

COMMONWEALTH OF PENNSYLVANIA



RECEIVED

95 JUN 27 PM 2:51

OFFICE OF CONSUMER ADVOCATE  
1425 Strawberry Square  
Harrisburg, Pennsylvania 17120

PA. P. U. C.  
INFO. CONTROL DIV.

IRWIN A. POPOWSKY  
Consumer Advocate

June 27, 1995

(717) 783-5048

John G. Alford, Secretary  
PA Public Utility Commission  
Room G-23, North Office Bldg.  
Harrisburg, PA 17105-3265

DOCUMENT  
FOLDER

Re: PA Public Utility Commission  
v. Pennsylvania Power & Light  
Company, Docket No. R-00943271

Dear Secretary Alford:

Enclosed please find for filing an original and nine copies of the Office of Consumer Advocate's Reply Brief in the above-captioned proceeding. In addition, at the request of Chief ALJ Christianson, the OCA has included a separately bound comprehensive summary of the Public Input Testimony that expands on the Synopsis provided in the OCA's Main Brief at pages 297-299.

Copies of this Reply Brief and the Public Input Summary have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely,

Mary C. Kenney  
Assistant Consumer Advocate

Enclosures

cc: All parties of record  
Hon. Robert A. Christianson, ALJ

30966

ORIGINAL

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY  
COMMISSION

v.

Docket No. R-00943271

PENNSYLVANIA POWER & LIGHT  
COMPANY

RECEIVED  
95 JUN 27 PM 2:52  
PA. P. U. C.  
INFO. CONTROL DIV.

---

SUMMARY OF THE  
PUBLIC INPUT TESTIMONY

---

DOCUMENT  
FOLDER

Tanya J. McCloskey  
Mary C. Kenney  
Gicine P. Brignola  
Assistant Consumer Advocates  
Denise R. Foster  
Legal Intern

For:

Irwin A. Popowsky  
Consumer Advocate

DOCKETED  
JUN 29 1995

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

DATED: June 27, 1995

ORIGINAL

## SUMMARY OF PUBLIC INPUT TESTIMONY

In response to consumer request, 11 public hearings were held between March 30 and April 6, 1995. The OCA submits this brief summary of the testimony at these hearings.

### HARRISBURG

A public input hearing was held in the afternoon of March 30, 1995 at the Pennsylvania State Museum. Seven witnesses testified at the hearing.

Arthur Taylor is president of Muhlenberg College in Allentown, Pennsylvania, Chief Executive Officer of CPS, Incorporated, and founder of the Arts and Entertainment Channel. Harrisburg Tr. at 13. Taylor testified regarding the impact of PP&L's proposed increase on Muhlenberg College and similar independent universities and colleges. Id. at 15. Muhlenberg's electric expense for the one-year period of March 1994 through February 1995 was \$675,000. The total increase to Muhlenberg will be a minimum of \$65,700 in the first year. Id. Taylor testified that Muhlenberg will have to make major sacrifices in the face of the increasing costs. Id. at 16. The cost increases will impact the students especially since 90 percent of the total annual revenues are the result of tuition, room and board charges to students. Id. He testified that Muhlenberg is further threatened by the proposed cutbacks at the federal level in financial aid programs which will result in a decline in enrollment. Id. at 17.

Dick Gallina bought a Four Star electric home in 1971. Id. at 21. He makes efforts to conserve energy. Id. He testified that the increase will have an obvious effect on his limited income.

Robert M. Herr, who is a senior citizen and an RTS customer, testified that he had been offered a lower rate to put in the RTS system. Id. at 25. In order to put in the system he had to put in wall-to-wall carpet and remove the baseboard heating. Id.

Dominick Scignoli testified that PP&L is putting the biggest burden on the 0 to 500 kw customers, and that comes out, not to 20.7 percent, but a little over 23 percent increase. Id. at 32.

Leonard Morris, an RTS customer, expressed a general dissatisfaction with the proposed increase and about PP&L's decisionmaking. Id. at 42.

Edward A. Essl, Jr. is a Capital City Task Force Coordinator for the Pennsylvania State Legislative Committee of the American Association of Retired Persons. Id. at 43. He owns a completely electric house which he bought in 1976. Id. He has made several improvements to make it more energy efficient, but his bills keep increasing. Id. at 43-44.

Mr. Essl also spoke about the effect of the proposed increase on the average low-income person in Pennsylvania. He stated, "In Pennsylvania the average low-income energy expenditure is \$93.55, and using 1992 figures, whereas the Social Security monthly income for widows and widowers was \$643.30, and for retired workers, \$671.80, leaving a mere \$546.75 and \$578.25 respectively for all

expenses other than energy. . . energy costs are 14.6 and 13.9 percent respectively for each group." Id. at 45. In addition, he testified, "Comparing energy prices today with those of 1979, one sees that energy prices have increased, although not always at the rate of inflation. Yet, because of the lack of similar increases in income, the burden of energy costs on low-income households has not decreased. It has, in fact, increased. Further, because the income of the poor has not kept pace with inflation, energy cost increases can only result in further hardship." Id. at 46-47.

Michael Donmoyer representing himself and the Pennsylvania Coalition of Citizens with Disabilities and the Center for Independent Living, spoke about dams and electric cars. Id. at 48.

#### HARRISBURG

A public input hearing was held in the evening of March 30, 1995 at the Pennsylvania State Museum. Three witnesses testified at the hearing.

Daniel D. Graham, an apartment renter, testified that he believes that such proposed rate increases is how inflation starts; once PP&L gets a rate increase, the rest of the electric companies will increase their rates as well. Harrisburg Tr. at 72-73. He has a total electric apartment, and his bill for February was \$112 and \$104 for March. Id. at 74.

Eric Epstein, speaking on behalf of Three Mile Island Alert, a safe energy organization, testified concerning the nuclear component of the rate increase. Id. at 75. Epstein testified that

PP&L's rates have increased nine percent per unit of electrical energy since 1985, and will continue to increase in order to pay for nuclear waste storage, decommissioning, and operating and maintenance costs of the Susquehanna Nuclear Generating Station. Id. at 78.

Gary Gordon is an owner of a Four Star home on the residential thermal storage rate since 1986. Id. at 83.

#### LANCASTER

A public input hearing was held in the afternoon of March 31, 1995 at the Southern Market Center. Sixteen witnesses testified at the hearing.

Carroll Lindsay, an owner of a Four Star totally electric home, testified that with the rate increase, her monthly charge would go from \$10.95 to \$15.00 and her billing demand would go from \$5.80 per kilowatt to \$6.50 per kilowatt and her cost per kilowatt-hour would go from .284 per kilowatt-hour to .45 per kilowatt-hour. Id. at 98. Lindsay testified that she believes that "PP&L should not ask for a rate increase of 16 percent when their current dividend is 8.6 percent at their last week's price of about \$19.50 a share or something of that order, at least their investors are now receiving a pretty fair return, new investors are." Id. at 99.

Maureen Powers, the Executive Director of the YWCA of Lancaster, testified that the overhead of the YWCA facility is a heavy burden on the YWCA programs. Id. at 103. "[A] substantial rate increase for us would present an overhead problem that our

programs would really have difficulty overcoming. I guess what I'm asking you to consider is that not every large user of electricity is a profit-making business." Id. at 103.

Richard Eshleman testified that he is opposed to a rate increase since he will be affected by the largest percentage increase. Id. at 108.

Robert Walsh, representing the United States Lock and Hardware Company, testified that the company has an annual electric bill of approximately a quarter of a million dollars. Id. at 109. "We were told our rate increase will be 9.2 percent. 9.2 percent, \$25,000, for easy figures, represents 72 percent of last year's before-tax profits." Id. This increase will cause them to be less competitive against foreign companies; therefore, they cannot pass the cost on to their customers. Id. Walsh also testified that if PP&L had implemented a gradual increase the cost might have been absorbed more easily. Id. Electricity is approximately 15 percent of the company's production cost. Id. at 112.

Walsh also testified that he is an RTS customer in his home and he opposes the rate increase in that regard too. Id. at 110. PP&L gave him \$1,600 to put in the RTS system. Id. at 113.

Fred Wordell and Harry C. Smith testified that they were "enticed" to install the RTS system by PP&L's promise of lower rates. Id. at 115, 125. Wordell claimed he put in a system six and a half years ago at a cost of approximately \$4,000 with a rebate of \$1,600. Id. at 115.

William W. Kopetz, president of Precision Form, Incorporated, testified that his corporation competes nationally and internationally. Id. at 120. Approximately less than a half percent of its production cost is the electricity cost. Id. at 123.

Jack Rottenhouse, a low-income resident, testified concerning a specific legal problem he experienced concerning his electric bill. Id. at 128-136.

Carmen Rodriguez, who works for Central Pennsylvania Legal Services, discussed her personal problem of not being able to afford her present monthly bill and arrearages she owes. Id. at 141. She testified that the programs to help the poor are not made known to the poor.

