

**DOCKETE**

**ORIGINAL**

Before The  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JAN 11 2000



Application(s) of PP&L, Inc., for Issuance of : Application Docket Nos.  
Certain Certificates, Certain Determinations, :  
and Certain Approvals Relating to the : A-\_\_\_\_\_  
Transfer of its "Competitive" Electric : and  
Business : R-00973954

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PROTEST OF ALLEGHENY ELECTRIC COOPERATIVE,

1. PP&L, Inc. ("PP&L") has made numerous filings and submissions to the Pennsylvania Public Utility Commission ("Commission")<sup>1</sup> on or about December 7, 1999, seeking, through a series of intermediate transactions to reorganize its corporate structure and to transfer PP&L's "competitive" electric power business, including its generation assets, and power marketing organization to indirect subsidiaries (these filings herein are collectively referred to as "Application"). As set forth in paragraph 8 hereof, AEC did not previously agree to the transfer sought therein and reserved all rights to challenge same.

2. Allegheny Electric Cooperative, Inc. ("Allegheny" or "AEC") hereby files this Protest, to the recently filed "Application" of PP&L in the above referenced docket(s).

3. Allegheny's principal place of business is:

212 Locust Street  
P.O. Box 1266  
Harrisburg, PA 17108-1266

4. The names, addresses and telephone numbers of Allegheny's attorneys are:

<sup>1</sup>These filings and submissions have not yet been docketed by the Commission's Secretary's Office. Allegheny, however, would request that all dockets relating to PP&L's reorganization be consolidated.

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5. Allegheny takes retail electric service from PP&L at its headquarters building at 212 Locust Street, Harrisburg, PA 17108. Allegheny's account number is 81890-70002.

6. Additionally, Allegheny has a ten (10) percent undivided ownership interest in The Susquehanna Steam Electric Station ("SSES") which is a portion of the business PP&L proposes to transfer under the Application. Allegheny also owns a 42 mile portion of a 500 kV transmission line which delivers Allegheny's share of the output of SSES to PP&L's interconnection points with the GPU Energy transmission system for ultimate delivery to Allegheny ("SSES Line"), which PP&L

also proposes to transfer by the Application. Allegheny and PP&L also have certain contractual arrangements defining the terms and conditions of their business relationship including, but not limited to, those dealing with SSES and the SSES Line. Allegheny clearly has an immediate, direct and substantial interest in the resolution of PP&L's Application.

7. The aforementioned contractual arrangements contain provisions which directly affect the determination of Allegheny's portion of PP&L capital, operation and maintenance and Administrative and General ("A&G") expenses associated with the operation of SSES and the SSES Line.

8. Allegheny participated as an active party in PP&L's restructuring proceeding at R-00973954 and in the settlement proceeding with respect thereto. Allegheny's right to continued participation in any transfer proceeding was specifically permitted in paragraph L.6 of the Joint Petition for Full Settlement of PP&L, Inc.'s Restructuring Plan at R-00973954. Paragraph L.6 of the Joint Petition which was approved by the Commission provides as follows:

Notwithstanding any other provision of this Joint Petition, Paragraphs L.2 through L.5 shall not apply to PREA/AEC with respect to any asset, property or contract right, in which PREA/AEC has an ownership or contractual interest. This exclusion is not intended to expand in any way PREA/AEC's existing rights nor shall this Joint Petition in any way change or limit PREA/AEC's existing rights.

9. PP&L's Application raises many concerns for Allegheny including, inter alia, the proper allocation of assets and costs among the various subsidiaries as well as among the various generation, transmission, power marketing and distribution functions; the transfer of certain assets to an entity that will no longer be regulated to the same degree; the transfer to entities for which no detail has

been provided other than the organization chart in Attachment A to the December 7, 1999 filing; the transfer to a limited liability company which limited liability company does not afford the same level of technical and financial security as PP&L, Inc. (and which thus may be viewed as far riskier), etc. Further review and examination of the Application and circumstances surrounding the transfer are necessary in order to make sure that Allegheny's rights are preserved and protected and its concerns and those of persons affected by the transfer are addressed. Allegheny has sought, but not yet obtained from PP&L, information on various aspects of the transfer and will continue to develop its position on the matter and the Application as information is obtained from PP&L, and Allegheny reserves the right to amend this Protest accordingly.

