

ORIGINAL



OFFICE OF CONSUMER ADVOCATE
1425 Strawberry Square
Harrisburg, Pennsylvania 17120

IRWIN A. POPOWSKY
Consumer Advocate

(717) 783-5048

April 14, 1997

KJR
RECEIVED
97 APR 14 PM 4:11
F.A.P.U.C.'S OFFICE
PROTHONOTARY'S OFFICE

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

Re: Pennsylvania Public Utility Commission
v.
Pennsylvania Power and Light Company
(Application for Approval of a Restructuring Plan)
Docket No. R-00973954 *C0001*

Dear Prothonotary McNulty:

Enclosed please find for filing an original and three (3) copies of the Office of Consumer Advocate's Formal Complaint and Public Statement in the above-captioned proceeding.

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

Sincerely,

James A. Mullins
Assistant Consumer Advocate

DOCUMENT
FOLDER

Enclosures

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

41336

ORIGINAL

FORMAL COMPLAINT

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

For Commission Use Only:

COMPLAINT DOCKET NO. R-00473954 REF. # C0001 UTILITY CODE _____

PLEASE PRINT: VS. _____

DOCKETED

APR 21 1997

1. YOUR NAME, ADDRESS AND TELEPHONE NUMBER.

Name Irwin A. Popowsky, Consumer Advocate
Street 1425 Strawberry Square
City Harrisburg State Pennsylvania Zip 17120
County Dauphin Work Telephone-Area Code (717) 783-5048

2. COMPANY YOU ARE COMPLAINING ABOUT.

Name Pennsylvania Power & Light Company

3. WHAT IS YOUR COMPLAINT? (DESCRIBE PROBLEM).

A. On April 1, 1997, Pennsylvania Power & Light Company ("PP&L" or "Company") filed its proposed Restructuring Plan and related Tariffs pursuant to the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. §§ 2801 et seq. In its filing, PP&L proposes that an estimated \$4.6 billion in costs related to its nuclear generation, fossil generation, non-utility generator contracts, and regulatory assets be recognized as stranded or transition costs and be recoverable through future rates.

RECEIVED
APR 14 PM 4:11
P.A.P.U.C. OFFICE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

For Commission Use Only:

DATE FILED / / MONITOR _____ BUREAU _____

**DOCUMENT
FOLDER**

Additionally, PP&L proposes to unbundle its customer rates into three categories: a) a Transmission and Distribution charge, b) a Generation charge, and c) a Competitive Transition Charge. The Company also proposes changes in its operational structure to separate its generation and electricity sales functions from the transmission and distribution function. Other Company proposals include a program to educate consumers regarding retail competition, to make the Company's retail services available as the provider of last resort, and to continue and increase funding for the Company's universal service and energy conservation programs.

- B. PP&L is engaged in the business of furnishing electric service to approximately 1,236,240 electric customers, of which approximately 1,072,000 are residential customers. PP&L furnishes service to communities in Berks, Bucks, Carbon, Chester, Clinton, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, and Snyder Counties.
- C. The Consumer Advocate is empowered to represent the interests of consumers before the Pennsylvania Public Utility Commission, pursuant to Act 161 of the General Assembly, as amended. 71 P.S. §§ 309-1, et seq.
- D. Upon preliminary review of PP&L's Restructuring Plan and Tariff Supplements, the Consumer Advocate submits that the Company's proposal and proposed changes in rates are or may be unjust and unreasonable.
- E. Through its Restructuring Plan, PP&L proposes that future ratepayers pay for costs

which PP&L projects will not be recoverable in a competitive generation market, i.e. the Company's stranded or transition costs. See, e.g. 66 Pa. C.S. §§ 2801, et seq. The Consumer Advocate submits that PP&L's claim for recovery of some or all of its stranded or transition costs may be overestimated, unjust and unreasonable, or otherwise inconsistent with the Public Utility Code. The Consumer Advocate further avers that the Company's efforts to mitigate these costs may be unreasonable and inadequate to justify recovery of all or part of any such stranded or transition costs.

- F. PP&L proposes a new design for rates to reflect the unbundling of the costs of generation service from the transmission and distribution function. Additionally, PP&L's Restructuring Plan identifies a method for recovery of the proposed Competitive Transition Charge. The Consumer Advocate avers that these rate changes may be unlawfully discriminatory and in violation of the prohibition against the shifting of costs associated with the recovery of stranded costs as set forth in Section 2808(a) of the Public Utility Code, 66 Pa. C.S. § 2808(a).
- G. The Consumer Advocate submits that all other elements, procedures, programs and organizational changes proposed by PP&L require scrutiny to ascertain that they are in the public interest and consistent with the promotion of customer choice in the electric generation market. This includes scrutiny of PP&L's proposed universal programs and funding to assure compliance with the goals of Chapter 28 of the Public Utility Code. 66 Pa. C.S. §§ 2801 et seq.
- H. The Consumer Advocate files this complaint to insure that the Commission fully and fairly adjudicates the issues pertaining to whether PP&L's proposed Restructuring

Plan and the resulting rates are just, reasonable, not unduly discriminatory, and otherwise lawful and in the public interest.