Crail Gordon, who works for Sylvin Technologies Incorporated and Kalas Manufacturing, testified that Sylvin's annual expense for electricity is \$148,000, and with the proposed increase it will be 23 percent. Id. 144. He testified that his competitors from other states have electricity expenses 24 to 31 percent lower than Sylvin's. Id. He also testified, "This type of increase that we're looking at we could not pass on. We would have to eat it." Id. at 146. This type of increase could mean that these companies will have to lay off people or cut benefits. Id. at 146.

Eugene Carrigan testified that he believes that PP&L has provided him with reliable service over the years and cautioned the PUC not to sacrifice good service in an effort to "penny-pinch." Id. at 150-153.

George W. Ionnidis, speaking on behalf of the Donegal School District, testified that "[a] ten percent increase in the cost of electricity would mean to us an additional \$20,000 in expenditures that would be needed to be paid in the next year." Id. at 156. He testified that his two options for dealing with this increase are (1) to pass the increase along to the taxpayers, thereby burdening them in addition to the increase they will experience in their own electricity rates, and (2) reduce the educational programs. Id. at 156. He also testified that the District has taken measures to conserve electricity; however, with the advancements in technology and curriculum, the District's consumption of electricity will increase. Id. at 158.

Joel Miller questioned the discounting of rates for RTS customers. Id. at 180-181.

Howard Miskey, a staff attorney for Central Pennsylvania Legal Services, testified that although there exists programs to help the poor, not every poor person may be enrolled in the program as they have limited funding. Id. at 163-164. "[M]y point is that those least able to afford an increase would certainly be affected by an increase if one is granted, and there are not adequate programs in effect to help compensate for those increases, which will mean, perhaps, more terminations, more people going without essential services in order to pay utility bills. Id. at 164. In addition, if the delinquent arrearages are turned over to an attorney or collection agency for collection, that could lead to sheriff sales of personal property, etc. Id. at 165.

Curtis Hoke, the Director of Derby Homeowners Association, testified that the subdivision consists of approximately 92 homes, of which, 82 are Four Star homes. Id. at 167. Hoke testified that he believes that the increase should be about equal for both the RS users and the RTS users. Id. at 168. He stated, "[F]or a slight change in lifestyle, for a higher initial cost, we are getting a break on our electric rate, and I think that is fair. What is unfair is now that break is being eroded away from us at I think a very large amount, by almost 7 percent, a higher increase than the RS rate people are getting, and I think that is unfair." Id. at 168-169.

Daniel C. Witmer, President of the Lancaster Chamber of Commerce & Industry, testified that most of the businesses in the manufacturing equipment uses gas or fuel oil, so the impact of the proposed increase on business would not be great. Id. at 175. He testified that pay increases might be lower and the price of products might be higher for some businesses if the proposed increase takes effect. Id. at 185. "In today's market, it is not as easy as it may have been in the past to just say you're going to increase your prices. It is not as easy to do, because we're in global competition, and your competition is all over the world." Id. at 186.

**LANCASTER**

A public input hearing was held in the evening of March 31, 1995 at the Southern Market Center. Four witnesses testified at the hearing.

Herbert Watson, who has worked for Northeast Utilities, testified that as a consumer living in an all-electric townhouse, he is concerned about the proposed rate increase in addition to the other utility rate increases he is experiencing. Id. at 209. He testified, "This past year being a mild winter, we thought we did a pretty good job of getting caught up and we're still not. We're on the budget plan, but we can't seem to stay ahead of the game. And now another 11.7 percent is going to put us further behind, further behind than we are already." Id. at 209.

Judy Bentz is an RTS customer. Id. at 214. Judy presented exhibits projecting what her electric bill will be with the proposed increase in rates. Id. at 216. When asked to give the absolute dollar figure of her projected rate increase, Bentz testified: "I'll start with June through July of 1994 would be a \$23.26 increase. That's much above the \$20.00 so-called average in their letter that they mailed us would be. Then it goes to July through August 1994, \$27.41; August through September 1994, \$27.44. The next one would be September through October of 1994, \$31.23. The next one would be October through November 1994, \$34.48." Id. at 218. She testified that she and her husband were solicited by PP&L when they purchased their new home in 1990. Id. PP&L basically asked them to make their home a Four Star Home by joining a program called Heat Pump Plus. This cost them \$2,300.00,

of which \$700.00 was paid by PP&L. Id. Bentz also testified that there are many sacrifices that she makes since she is an RTS customer. "During the hours of 7:00 a.m. to 5:00 p.m. we only have 80 gallons of hot water, and there have been times that we have run out of hot water." Id. at 220. She also must cycle her electric usage. Essentially, she testifies that she has changed her whole lifestyle. Id. at 220. In addition, Bentz submitted seven letters from neighbors who are on the RTS system. Id. at 220.

Joseph A. Gehris, who lives in an all-electric home in Lancaster converted his home to all-electric about 25 years ago. Id. at 224. He was told that an all-electric system would reduce his utility rates.

Richard Haas is a farmer and has been a PP&L customer for 32 years and uses a lot of electricity. Id. at 226. He is also a holder of 450 shares of PP&L stock, but his returns on the stock are minimal compared to the monthly bills he accrues. Id. at 227. He has been extremely satisfied with the service PP&L has provided him with over the years. He testified that he believes PP&L deserves every penny of the proposed increase. Id. at 231.

#### WILLIAMSPORT

A public input hearing was held in the evening of April 3, 1995 in the First Ward Fire Hall. Twenty-one witnesses testified at the hearing; however, three were not sworn and will not be summarized.

Wes Grand, the Chief Operating Officer for the Clinton County Economic Partnership, testified that PP&L has helped the county develop its economy and create jobs by assisting the Clinton County Economic Partnership in its marketing and advertising efforts. Id. at 250-251. He also testified that PP&L assists other counties in a similar way. Id.

Don McKee testified that PP&L should provide a clearer explanation of the rate increase since there is a confusing interplay between the energy rate and the energy charge. Id. at 254. He also testified that he does not believe that PP&L has made a convincing case for this proposed rate increase since the reason behind their alleged need for the increase is poor decisionmaking. Id. at 257. He compared PP&L to Carolina Power and Light and determined that while PP&L increased its dividends each year, it cannot show a profit, as Carolina can. Id. at 258. He points out that "it is no coincidence that the \$261 million that they are requesting annually in their rate increase matches precisely the amount of their dividends," thereby perpetuating PP&L's poor decisionmaking. Id. at 259. In addition, McKee urges the PUC to consider retail wheeling as an alternative. Id. at 259.

Michael Ochs testified that the PUC should require PP&L to explain the reasons for the rate increase and its potential effect on one's bill so that customers do not have to call or write the Company to obtain this information. Id. at 262. He also "request[s] the PUC to have the company individualize the anticipated new rate, the monetary change, and the percent increase

for each and all customers, and include it when the rate hike proposal is announced to the customer." Id. at 263. In addition, he urged the PUC to seek PP&L's voluntary enrollment in the EPA Green Lights Program and to seek having the Commonwealth be enrolled as a partner in order to save energy and reduce pollution. Id. at 266. McKee offered as another suggestion that the PUC determine whether a rate increase is warranted for commercial and industrial users since PP&L offers few rebate programs. Id. at 269. Lastly, he pointed to the anomaly that the low energy users pay more while they are encouraged to conserve and to the fact that those who opposed the building of the Susquehanna Nuclear Plant are now being asked to pay more in order for PP&L to decommission it. Id. at 270-271.

Jo Menne, a senior citizen on a fixed income, testified that she makes every effort to conserve energy and that she believes that PP&L should structure the rates so that the energy conserver will be rewarded for her efforts. Id. at 274. She also suggested that PP&L provide a special rate for senior citizens. Id.

James G. Thomas, a small business owner, testified that he will not be able to afford the rate increase. Id. at 276. He also expressed concern for the senior citizens on a fixed income. Id. at 276.

Jim Stroup, a senior citizen, testified on behalf of himself and the American Association of Retired Persons (AARP). He is the president of the local chapter of the AARP. Id. at 297. He stated that many of the AARP members are on fixed incomes and

cannot afford a price increase. Id. at 281. He specified that he cannot afford an increase of 11%, and his usage is approximately 3000 kilowatt hours per month, which costs him about \$225. Id.

Robert Butters, of Lose Avenue, testified that those that are not large-scale users will be affected the most by the proposed rate increase. Id. at 282. He and his wife are 500 kilowatt hour users. He stated that they will face a 20% increase. However, he stated that companies like McDonald's will get less of an increase. He felt that a larger rate increase to small-scale users than to large-scale users was a "punishment" to those who aim to be energy efficient, and an encouragement to waste electricity. Id. at 283. Additionally, he noted that he is a stockholder of PP&L and he believes that the Company is too "lucrative with paid benefits and retirements." Id. at 282.

