT PETITION FOR FULL SETTLEMENT OF PP&L's INC's RESTRUCTURING PLAN AND RELATED COURT PROCEEDINGS (August 12, 1998);

2) Epstein was also a sponsor of the Nuclear Decommissioning provision contained in the Negotiated Settlement (D. 1 . **Nuclear Decommissioning**, Page. 21, Lines, 1-8);

3) Eric Joseph Epstein was actively in the Petition of PP&L, Inc., for Permission to Defer, For Future Recovery; A Portion of Its Transition Charges, or In The Alternative, To Exceed the Rate Caps Pursuant to 66 Pa. C.S. § 2804(4)iii(G); Docket No: P-00991780;

4) Mr. Epstein was also an active party in the Petition of PPL, Inc. Petition asking for Issuance of Determination Under Section 329(c) of PUCHA, 15 USC Section 79z-5a9(c); Docket No. P-00991787;

5) PPL's Petition for Clarification is vague and lacks factual support data;

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6) PPL's Motion for Clarification should be postponed until the following outstanding issues are resolved:

- 6a) PPL should provide information explaining if the 4% of decommissioning costs borne by PPL shareholders (1) are included in the "private letter ruling from the IRS" on November 3, 2000; (PPL, Petition for Clarification, Pages 3-4; . 6., 7 & 8.);

- 6b) PPL should provide information explaining if the Allegheny Electric Cooperative's 10% share of nuclear decommissioning is also included in the "private letter ruling from the IRS"; (PPL, Petition for Clarification, Pages 3-4; . 6., 7 & 8.);

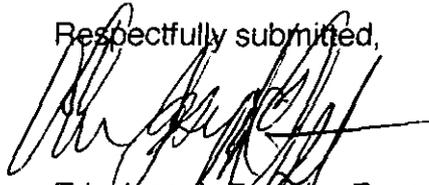
- 6c) PPL should provide a copy of the "private letter ruling from the IRS" to all parties involved in this proceeding;

- 6d) PPL and John R. Biggar, should, as attested to in Mr. Biggar's affidavit, provide the following documentation to all parties involved in this proceeding:

- All data relating to the Company's assertion that "...35 cents of each dollar collected through the CTC for decommissioning would be paid to the federal government and not the the nuclear trust funds" (PPL, Petition for Clarification, Pages 5-6, 10.); (Please refer to **Instructions**);

- 6e) PPL should provide data, including legal precedent and case law, that supports the Company's assertions that Internal Revenue Service and Atomic Energy Act "rulings" are "conditioned" on "clarifying orders from state agencies. (2) (Please refer to **Instructions**);

Respectfully submitted,



Eric Joseph Epstein, *Pro se*
4100 Hillside Road
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¹ JOINT PETITION FOR FULL SETTLEMENT OF PP&L's INC's RESTRUCTURING PLAN AND RELATED COURT PROCEEDINGS (August 12 1998) D. 1 . **Nuclear Decommissioning**, (Page. 21, Lines, 1-8).

² "The IRS expressly stated that these rulings are contingent upon the Commission issuing a clarifying order..."; (PPL, Petition for Clarification, Pages 3-4, Paragraph 7).

INSTRUCTIONS

- a)** These interrogatories shall be deemed to be continuing. The Respondent is obliged to change, supplement, and correct all answers to interrogatories to conform to available information, including such information as first becomes available to the Respondent after the answers hereto are filed;
- b)** The answers provided should first restate the question asked and identify person(s) supplying the information;
- c)** All information is to be divulged that is within the knowledge, possession, control or custody of the Respondent or may be reasonably ascertained thereby. The term "PP&L", "PPL," "PPL Electric Utility Corporation", "the Company", or "you", as used herein includes PPL Electric Utility Corporation, its attorneys, agents, employees, or other representatives;
- d)** As used herein the word "document" or "work paper" includes, but is not limited to, the original and all copies (regardless of origin and whether or not including additional writing therein or attached thereto) of memoranda, reports, books, manuals, instructions, directives, records, forms, notes, letters, notices, confirmations, telegrams, pamphlets, notations of any sort concerning conversations, telephone calls, meetings or other communications, bulletins, transcripts, diaries, analyses, summaries, correspondence and enclosures, circulars, opinions, studies, investigations, questionnaires and surveys, worksheets, and all drafts, preliminary versions, alterations, modifications, revisions, changes, amendments and written comments concerning the foregoing, in whatever form, stored or contained in or on whatever medium including computerized memory or magnetic media.

**Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATION OF SERVICE

I hereby certify that I have executed a copy of the foregoing documents in the above mentioned proceeding in accordance with the requirements of Section 1.54, to the following active parties.

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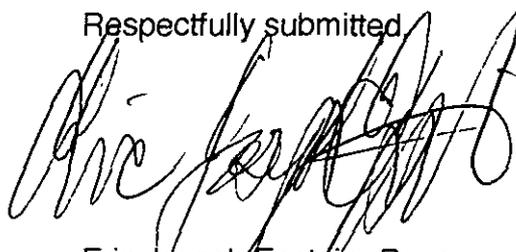
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Respectfully submitted



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Harrisburg, PA 17112

DATE: November 30, 2000

DATE: December 12, 2000

SUBJECT: R-00973954

TO: Law Bureau

FROM: James J. McNulty, Secretary

LAF

Application of Pennsylvania Power & Light Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code

Attached is a copy of a Petition for Clarification Regarding PUC Approval for Transfer of Generating Assets, filed by PPL Electric Utilities Corporation in connection with the above docketed proceeding.

This matter is assigned to your Bureau for appropriate action.

Attachment

cc: FUS
OTS

laf

DOCKETED
DEC 13 2000

**DOCUMENT
FOLDER**