4. WHAT DO YOU WANT US TO DO?

The Consumer Advocate respectfully requests that the Public Utility Commission:

- A. Conduct an investigation of PP&L's Restructuring Plan, pursuant to Chapter 28 of the Public Utility Code. 66 Pa. C.S. §§ 2801, et seq.
- B. Hold full evidentiary hearings examining the reasonableness of PP&L's Restructuring Plan;
- C. After providing the public with adequate notice, hold public inputs throughout PP&L's service territory in order to provide customers with an opportunity to be heard on the record;
- D. Deny any change in PP&L's rates which is unjust, unreasonable, unduly discriminatory or inconsistent with the Public Utility Code;
- E. Reject the Company's Restructuring Plan as filed and modify it, as necessary, to serve the public interest and comply with Chapter 28 of the Public Utility Code, 66 Pa. C.S. §§ 2801, et seq.; and

F. Grant such other relief which the Commission may deem to be necessary and proper.

YOU MUST SIGN AND DATE YOUR COMPLAINT.

The information I have placed on this form is true and correct to the best of my knowledge. I understand that I could be punished under Pennsylvania State Law if I purposely give false information.


Signature of complainant

4/14/97
April 14, 1997

YOU DO NOT NEED A LAWYER If you DO have a lawyer PLEASE PRINT the lawyer's name, address and telephone number below.

Lawyer's Name Craig R. Burgraff, Barrett C. Sheridan, James A. Mullins
Office of Consumer Advocate

Street 1425 Strawberry Square

City Harrisburg State PA Zip 17120

Telephone Number-Area Code (717) 783-5048

41356

PUBLIC STATEMENT OF THE CONSUMER ADVOCATE ISSUED IN ACCORDANCE WITH SECTION 904-(e) OF ACT OF APRIL 9, 1929 (P.L. 177, NO. 175), KNOWN AS "THE ADMINISTRATIVE CODE OF 1929", AS AMENDED BY ACT 161 OF 1976 (APPROVED JULY 9, 1976)

Act 161 of the Pennsylvania General Assembly, 71 P.S. § 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers before the Pennsylvania Public Utility Commission ("PUC" or "Commission"). In accordance with Act 161, and for the following reasons, the Consumer Advocate determined to file a Formal Complaint and participate in proceedings before the Commission involving the proposed Restructuring Plan and Tariff Supplements filed by Pennsylvania Power & Light Company ("PP&L" or "Company").

On April 1, 1997, PP&L filed its Restructuring Plan pursuant to the Electricity Generation Customer Choice and Competition Act ("Act"), 66 Pa. C.S. §§ 2801 et seq. In its filing PP&L proposes that an estimated \$4.6 billion in costs related to its nuclear generation, fossil generation, non-utility generator contracts, and regulatory assets be recognized as stranded or transition costs and be recoverable through future rates. Additionally, PP&L proposes to unbundle its customer rates into three categories: a) a Transmission and Distribution charge, b) a Generation charge, and c) a Competitive Transition Charge.

The Consumer Advocate has filed a Formal Complaint in this matter averring that PP&L's Restructuring Plan may result in rates that are unjust and unreasonable. In particular, the Consumer Advocate submits that the Company's claim for recovery of stranded or transition costs may be overestimated or otherwise unjust and unreasonable. In addition, after a preliminary review of the filing, the Consumer Advocate avers that PP&L's proposed design of rates for unbundled service and recovery of any stranded or transition costs may be in violation of the Public Utility Code and contrary to the public interest.

The objective of the Consumer Advocate in filing a Formal Complaint in this matter is to protect the interests of the Company's customers. The Consumer Advocate will seek to ensure that the Company is only permitted to implement a restructuring plan which is consistent with the public interest and the goals of the Act. The Consumer Advocate will strive to prevent the Company from collecting any costs from ratepayers that are not fully justified, or are otherwise unreasonable or contrary to law. The Consumer Advocate will, in the course of these proceedings, investigate all of the Company's proposals to ascertain whether they are consistent with the promotion of customer choice in the market for electric generation and the protection of consumers.

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission
v.
Pennsylvania Power and Light Company
(Application for Approval of a Restructuring Plan)
Docket No. R-00973954

I hereby certify that I have this day served a true copy of the foregoing document, OCA's Formal Complaint and Public Statement, 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 14th day of April, 1997.