Robert Sweeney, of Market Street, is a senior citizen. He is also a volunteer for the IRS and he completes tax returns for other senior citizens. He testified on behalf of all senior citizens asserting that an increase to them would be devastating. Id. at 285. He believes that since seniors are home all day long, they tend to need to keep their heat at a higher temperature, that they predominately use television for their entertainment, and that they must be some of the largest residential users. Id. at 284. On the other hand, he suggested that seniors can least afford to have a rate increase.

He stated that the low income level of many of the seniors for whom he has completed tax returns is shocking. Id. at 284. He

noted that medications are costly to them and that when bills increase, seniors must cut back on another area where they spend. He added that the cut back is often food. He urged that there be a small increase if any to residential users or at least senior citizens in particularly. Id. at 285. He also remarked that seniors are just above the poverty level and so they fail to qualify for any federal or state aid programs.

Stan Gramke, of Greenview Road, is the President of Kulp Enterprises, an industrial plant, which provides 30 housing sites for 500 to 550 mentally retarded or physically disabled individuals. He testified that an increase of 12-15% will be difficult to manage, when the organization will only receive a 2% increase in funding from Pennsylvania this year if the Governor's proposal is accepted and it has only received 2% increases for the past 5 years. Id. at 289. He stated that organizations like his are "continually asked to do more with less" and that it is difficult to provide the services that are necessary. Id. at 290. He asked that special consideration be given to handicapped citizens, 99% of whom are low income.

He also testified on his own behalf stating that he is an off peak customer who purchased an off peak system to conserve energy, and that the proposed increase for this customer group is too large. Id. at 290.

Henry Grieb, of Viewpoint Road, testified that the PP&L proposed rate increase on residential customers is a discriminatory attack and it should be rejected by the Commission. Id. at 293-294. In addition, he noted that in 1993 he used 29,543 kilowatt hours of electricity for the year and paid \$1,395 and that in 1994 he reduced his usage to 28,882 kilowatt hours but now he will have to pay more under the new rate.

Yvonne Sutherland, of Montoursville, testified that she uses only 240 kilowatt hours a month and that her increase would be \$7 per month. She stated that she is a widow, and that in order to receive her widow's benefits she is limited in how many hours she can work per week. Id. at 307. In addition, she said that she does not qualify for food stamps or other assistance. She testified that she is worried about the increase. Id. at 308.

W.T. Reich, is retired. He testified that he lives in an all electric house and he cannot afford his electric bill now before any increase. Id. at 310. He testified that he cannot afford an increase.

Mark Orwig, testified that he maintains a private roadway at great personal expense and that PP&L damaged it while establishing a power line. He stated that although he has a \$10,000 bond on the road, he cannot get PP&L to come and look at the damage. Id. at 311-312.

Carl Nolan, testified that he has been active in the city of Williamsport for 30 years, and that the people in the community live "meagerly." Id. at 318. He stated that he cannot afford the

increase and that any other business would quickly go out of business if it asked for a 20% increase. He criticized PP&L for waiting ten years to ask for an increase and argued that 20% is too much to ask for all at once. He noted that neither he nor his daughter will put electric heat into their new homes. Id. at 319. He suggested that the Company receive only a 2% increase. He also expressed that the Company's retirement buyout plan may be too expensive. Id. at 320.

Ann Floyd, testified that she is 73 years old and not on social security. Id. 323-325. In addition, she presented a concern that the Allentown area may be receiving a decrease in rates.

Maurice Fuller testified that low income people in the area will have financial difficulty if the proposed increase is approved. Id. at 326. He testified that in 1980 he had to close his restaurant due to high electricity bills. Id. at 327.

Carolyn W. Bullock, a volunteer in the community and a tax collector for the City of Williamsport, testified on the part of the senior citizens in Williamsport. Id. at 329. "Tax exonerations are required in order to have abatement on paying taxes, and it would absolutely appall all of you to know the few dollars some people live on." Id. at 329. Bullock testified that senior citizens often resort to reducing their food budget in order to pay the increasing rates. Id.

Isaac Dunkelberger, who works for a large industrial company, testified that the company was required to sign a contract stating

that it would lower the price of its product one percent per year until the year 2000 in order to keep producing the product and retain jobs. Id. at 333. The proposed increase in PP&L rates will make it harder for the company to stay in business. He testified that part of the reason for this increase is the 8-9 percent increase in wages PP&L gave its employees in a two-year contract. Id. at 333. Dunkelberger suggested that PP&L give raises consistent with the inflation rate and that PP&L employees make some concessions since the PP&L employees are paid 50 percent more in wages and benefits than their counterparts in other industries. Id. at 325-326.

#### SCRANTON

A public input hearing was held in the afternoon of April 4, 1995 in the Municipal Building. Eleven witnesses testified at the hearing.

Matilda Zadrusky testified that she earns \$500 a month and is also faced with an increase in water rates as well. Scranton Tr. at 352. She does not feel that it is fair to burden the ratepayers with the cost of repairing the nuclear plants that the ratepayers objected to in the first place. Id.

Richard Volz, an RTS customer, testified that he decided to use ceramic heat "because they promised discounted rates if [he] use[d] the evening rate, the nighttime rates, in order to charge ceramic heat systems." Id. at 354.

Gene Molina, representing the Tripp Park Civic Association and the Council of Scranton Neighborhood, testified that one-fourth of the city of Scranton's population are senior citizens and the average earning of the people in that region is \$12,000. Id. at 361. He also testified that there should be more substations where people can pay their bills without having to mail them.

Claudia Saraceno, a senior citizen, suggested that the actual cost of the increase for all people should be determined before a rate increase is approved. Id. at 367.

Ross W. Nigrelli, a senior citizen on a fixed-income, testified concerning specific problems he has had with respect to his electricity bills. Id. at 369-370.

Sr. Mary Rose Mitchell, representing the Department of Aging from Honesdale, testified concerning the extreme measures senior citizens take in order to conserve energy so that they are not using the money they have allotted for food. Id. at 371.

Catherine Quin, representing a Catholic church that is concerned with social conditions and social injustice, testified that she believes the increase is unreasonably high and the reason that PP&L needs an increase is mismanagement. Id. at 372-373. She also testified that she does not believe that those who make efforts to conserve should have the highest increase in rates and that commercial users should have a lower rate. Id. at 373-374.

John Cawley, who works in city hall, testified concerning the effects of the increase on the City of Scranton due to streetlighting costs and how the citizens will have to shoulder a

tax increase. Id. at 376. "[T]he proposed increase would be one and a half mils of tax on land and over half a mil on improvements." Id.

Erick Warholak, who works for State Representative Frank Serafini, testified that the small, residential user will experience a greater percentage of the rate increase. Id. at 380. He also testified that PP&L had sold the excess electricity it had generated from the Susquehanna Nuclear Power plant and the profits were not shared with the ratepayers. Id.

Peter J. Wadika, member of the Citizens Concerned About Gaus's and Teslas, testified that if you increase power you only increase voltage, and voltage will increase the pressure, and the pressure will increase the gaus's which will affect the population since it affects the magnetic fields of the earth. Id. at 382.

Nancy Kay Holmes, member of city council, testified that Scranton is designated as a "financially distressed" city; therefore, its budget for street lighting and building lighting is very limited. Id. at 384. She testified that any rate increase will affect the taxpayers. Holmes also testified that Scranton has the oldest population on the average of any city in the United States, which makes it very difficult for the city's population to budget monies for electric service. Id. In addition, "[I]t should be noted that about 24 percent of all of the land in the city of Scranton is taken up by non-profits, whether they are hospitals, colleges, universities, churches, schools. . ." Id. at 386.

## WILKES-BARRE

A public input hearing was held the evening of April 4, 1995 at the Coughlin High School Auditorium. Eleven witnesses testified at the hearing.

Ambrose J. Melesky, Vice President of the Wilkes-Barre Taxpayers' Association, testified that 80 percent of the electric that is generated from the Salem nuclear plant goes into the grid, and the plant is not obligated to pay any of the cost of decommissioning the Salem Nuclear Plant. Wilkes-Barre Tr. at 395.

Wilbur Troy, who works for a consumer office, testified concerning the cost and environmental hazards associated with nuclear power. Id. at 399.

Claire M. Wert testified concerning the increase in rates and expressed concern that the increase for users of 500 kilowatts or less may comprise a large percentage of people and that PP&L did not consider gradually implementing a price increase. Id. at 402.

Anne Marie O'Malley, Council President of Dupont Borough, testified regarding the concerns of senior citizens on fixed-incomes. Id. at 405. She also testified that the increase in rates might also mean an increase in taxes since taxpayers pay part of the streetlighting bill. Id. at 405.

George Legezdh also testified concerning the hardships that would occur to senior citizens on fixed-incomes if the proposed increase is accepted. Id. at 408.

Michael P. Lenahan testified that he is a conservative utility user and feels penalized as a result. Id. at 309.