10. Additionally, the transaction proposed by PP&L in this proceeding constitutes an amendment to 1) the Tenancy in Common Participation Agreement for SSES between Allegheny Electric Cooperative, Inc., and PP&L, 2) the Operating Agreement, dated March 18, 1977, 3) the Transmission Agreement between PP&L and Allegheny dated March 18, 1977, and 4) various other agreements between PP&L and Allegheny (collectively referred to as "the SSES and SSES Line Agreements"). Moreover, Article XIX (Amendments) of the Operating Agreement requires approval by the Rural Electrification Administration<sup>2</sup> of any proposed amendments to that Agreement.

11. Likewise, Article XXVII (Best Efforts) of the Operating Agreement requires each party to ". . . use all best efforts to obtain and to keep in effect any

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<sup>2</sup>The Rural Electrification Administration is now the Rural Utilities Service ("RUS"), an agency of the United States Department of Agriculture.

and all governmental, regulatory or other authorizations, permits, approvals, licenses, permissions and applications as may be necessary for each party to perform its obligations under this Operating Agreement.”

12. To the best of Allegheny’s knowledge, information and belief, PP&L has made no effort to secure approval as referred to in paragraph 10 from RUS nor has it requested Allegheny to do so. Unless the RUS approves this transaction, the proposed transfer is null and void by the express terms of the Operating Agreement and various other agreements.

13. The March 18, 1977 Participation Agreement specifically provides in Article XLII that while nothing in the Participation Agreement in any way precludes PP&L from unilaterally making an Application to a regulatory agency for any changes in “rates, charges, classifications, or services, or any sale, regulations or contract relating thereto.” . . . “To the extent that PL (PP&L) makes any such filing, AE (Allegheny) shall have the right to intervene in any proceeding involving such a filing by PL and shall have the right to object to any proposed change.” (emphasis added). Identical language affording Allegheny an absolute right to participate in any proceeding is contained in Article XXXI of the March 18, 1977 Transmission Agreement.

14. Allegheny will support a request for approval by the PUC of this transaction if it obtains sufficient evidence and assurance that:

- The surviving entity(s) to which PP&L’s share of SSES and the SSES Line is transferred possesses no less technical and financial resources to properly fulfill its obligations to Allegheny under the SSES & SSES Line Agreement and

assume the obligations contained in the various contractual agreements referenced in Paragraph 10 herein, after such transfer/realignment, as existed prior to such transfer/realignment.

- The transfer of the PP&L assets associated with the Application does not increase Allegheny's responsibilities or liabilities including, but not limited to, those under the SSES and SSES Line Agreements.
- The new corporate structure fairly and adequately accounts for the costs associated with SSES and the SSES Line referenced in paragraph 6 herein.
- The new corporate structure does not increase Allegheny's share of the A&G costs associated with the operation of SSES or the SSES Line.
- PP&L secures all necessary regulatory approvals needed to consummate the proposed transaction including the approval of RUS.
- Any allocations of costs, liabilities and responsibilities, proposed to be done and actually done, are done in a fair and reasonable manner.

WHEREFORE, for all the foregoing reasons, Allegheny respectfully requests that the Pennsylvania Public Utility Commission assign this matter (as consolidated) to the Office of Administrative Law Judge for hearing so that the parties may conduct discovery, obtain all necessary information to address all of Allegheny's concerns, and resolve any disputed factual issues in the public interest.

Respectfully submitted



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## VERIFICATION

I, Richard W. Osborne, hereby verify that I am Vice President of Power Supply and Engineering of Allegheny Electric Cooperative, Inc. ("Allegheny"), that I am authorized to make this verification on behalf of Allegheny, and that the information contained in the foregoing is true and correct to the best of my knowledge, information and belief and I expect to be able to prove the same at a hearing held in this matter. This verification is made subject to the penalties relating to unsworn falsification to authorities as prescribed by 18 Pa.C.S.A. §4904.



Richard W. Osborne, Vice President

Date: December 27, 1999.



## CERTIFICATE OF SERVICE

I hereby certify that I have this 27<sup>th</sup> day of December, 1999, served a true and correct copy of the foregoing Protest of Allegheny Electric Cooperative, Inc. on the persons, listed below in the manner indicated, in accordance with the requirements of Section 1.54 (relating to service by a participant).

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