SERVICE IN PERSON

Charles F. Hoffman, Director
Office of Trial Staff
PA Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

SERVICE BY FACSIMILE AND FIRST CLASS MAIL, POSTAGE PREPAID

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

SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

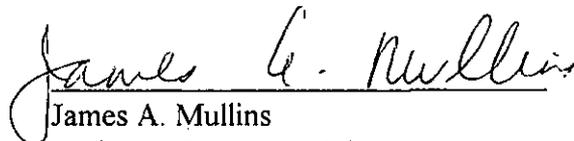
Joan O. Brandeis, Esq.
Schnader, Harrison, Segal &
Lewis
Suite 3600
1600 Market Street
Philadelphia, PA 19103

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

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

Alan J. Barak, Esq.
Penn. Energy Project
1417 Blue Mountain parkway
Harrisburg, PA 17112

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


James A. Mullins
Assistant Consumer Advocate

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

41338

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: April 17, 1997

OFFICE OF CONSUMER
ADVOCATE

Complainant

VS.

Complaint Docket
No: R-00973954C0001

PA POWER & LIGHT COMPANY
Respondent

FORMAL COMPLAINT
NOTICE TO RESPONDENT
TO ANSWER OR SATISFY

TO: PA POWER & LIGHT COMPANY

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa. C.S. Section 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the **Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17120**, an answer (original and two copies), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. The date of service is the mailing date as indicated by the date at the top of this Notice. Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

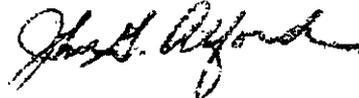
2. If you fail to either satisfy this complaint or to file answer or other responsive pleading within twenty (20) days, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy this complaint you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint may be dismissed by the Commission in accordance with Section 703(a) of the Public Utility Code, 66 Pa. C.S. Section 703(a), unless the Commission determines that such dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which

prescribes a payment schedule or which authorizes termination of utility services. . In the imposition of a penalty after a hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.



John G. Alford
Secretary

(SEAL)

Certified Mail
Return Receipt Requested

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

KJR

DATE SERVED: April 17, 1997

R-00973954C0001

PAUL E RUSSELL
ASSOCIATE GENERAL COUNSEL
TWO NORTH NINTH STREET
ALLENTOWN PA 18101-1179

DOCKETED DOCUMENT
FOLDER
APR 21 1997

Dear MR RUSSELL:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by OFFICE OF CONSUMER ADVOCATE. To defend yourself against the claims stated in the following pages, you must act within twenty (20) days by filing in writing with the Commission, either personally or through your attorney, your defenses or objections to the claims stated against you. Or, you may satisfy the complaint by settling the matter with the Complainant and submitting proof of settlement to the Commission within twenty (20) days.

IF YOU FAIL TO RESPOND WITHIN TWENTY (20) DAYS, THE CASE MAY GO FORWARD IN YOUR ABSENCE AND A JUDGEMENT MAY BE ENTERED AGAINST YOU BY THE COMMISSION WITHOUT FURTHER NOTICE.

CUSTOMER OF A UTILITY

A payment schedule may be prescribed or a termination of utility services may be authorized. You may lose money or property or other rights important to you.

COMPANY/UTILITY

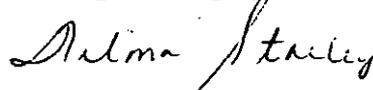
An Administrative Law Judge may revoke or suspend any certificate or permit held by you, or impose a fine, or any other appropriate penalty or remedy authorized by the Public Utility Code. You may lose money or property or other rights important to you.

Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.

Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

Very truly yours,

A handwritten signature in cursive script that reads "Alma Staley".

for John G. Alford
Secretary

SENDER:

- Complete items 1 and/or 2 for additional services.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

R-00973954 C0001
FCN
P.P.L.
PAUL E. RUSSELL

4a. Article Number

P 962 042 737

4b. Service Type CERTIFIED

7. Date of Delivery

APR 18 1997

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

X *[Signature]*

PS Form 3811, January 1996

Domestic Return Receipt

COMMONWEALTH OF PENNSYLVANIA

DATE: April 17, 1997

SUBJECT: R-00973954C0001

TO: Office of Administrative Law Judge

FROM: John G. Alford, Secretary

DOCKETED
APR 21 1997

KJR

DOCUMENT
FOLDER

OFFICE OF CONSUMER ADVOCATE
V.
PA POWER & LIGHT COMPANY

Attached is copy of a formal complaint filed in connection with the above docketed proceeding.

This matter is assigned to your office for action.

Attachment - copy of complaint

cc: Bureau of Fixed Utility Services - w/copy of complaint
Office of Trial Staff - w/copy of complaint
Press Secretary, John Frazier - w/copy of complaint
Office of ALJ, Charles Hilmer - w/copy of complaint
Office of Special Assistants - w/copy of complaint

was