Donna Kisielewski, a RTS customer who invested in storage tanks and heat pumps, testified that according to her calculations, the increase for her will be \$58 a month. Id. at 411. She also expressed concern that even though the energy charge is supposed to decrease, there is no guarantee that it will remain low. Id.

Gene Brady, representing the Commission on Economic Opportunity and a member of the Borough Council of Nuangola, testified that the increase will cause great difficulties in small municipalities' and large municipalities' budgets with the increased cost of streetlighting, etc. Id. at 413. He also suggested that the municipalities within a close radius of a power plant receive a reduced rate for the increased responsibility associated with being close to a power plant if problems arise. Id. He also testified that the increase will really burden the low-income and elderly people in his region. Id. at 416.

Alan Rosenbaum suggested that the Susquehanna Plant be allowed to operate for a longer period of time before it is decommissioned, thereby, averting the increase in rates. Id. at 420.

Daniel Smith, an RTS customer, questioned how much effort PP&L put into alternate sources of electricity generation such as solar, wind, and hydroelectricity. Id. at 421.

Tom Matiska, a small quantity user, suggested that costs could be reduced by reducing the amount of times the meter is read or combining the meter to be read, such as gas and water. Id. at 423. He also suggested that the individual user could report the meter reading. Id.

## HAZLETON

A public input hearing was held in the afternoon of April 5, 1995 in the Hazleton City Hall. Thirteen witnesses testified at the hearing.

Carlo DeMarco, secretary for the Hazleton Taxpayers Association, testified that it is unfair that the small, residential user will have a higher percentage increase in his or her electricity rate than the large, commercial user. Id. at 444. He also testified that it is unfair that those who are in the nuclear grid will not be affected by the rate increase when the increase is due in part to the nuclear plants. Id. at 445. DeMarco thinks that PP&L's reasons for the rate increase and the way it proposes to allocate the rate increase are contradictory: "[I]t seems kind of contradictory that the more power you use, the less you pay, and then we're getting a rate increase to develop more power." Id. at 447.

Jamie Delece, a pensioner, testified that the rate increase will make him have to make a choice between paying for his electricity or his medication. Id. at 452. He also testified that he had attended meetings when the nuclear plant was in the planning stages, and he recalls PP&L's statements that the plant will result in lower rates -- but it never did. Id.

Agnes Kisenwether stated that she feels as though she is being charged to generate the electricity and to use it. Id. at 456.

Vicki Mackin, representing the Concerned Citizens of Schuylkill County Incorporated, a non-profit organization,

testified that "[a] rate increase to recover a return on a common equity invested in the Susquehanna Unit 2 is not in the interest of the PP&L consumer. It will create excess capacity. Depreciation, decommissioning and other related costs are not the responsibility of the consumer ratepayer." Id. at 462.

Steve Demshick testified that the taxpayers are experiencing an increase in taxes already due to an increase in property tax, the DER mandate to build a new sewage treatment plant, etc. Id. at 466.

Nadine Kunetz testified that she thinks it is hypocritical for PP&L to advocate "reduce, reuse, recycle" at Earth Day and then charge a higher rate to those who conserve energy. Id. at 467.

Howard Smith and Walter Kraska testified concerning PP&L's unrealized promise of lower rates with the building of a nuclear plant. Id. at 469, 476.

Scott Buck, an RTS user, testified that when he decided to build his new home he was told that if there would ever be a rate increase, the rate increases for RTS users would be less than the rate increases for RS users, but this is not the case now. Id. 470.

Edward A. Chipkewich, Jr. discussed how the rate increase will affect persons with disabilities, who use more electricity than the average person. Id. at 481-483.

Elizabeth Haraschak testified that she feels penalized for conserving energy. Id. at 486-487.

Robert Roberge, who works for Carbon Products Operations in East Stroudsburg, testified that CPO's annual electrical bills are about eight percent of its operating costs. Id. at 490.

He testified that as an interruptible rate customer, CPO will experience a 27.8 percent increase in rates which will totally eliminate any savings the company has by being an interruptible rate customer. Id. at 493.

Niles Grover questioned cogeneration plants. Id. at 495.

#### POTTSVILLE

A public input hearing was held in the evening of April 5, 1995 at the Schuylkill County Court House. Ten witnesses testified at the hearing.

Dominic Angelozzi testified that he does not believe that PP&L should have such a drastic increase in their rates. Id. at 520. Since he is on a fixed income he can really feel the effect of the increase.

Charles Mengel testified regarding specific interactions with PP&L where he was provided no answer to his questions. Id. at 523.

Randy Keller testified, "I can't see where . . . a company can . . . take, demand, or apply for an increase like this because it's just not akin to what everybody else is going through right now." Id. at 526. In order for the Commonwealth to survive and keep businesses from moving south, the profit margin should be in line with inflation, not the proposed 13 percent. Id. at 527-528. He also testified that much of the reason for the proposed increase

in rates is mismanagement and poor decisionmaking and foresight. Id. at 528-529.

Robert Butcavage testified that PP&L cannot justify increasing the rates by 15 to 21 percent when the average consumer, when they get a raise, is only 2 or 3 percent a year. Id. at 534. He does not feel that the service he has been receiving merits the proposed 21 percent increase, as there are frequent short periods of electricity outages. Id. at 536.

Margaret Mansell testified, "In view of the recent PP&L downsizing, restructuring or however public relations describes layoffs, simple arithmetic could assume that PP&L has lightened its expenses and increased its profits since the consumer base has remained the same; therefore, the proposed rate increase is logically not necessary." Id. at 541. She also stated that the increase is too high with respect to the interest rate. Id. 541.

Ron Svenson, who built a Four Star all-electric home ten years ago, was told that his electric bills would not exceed \$150 per month but they are approximately \$530 per month. Id. at 545. He testified that he does not understand why the consumer pays an electricity charge for PP&L to buy electricity from other utilities. Id. at 546.

Margaret Lutz, a representative for the People for Progress Coalition from Shamokin, testified that senior citizens and working families alike are unable to afford the proposed increase. Id. at 548.

Ralph Thomas testified that it is unfair that the increase is greater for the families who use only 500 kilowatt hours of electricity. Id. at 552.

Joseph Muffley testified along those same lines, "I don't see why the low-use consumer should have to subsidize the people with electric heat . . ." Id. at 556.

Paul Weaver testified that he does not feel that it is fair for the ratepayers to take responsibility for the nuclear plants when the utility made the decision to build them. Id. at 560.

#### BETHLEHEM

A public input hearing was held in the afternoon of April 6, 1995 at the Bethlehem Town Hall. Twenty-eight witnesses testified at the hearing.

Joseph Uliana, State Senator, testified that Bethlehem is experiencing actual increases or increase proposals in rates for City Water, UGI gas, and PP&L Electricity, so the cumulative effect will have a great impact upon the citizens of Bethlehem. Bethlehem Tr. at 583.

Roy C. Afflerbach, State Senator, cautioned the Commission not to approve a rate filing that shifts the responsibility and the costs of financing utility service to the shoulders of the "captive users", i.e., the individual residential subscribers who cannot enter the negotiations of a free marketplace for utility service. Id. at 587.

Senior citizens who testified at this hearing included: Hal Miller, David Mathews, Charles Ferry, Herbert Bieber, J. Peter Hobe, Philip R. Kelly, and Antonio Lopez. The common theme in these witnesses' testimonies was the inability of the senior citizen on a fixed income to pay PP&L's proposed increase in addition to the other utilities' rate increases. Id. at 591, 602, 613, 670. Miller testified that "with the current tax structure [and] with the increase in utility costs, there are too many senior citizens that are losing their homes because they can't afford to stay in them." Id. at 593. Mathews testified that he had his house built to PP&L specifications in order to obtain the lower rate for heating. Id. at 594. Now he has no way of changing his heating without undergoing an elaborate expense. Id. Both Kelly and Lopez testified that senior citizens who take drastic measures in an effort to reduce their electric bills to a rate commensurate to their fixed income will effectively be punished by the proposed rate increase. Id. at 613, 670-672. Hobe, Chairman of the Legislative Committee of the local AARP, testified that he is not against an increase in rates as long as it is a reasonable increase. Id. at 603. In addition, Ferry, who was an employee of PP&L, testified as to the irony of who bears the responsibility for a management decision in the utility industry: "In a competitive industry, the stockholders pay for bad decisions. It seems like in a public utility industry, when the utility makes a decision that is bad or not accurate, the ratepayers [pay]." Id. at 596.

Ferdinand Brenner testified that PP&L's request should be reduced because the salaries and retirements of PP&L management are outrageously high, the Board of Directors' compensation fees are too high, meter readings could be scaled back, and the reductions in manpower are not occurring where the surplus of manpower exists. Id. at 604-606. He also testified that management decisions, such as to build nuclear units, should not become the responsibility of the ratepayers. Id. at 610.

Sam Singer, an RTS customer, testified that he was promised that the electricity rate would remain the same for a payback period, originally estimated to be about four or five years. He has had his system for only four years and is now facing a rate increase. Id. at 616. He stated, "Overall, PP&L claims that the RTS increase will only be 16 percent . . . that is based on the average of 2000 kilowatt hours. I calculate my rate increase to be much higher than the 20 percent that they are advertising." Id. at 617.

Lori Kametz, legislative aide to State Representative Lisa Boscola, testified it is unfair that residential customers are asked to absorb a 20.7 percent increase while industrial and commercial customers would realize only between a 2.4 percent and a 9.1 percent increase. Id. at 620.

Elmer Meserole, an RTS customer, testified that it is unfair for people who have invested in the system on the belief that it will save them money will now experience the greater increase in rates. Id. at 623.

Eugene Goddfeder, the Borough Manager for the Borough of Catassauqua, testified that the Borough is a very large user of electricity, spending over \$200,000 a year for street lighting, operating a waste water treatment plant, water works, swimming pool, and regular business operations. Id. at 630. He testified that the Borough has no other option but to pass the increased cost on to the taxpayers. Id.

Alan Jennings, Chair of the PUC's Consumer Advisory Council, testified that a growing number of lower income customers has been unable to pay their electricity bills. Id. at 635. He suggested that if a rate increase is allowed, it should be phased in and that PP&L will continue to have a mechanism in place to continue to serve those customers who have an inability to pay. Id. at 636-637.

Bridget Hynes testified that it is unfair that the small, residential user will pay the higher rates. Id. at 642. She testified that she "can't use market forces; [she] can't go to another company and buy [her] electricity as [she] can [her] oil." Id. at 642. She also feels that the customer should not have to pay the depreciation of the power plants since the utility makes a profit in its operation. Id. at 643.

Donald Weiss, representing the Bethel Baptist Church in Sellersville, testified that he believes the rate classifications should be reconsidered, especially since the church is a non-profit organization. Id. at 646. In addition, he recommended that the increase be phased in over a period of a few years. Id. at 647.

Jeffrey R. Montgomery, an RTS customer, testified that he is unable to install other forms of heating for two reasons: (1) he is an RTS customer and (2) he lives in the Lehigh Valley, which is an ozone non-attainment area. Id. at 654.

Terry Dengler, representing Lafarge Corporation, testified that if implemented, the proposed rate increase has the potential to increase Lafarge's electric costs by 47 percent, \$1.4 million annually. Id. at 657. He testified that this will affect the company's competitiveness. Id.

Ed Galary, plant manager at Lafarge, testified that Lafarge's interruptible agreement with PP&L causes difficulties for the company since the cement industry peaks at the same time the utility peaks. Id. at 666.

Walter Dealtrey, a business owner, testified that no customer classifications should subsidize another, as will happen with the proposed rates. Id. at 672-673.

Greg Shemanski, the General Manager at Fluid Energy Processing and Equipment Company, a small business but a heavy power user, testified that the company has an interruptible agreement with PP&L which will be unfavorable if the proposed rates take effect. Id. at 676. He testified that his company must consider moving or giving up some of its business, thereby taking a loss. Id. at 679.

Tina Lam, an RTS customer, testified that the uncertainty of what the energy charge will be could mean that the rate increase could be even greater than what is actually proposed. Id. at 685.

Robert C. Lovingood, a residential customer and shareholder of PP&L, testified that the RTD rate should be held the same since it is a regressive part of the rate. Id. at 688. He also discussed underground lines. Id. at 690-691.

Leonard J. Bartek, an RTS customer, testified that he spent about \$9,000 installing the RTS system in 1992 as opposed to about \$4,500 for an alternate heating system of equal quality based upon the promise that he would receive lower rates. Id. at 701. He also testified that when the power goes off, his water acid neutralizer system does not turn on at the scheduled night hour but rather during the day when the RTS rate is highest. Id. at 704.

William W. Nelson, who bought an all-electric house in 1970 in response to a promotion by PP&L called "Gold Medallion," has upgraded his house at every opportunity and installed electrical panels to separate control over the heat and other electrical demands of the house. Id. at 707. Despite all of this, he was denied the RTS rate. Since 1970 PP&L averaged a 21.8 percent increase in the cost of his electricity each year. Id. at 708. Mr. Nelson presented graphs depicting his energy consumption, cost, and energy charge over the 25 year period he has lived in his house. Id. at 711-714. These showed that his consumption has decreased but his billing and energy cost have increased. He also presented a graph depicting PP&L's energy rate index compared to the Consumer Price Index for all energy. Id. at 714-715. This graph showed that PP&L has increased its rate at a rate which is significantly higher than the Consumer Price Index for electricity.

Adolf Butkys, a handicapped man who has worked for the Public Utility Commission's Advisory Council for over 17 years, testified that the handicapped use considerably more electricity and receive no discount for this medically necessary use. Id. at 724.. In addition, he testified that PP&L should break the proposed 500 kilowatt charge down into percentages since the average non-electric heating consumer, the primary user of PP&L's electricity, uses less than 500 kilowatts of electricity per month. Id. at 731-732.

#### ALLENTOWN

A public input hearing was held in the evening of April 6, 1995 at the City Hall. Thirty-one witnesses testified at the hearing.

Roy Afflerbach, State Senator, testified as he did in Bethlehem: "Our citizens must feel confident when this case is decided that they will not, in whatever class they may happen to be assigned by the company, be shouldering a disproportionate responsibility or cost for this rate filing." Allentown Tr. at 745.

Terry Dengler, representative of LaFarge Corporation at its Whitehall Cement Plant in Whitehall, Pennsylvania, testified that if the rate increases are implemented, their electricity cost will increase by 47 percent or \$1.4 million annually. Id. at 746. He testified that electric power represents 16 percent of the total cost to produce a ton of cement and that the cement market is

highly competitive. Id. at 747. In order to be more efficient with its electricity usage, LaFarge entered into an interruptible contract with PP&L. Id. at 748. Now, however, PP&L wants to redesign the interruptible agreement in addition to the rate increase. Id. "The net result for our plant, if we continue with our present agreement, would be 47 percent or \$1.4 million increase in power costs." Id.

Alfred A. Siess, a consultant with an organization called S.A.V.E., an environmental group, testified that he is opposed to any rate increase for PP&L since it is needed as a result of PP&L's poor decisionmaking. Id. at 751-752. Examples of poor policy decisions include, endorsing consumption, zoning laws that allow for more development, and pollution trading. Id. at 758. In sum, Siess testified that "PP&L's policies are detrimental to the economy, detrimental to the environment, and they do not justify rate increases." Id.

Dale Sattar, an RTS customer, is concerned that the energy rate will increase sometime in the future too. Id. at 765. He considers himself a "captive" customer of PP&L since he is an RTS customer. He invested approximately \$5,000 to put in a 300 gallon tank in his house and make other adjustments to his house in order to qualify for RTS rates. Id. at 767. If he wanted to return to his original system, it would cost him between \$3,000 and \$5,000. Id. He also testified concerning the "inconvenience price", i.e. his electricity usage is not allowed to exceed the amount he has stored without paying a penalty fee, as a result of being an RTS

customer. Id. at 768. Mr. Sattar was told that it "was going to take seven or eight years for [his] expense to pay off, and now it is not going to pay off with this rate increase that [PP&L is] asking." Id. at 769.

Evelyn Kramer, who is a senior citizen and a widow on a fixed income, testified that she has experienced a lot of rate increases: cable service, newspaper delivery, garbage collection, and a proposed increase by UGI. Id. at 775. She also testified that she has reduced her kilowatt usage but her bill has not likewise reduced. Id. at 777.

David Lockhardt, the president of Pennsylvania State Council of Senior Citizens, testified as to the difficulty a person on a fixed income faces when there is a rate increase. Id. at 780.

Doris Fenner, who was a loan executive for the postal service for the United Way, testified that she believes that PP&L should have thought about a rate increase sooner and implemented one gradually and also that PP&L should consider where it can make cuts. Id. at 782.

Helen Loper, who has a low-paying job and a husband on Social Security, testified that PP&L should keep its rate increases in line with the increases that other utilities are getting. Id. at 783.

Richard Passan, an RTS customer, testified that as an RTS customer, he uses more electricity in the winter than an RS customer because he is charging his tank at night to use during the day. Id. at 785. He also testified that PP&L is proposing a 58

percent increase in the RTS kilowatt charge while the RS kilowatt increase will be broken into three categories according to the kilowatt range. Id. 785.

Edward Corrigan, a residential RS ratepayer who lives in an all-electric home, testified that he does not believe that it is fair that the residential ratepayers will experience a greater percentage increase than the commercial ratepayers. Id. at 790.

William and Florence Lawless, Janet Minnich, Paul Geissinger, Dorothy Freyman, and Ranny Barclay testified that PP&L's graduated increase proposal is discriminatory against low kilowatt hour usage customers and discourages energy conservation. Id. at 791, 795, 798, 800, 804.

Richard S. Coury, 75, who has a big house and a big family, testified that he thinks people can manage and conserve waste: they do not need to depend on electric power for everything. Id. at 794.

Gene Jaindl, who was president and treasurer of a construction company that did work for PP&L, testified that PP&L's mentality in their facilities is that PP&L does not try to contain cost in any work done. Id. at 807. Therefore, he believes that the belt tightening must come from PP&L first.

George Deriscavage testified that he will suffer greatly by a rate increase because his wife is in bad health and needs an air guard space filter running 24 hours a day and a dehumidifier running seasonally. Id. at 808.

John Angelo, Kenneth Burkhart, Betty Hendel, Jerry Gallagher and William Pummer testified that they believe consumers should not have to pay for PP&L's management mistakes. Id. at 810, 813, 828, 835, 842-845. Angelo testified that PP&L should find a way to maximize its returns to stockholders by good management and innovative thinking rather than passing the cost on to ratepayers. Id. at 810.

Kenneth Burkhart testified that he believes that all should share in the cutbacks, including the shareholders and employees. Id. at 813.

Fred Montgomery testified that as a residential user, he feels singled out for the rate increase. Id. at 818.

Sam Kalny is a residential customer who believes that the rate increase should have been implemented gradually. Id. at 820.

Gino Nicolai, a contractor, has received 168 phone calls from customers for whom he installed heating and air conditioning systems. He testified that many of the callers threatened to sue him since he promoted the use of electric thermal storage systems and the use of electric heat. Id. at 824.

Robert Siegfried, converted to electric heat, testified that he is upset that his lower rate for converting to electric heat will be taken from him. Id. at 827.

Gary Onaschak, who was a home improvement contractor, testified that many people paid a lot of money to winterize their homes and are now being penalized for their investment. Id. at 829.

John Giedl briefly testified that the increase should be phased in because it is really hard for families to manage such a great increase in rates. Id. at 833.

Rich Lichtenwalner, an RTS customer, testified that he spent \$5,000 to put install the system. Id. at 839. He feels that PP&L should figure out a way to come up with the money it needs rather than to burden ratepayers with a higher rate.

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission  
v.  
Pennsylvania Power and Light Company  
Docket No. R-00943271

I hereby certify that I have this day served a true copy of the foregoing document, Office of Consumer Advocate's Reply Brief, upon active 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 27th day of June, 1995.

SERVICE IN PERSON

Johnnie E. Simms, Esq.  
Kenneth L. Mickens, Esq.  
Stephen Gorka, Esq.  
PA PUC - Office of Trial Staff  
Pitnick Bldg. - 3rd. Floor  
P.O. Box 3265  
Harrisburg, PA 17105-3265

SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

David B. MacGregor, Esq.  
Thomas P. Gadsden, Esq.  
Morgan, Lewis & Bockius  
2000 One Morgan Square  
Philadelphia, PA 19103

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

ORIGINAL

SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

Joan O. Brandeis, Esq.  
Suite 3600  
1600 Market Street  
Philadelphia, PA 19103-4252

D. Jane Drennan, Esq.  
1216 16th Street, N.W.  
Washington, DC 20036

Wayne M. Thomas, Esq.  
1101 Market St., 24th Floor  
Philadelphia, PA 19107

Kenneth Zielonis, Esq.  
Stevens & Lee  
Crown American Realty Trust  
208 North 3rd St., Suite 310  
Harrisburg, PA 17101

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

Karen Oill Moury, Esq.  
Office of Small Business Adv.  
Suite 1102 Commerce Bldg.  
300 N. 2nd Street  
Harrisburg, PA 17101

Robert P. Haynes, III, Esq.  
Mette, Evans & Woodside  
3401 N. Front Street  
Harrisburg, PA 17110-0950

David A. McCormick, Esq.  
General Attorney  
Office of the Judge  
Advocate General  
901 N. Stuart Street  
Arlington, VA 22203-1837

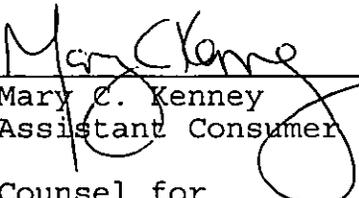
Craig Kuennen  
Commission on Economic  
Opportunity  
211 S. Main Street  
Wilkes Barre, PA 18701-1596

Stephen J. Selden, Esq.  
Bethlehem Steel Corporation  
Bethlehem, PA 18016

Daniel P. Delaney, Esq.  
James P. Melia, Esq.  
Kirkpatrick & Lockhart  
240 North Third Street  
Harrisburg, PA 17101-1507

Alan J. Barak, Esq.  
Mid Atlantic Energy Project  
Energy Law Clinic  
3700 Vartan Way  
Harrisburg, PA 17110

Eric Epstein  
2308 Brandywine Drive  
Harrisburg, PA 17110

  
Mary C. Kenney  
Assistant Consumer Advocate

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

19071

MCNEES, WALLACE & NURICK  
ATTORNEYS AT LAW

100 PINE STREET

P. O. BOX 1166

HARRISBURG, PA 17108-1166

TELEPHONE (717) 232-8000

Fax (717) 237-5300

OF COUNSEL

ROBERT H. GRISWOLD

SAMUEL A. SCHRECKENGAUST, JR.

BRUCE D. BAGLEY  
ALAN R. BOYNTON, JR.  
ERIC L. BROSSMAN  
ROBERT M. CHERRY  
WILLIAM A. CHESNUTT  
DAVID B. DISNEY  
MICHAEL A. DOCTROW  
ELIZABETH A. DOUGHERTY  
HARVEY FRIEDENBERG  
JAMES L. FRITZ  
FRANCIS B. HAAS, JR.  
W. JEFFREY JAMOUNEAU  
MICHAEL G. JARMAN  
DAVID M. KLEPPINGER  
BERNARD A. LABUSKES, JR.  
DELANO M. LANTZ

RICHARD R. LEFEVER  
DAVID E. LEHMAN  
CLYDE W. MCINTYRE  
FRANKLIN A. MILES, JR.  
ROBERT A. MILLS  
STEPHEN A. MOORE  
HERBERT R. NURICK  
JOHN S. OYLER  
TIMOTHY J. PEISTER  
GARY A. RITTER  
EDWARD W. ROTHMAN  
DANA STEVENS SCADUTO  
ROBERT D. STETS  
RICHARD W. STEVENSON  
DIANE M. TOKARSKY  
DAVID M. WATTS, JR.

STEVEN J. WEINGARTEN  
NEAL S. WEST  
NORMAN I. WHITE  
LAWRENCE R. WIEDER  
GARY F. YENKOWSKI  
WILLIAM M. YOUNG, JR.

SCOTT A. GOULD  
P. NICHOLAS GUARNESCHELLI  
ROBERT G. HAAS  
BRIAN F. JACKSON  
DONALD B. KAUFMAN  
MICHAEL R. KELLEY  
PETER F. KRIETE  
JAMES W. KUTZ  
CAMILLE C. MARION  
SHARON R. PAXTON  
CHUONG H. PHAM  
JONATHAN H. RUDD  
BRUCE R. SPICER  
CAROL A. STEINOUR  
CATHERINE E. WALTERS  
DERRICK R. WILLIAMSON

ERIC N. ATHEY  
DAVID M. BAKER  
JONATHAN C. BERRY  
BRETT D. DAVIS  
JAMES P. DeANGELO  
JAMES P. DOUGHERTY  
KATHLEEN A. DUNST  
ROBERT J. GODUTO

June 27, 1995

DOCUMENT  
FOLDER

VIA HAND DELIVERY

RECEIVED  
JUN 27 PM 3:46  
PA. P. U. C.  
INFO. CONTROL DIV.

John G. Alford, Secretary  
Pennsylvania Public Utility Commission  
B-20, North Office Building  
P.O. Box 3265  
Harrisburg, PA 171230

In re: **Pennsylvania Public Utility Commission, et al., v. Pennsylvania Power & Light Company; Docket No. R-0943271**

Dear Secretary Alford:

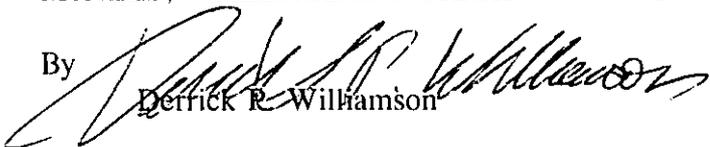
Enclosed please find the original and nine (9) copies of the Reply Brief on Behalf of the PP&L Industrial Customer Alliance. All parties of record have been duly served as evidenced by the attached Certificate of Service.

Please date stamp the enclosed copy of this transmittal letter and kindly return for our filing purposes.

Very truly yours,

McNEES, WALLACE & NURICK

By

  
Derrick R. Williamson

DPW/mts  
Enclosures

cc: Certificate of Service

ORIGINAL

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY  
COMMISSION, ET AL.,

v.

PENNSYLVANIA POWER & LIGHT  
COMPANY

:  
:  
:  
:  
:  
:  
:

DOCKET NO. R-00943271

---

REPLY BRIEF ON BEHALF OF THE  
PP&L INDUSTRIAL CUSTOMER ALLIANCE

---

DOCUMENT  
FOLDER  
RECEIVED  
JUN 27 1995  
PA. P. U. C.  
F.O. CONTROL

Air Products and Chemicals, Inc.  
Alumax Mill Products, Inc.  
Appleton Papers, Inc.  
Armstrong World Industries  
BOC Gases  
CertainTeed Corporation  
Chamberlain Manufacturing Corporation  
Cressona Aluminum Company  
ESSROC Materials, Inc.  
Grinnell Corporation  
Hercules Cement Company

Hershey Foods Corporation  
International Paper Company  
Lafarge Whitehall Cement  
Liquid Carbonic Industries  
Magee Carpet Company  
M&M/Mars, Inc.  
Praxair, Inc.  
R. R. Donnelley & Sons  
The Stroh Brewery Company  
Thomson Cons. Electronics, Inc.  
Victaulic Co. of America

David M. Kleppinger  
Derrick P. Williamson  
McNEES, WALLACE & NURICK  
100 Pine Street  
P. O. Box 1166  
Harrisburg, PA 17108-1166  
(717) 237-5214

DOCKETED  
JUN 29 1995

Counsel for PP&L Industrial  
Customer Alliance

Dated: June 27, 1995

ORIGINAL

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF CITATIONS . . . . .	iv
I. INTRODUCTION . . . . .	1
II. REPLY ARGUMENT . . . . .	3
 <u>RATE STRUCTURE</u>	
A. The Company's Treatment of Interruptible Customers for the Purposes of Cost of Service Study Analysis, Cost Allocation and Rate Design is Unreasonable, Unjust and Anti-Competitive . . . . .	3
1. The Company's Assertion that Its Treatment of Interruptible Customers is "Modest," "Balanced," and Representative of the "Best Way to Meet Competition," is Patently Absurd . . . . .	3
2. The Company's "Valuation" of Interruptible Service is Flawed and Must Be Corrected . . . . .	6
3. Despite Its Assertions to the Contrary, the Company's Proposed Allocation of Any Approved Rate Increase Violates the 1.5 Times System Average Cap and the Principle of Gradualism . . . . .	8
4. The Company's Proposed Rate Design for Interruptible Customers, and the Increases Effected Thereby, are Grossly Out of Balance, Unjust and Unreasonable . . . . .	10

	<u>Page</u>
5. PP&L's Allocation of costs Associated with EDI/IDI Credits Must Be Rejected . . . . .	15
B. The OCA's Recommended Use of a Peak and Average Cost of Service Study Methodology for Cost Allocation Purposes Must be Rejected . . . . .	17
1. Use of the Peak and Average Cost of Service Study Methodology is Violative of Recent Commission Precedent . . . . .	17
2. The OCA's Criticism of PPLICCA Witness Baron's Modified Cost of Service Study Analysis and Cost Allocation Proposal is Without Merit . . . . .	19
3. The OCA's Use of the "Resource Value" Approach Regarding Interruptible Service Must be Rejected . . . . .	21

REVENUE REQUIREMENT

A. The Company's Proposed Rate of Return on Common Equity of 13.00% is Based on Faulty Analyses, Is Unreasonably Inflated, and Must Be Rejected . . . . .	22
1. Contrary to the Assertions of the PP&L, Its Capital Structure Ratios Must Be Based on the End of the Historic Test Year and Not Upon a Future Test Year Which Incorporates Speculative Equity Issuances . . . . .	22
2. PP&L Has Voluntarily Increased Its Risk In This Proceeding, Thereby Implicitly Inflating Its Proposed Return on Equity . . . . .	23

	<u>Page</u>
3. PP&L's Attempts to Ameliorate the Effects of the Flaws Contained in Its Risk Premium, Comparable Earnings, CAPM, and DCF Analyses are Woefully Inadequate for the Purpose of Rehabilitating Its Rate of Return Proposal . . . . .	25
4. The Company's Attempts to Undermine The Validity of Reliance Upon the DCF Methodology and PPLICA Witness Baudino's Proposed Rate of Return on Common are Without Merit . . . . .	27
 B. The Company's Attempts to Justify Its Inflated Request for An Increase in Total Annual Base Rate Operating Revenues of \$261,635,000.00 Fail to Satisfy Its Burden of Proof . . . . .	 30
1. The Company Has, in fact, Requested an Increase in Total Annual Base Rate Operating Revenues of \$240 Million, Not \$261 Million . . . . .	30
2. The Company's Opposition to Adjusting Its VERP Cost Recovery Proposal to Recognize Net Costs and Amortization Over Ten Years is Unreasonable . . . . .	30
3. The Company's Continued Support for Recovery of Deferred SFAS 106 Costs Belies the Fact that the Legality of Such Recovery is Still in Question . . . . .	32
4. The Company's Request to Increase Its Allowed Annual Nuclear Decommissioning Accrual for SSES Must be Rejected . . . . .	34

	<u>Page</u>
5. The Company's Attempts to Justify Prospective Recovery of Costs Associated With Future Fossil Fuel Plant Decommissioning are Without Legal Merit . . . . .	36
6. The Company's Attempts to Justify Its Proposal to Levelize Its Modified Sinking Fund Depreciation for SSES Must Be Rejected . . . . .	39
7. The Company's Attempts to Justify Its Proposal to Decrease the Depreciable Lives of Certain Fossil Fuel Plants Belie the Record Evidence in this Proceeding and Must be Rejected . . . . .	41

**OTHER ISSUES**

A. The Company's Proposal With Respect to the Recovery of Costs Associated with the Loss of Capacity Sales to Jersey Power Central & Light Company Must be Rejected . . . . .	43
B. Attempts by the Sierra Club to Reinject the Efficacy of the ALJ's Ruling to Strike Portions of the Sierra Club Testimony are Procedurally Defective, Substantively Impotent, and Must Be Summarily Ignored . . . . .	45
1. The Sierra Club's Attempts to Brief an Issue that Should Have Been Presented in a Petition Certifying a Material Question are Procedurally Defective and Must be Summarily Ignored . . . . .	45
2. The Sierra Club's Proposal Otherwise Lacks Any Substantive Merit . . . . .	48

3. Sierra Club's Proposal to Require Certification  
of a Comprehensive Energy Audit for Large Business  
Customers Prior to Receiving Any "Discount Rates"  
is Inequitable, Unreasonable, and Should be  
Rejected . . . . . 49

III. CONCLUSION . . . . . 51

**TABLE OF CITATIONS**

Page

**ADMINISTRATIVE DECISIONS:**

Pennsylvania Public Utility Commission v. City of Bethlehem (Water), 160 PUR4th 375 (1995) . . . . .	26,28
Pennsylvania Public Utility Commission v. National Fuel Gas Distribution Corp., 73 PaPUC 552 (1990) . . . . .	23
Pennsylvania Public Utility Commission v. Pennsylvania Power & Light Company, 59 PaPUC 332 (1985) . . . . .	19
Pennsylvania Public Utility Commission v. Pennsylvania Power Company, 67 PaPUC 91 (1988) . . . . .	26,27,28
Pennsylvania Public Utility Commission v. Philadelphia Suburban Water Co., 75 PaPUC 391 (1991) . . . . .	26
Pennsylvania Public Utility Commission v. West Penn Power Company, Docket No. R-00942986, Commission Order entered December 29, 1994 . . . . .	28
Pennsylvania Public Utility Commission v. West Penn Power Company, 79 PaPUC 122 (1993) . . . . .	19

**COMMISSION REGULATIONS:**

52 Pa. Code § 5.301 . . . . .	46
52 Pa. Code § 5.302 . . . . .	46,47

## **I. INTRODUCTION**

The PP&L Industrial Customer Alliance ("PPLICA") submits this brief in reply to arguments presented in the main briefs of the Pennsylvania Power & Light Company ("PP&L" or "Company"), the Office of Consumer Advocate ("OCA"), and the Sierra Club. PPLICA's main brief filed with this Commission addressed major issues arising out of this proceeding. This reply brief is limited to responding to issues raised and arguments made by PP&L, the OCA, and the Sierra Club in their respective main briefs which were not fully addressed by PPLICA.

Specifically, PPLICA is astonished and severely disappointed that PP&L continues to argue that its treatment of the interruptible class for cost of service study and rate design purposes is "balanced" and "reasonable." PP&L's proposal to allocate costs to the industrial class such that they could be subject to increases ranging from 27% to 35% (and an increase of 22% even if PP&L receives no base rate relief) clearly does not represent a "balanced" or "reasonable" approach. PP&L's proposal must be rejected as it is unreasonable and violative of the gradualism principle to which this Commission adheres.

PP&L also asserts that its requested increase in base rate operating revenues is justified with respect to expenses regarding its Voluntary Early Retirement Program, Statement of Financial Accounting Standards No. 106 deferred cost recovery, increases to its annual annuity accrual for nuclear decommissioning of the Susquehanna Steam Electric Station units, a change in the methodology for its SSES depreciation, a decrease in the depreciable lives of certain fossil fuel plants, and the proposal for a prospective recovery of

potential costs associated with future fossil fuel plant dismantling. PP&L also proposes a rate of return on common equity based on methods of analysis that this Commission has routinely rejected. PP&L's fallacious attempts to inflate its rate base, overstate its expenses, and enhance its return must be rejected.

PP&L also argues that its Jersey Central Power & Light proposal for the recovery of costs associated with lost capacity sales should be approved. PPLICA adamantly opposes this proposal.

The OCA also has provided argument in its main brief to which PPLICA objects. Specifically, PPLICA reasserts its opposition to the OCA proposal to utilize a peak and average cost of service study methodology for the purpose of rate allocation. PPLICA also objects to the OCA's treatment of the interruptible class for cost of service study purposes.

Finally, PPLICA is outraged by the brief filed on behalf of the Sierra Club. The Sierra Club's procedurally defective and substantively impotent attempts to require that the ALJ reconsider his ruling on the Motion to Strike certain portions of the Sierra Club's testimony must be, at a minimum, summarily ignored. In addition, Sierra Club's ill-conceived "certified energy audit" proposal must be rejected.

## II. REPLY ARGUMENT

### RATE STRUCTURE

A. **The Company's Treatment of Interruptible Customers for the Purposes of Cost of Service Study Analysis, Cost Allocation and Rate Design is Unreasonable, Unjust and Anti-Competitive.**

1. The Company's Assertion that Its Treatment of Interruptible Customers is "Modest," "Balanced," and Representative of the "Best Way to Meet Competition." is Patently Absurd.

Throughout its brief, PP&L asserts that it is a "leader in economic development initiatives," that it has engaged in a "modest restructuring" of rates, and that its approach to economic development and competitive rate program is the "best way" for it to meet competition and promote economic development. See PP&L Main Brief, pp. 3-5. PPLICA, representing 22 of PP&L's largest industrial customers, takes a contrary view.

Simply put, PP&L's assertions are incomprehensible to PPLICA given that PP&L has proposed in this base rate case to increase rates for industrial interruptible customers by 27% to 34%, and by 22% even if PP&L is provided no base rate relief. PPLICA is hard pressed to understand how PP&L can consider itself to be a "leader" in terms of economic development when the draconian proposals that it has put forth in this proceeding will negatively impact the continued industrial presence within its service territory. See PPLICA Statements No. 1-6. Moreover, PPLICA queries how rate design changes that increase

interruptible rates by 22% even if there is no overall increase approved can be deemed to constitute "modest restructuring."

PP&L's rhetorical drivel must be ignored. As PPLICA clearly demonstrated through its testimony and in its main brief, PP&L's proposals with respect to the provision of interruptible service in this proceeding are hardly "modest." Indeed, a proposal which seeks to hike industrial interruptible rates by upwards of 35% clearly is not modest, especially where PP&L has proposed a 22% increase (based on its rate design) to the interruptible schedules even in the absence of any base rate relief. In addition, for PP&L to assert that its proposals are "balanced" is nothing less than outlandish. Query how a 22% increase without any base rate relief can comply with the principle of gradualism and be considered a "balanced treatment." The Company's disingenuous attempts to justify its proposal by comparing rates that would be paid under the Company's proposal for its interruptible schedule with rates paid by industrial customers for firm service in 1985 must be ignored. See PP&L Main Brief, p. 7. PPLICA is at a loss to explain why the Company would compare firm rates paid in 1985, ten years ago, with interruptible rates that are to be paid today in an industry that is vastly different than that which existed in 1985.

Perhaps the most absurd of PP&L's statements is that its proposal is representative of the best way to meet competition. For PP&L to assert that a proposed 27% to 35% increase constitutes "the best way for the Company to meet competition [and] promote economic development" is beyond comprehension. As PPLICA noted in its main brief, it is becoming

a matter of routine for electric utilities and public utility commissions throughout the state and throughout the country to meet the exigencies of competition by attempting to optimize the level of competitive offerings that are available to large industrial customers. See PPLICA Main Brief, pp. 65-67. PP&L's proposals, given that they would effect enormous increases to interruptible rates which are key to industrial performance and competitive markets, are in fact blind to extant competitive realities.

In adding insult to injury, PP&L notes in its main brief that it believes that the proposals presented by the industrial customers in this case are "particularly disturbing." PP&L Main Brief, p. 6. The great irony here is that PPLICA's proposal, essentially maintenance of the current rate design for interruptible customers subject to increases up to 1.5 times the system average increase, is consistent with the principle of gradualism and recognizes the need to move interruptible rates toward the system average rate of return. What is truly "disturbing" is the PP&L proposal, which seeks to foist upon interruptible customers an increase of 22% even if PP&L is granted no base rate relief.

Contrary to the assertion of PP&L that the position advanced by PPLICA would encourage wide-spread installation of self-generation and create the massive shifting of costs to residential customers, PPLICA's proposal promotes a revenue allocation which reduces cross-subsidization and which moves all rates toward the system average rate of return, while still recognizing the principle of gradualism. PP&L's bald statement that "[t]he net result of the positions advanced by the interruptible service customers would be to encourage wide-

spread installation of self-generation" (PP&L Main Brief, p. 7) is simply not supported by the record and has not been quantified by PP&L. Indeed, PP&L witness Kasper stated that only one LP-5 customer has installed on-site generation to date (i.e., under current interruptible rates). Tr. at 763. Consequently, it is clear that PP&L did not need to increase interruptible rates by over 27% to prevent the "wide-spread installation of self-generation." Regardless, PP&L could have filed tariff revisions prohibiting back-up generation rather than increasing rates by over 27% if it was truly concerned. PP&L's criticisms must therefore be ignored.

2. The Company's "Valuation" of Interruptible Service is Flawed and Must Be Corrected.

The Company claims that its cost of service study analysis for the purpose of cost allocation represents "a reasonable, middle-of-the-road position" with respect to all the rate classes, including the interruptible class. See PP&L Main Brief, p. 232. Contrary to the Company's assertions (Id. at 233), its 12 CP allocation methodology should not be approved by this Commission absent the incorporation of the modifications proposed by PPLICA witness Baron. See PPLICA Main Brief, pp. 47-55.

For the purpose of cost of service study analysis, the Company allocates to classes having the interruptible option according to coincident peak demand and then provides a credit equal to the "value" of interruptible load where that value has been based on the cost

of a natural gas fired combustion turbine peaking unit. The "value" that PP&L has ascribed to the interruptible load is equivalent to \$3.00/kW per month. PP&L Main Brief, p. 238.

As PPLICA detailed in its main brief, PP&L's "valuation" of interruptible load understates the true value of that load and must be properly adjusted. PPLICA Main Brief, pp. 48-50; PPLICA Statement No. 7, pp. 23-28. Specifically, PPLICA witness Baron has identified a "mismatch" between the Company's valuation of interruptible load for the purpose of the cost allocation study (which is a credit of approximately \$3.00 per kW per month as opposed to the \$6.00-\$8.00 credit that PP&L proposes for interruptible load in its rate design. PPLICA Statement No. 7, pp 24-26. As noted by witness Baron, the result of this mismatch is to penalize customer classes that contain interruptible load (for the purposes of cost of service study analysis) by requiring these classes to essentially pay the difference between the \$3.00 per kW assumed by the Company as cost of service study and the actual credits being proposed for these customers of \$6.00 and \$8.00 per kW. Thus, the Company's proposed interruptible credits of \$6.00 and \$8.00 per kW should be utilized as a basis for measuring the "value" of interruptible load for cost of service analysis purposes.

PP&L's misguided argument that witness Baron has confused cost allocation and rate design in identifying this mismatch is simply incorrect. PP&L has opted, for the purpose of its cost of service study analysis to utilize "the value" (not the cost) of interruptible capacity. To the extent that PP&L does seek to identify a "value", then witness Baron's comparison of PP&L's cost of service study and rate design interruptible credits is appropriate. The

Company has confused cost and value by mixing cost concepts of traditional cost allocation with value concepts of truly competitive markets, even though PP&L is a monopsonist with respect to its "purchase" of "capacity" from interruptible customers. (PP&L's own witness recognized the difference between "value" and "cost." Tr. at 793-94.) Therefore, PPLICA witness Baron was forced, due to PP&L's mixtures of cost and value concepts, to compare the "value" of the interruptible credit for cost allocations and rate design.<sup>1</sup>

3. Despite Its Assertions to the Contrary, the Company's Proposed Allocation of Any Approved Rate Increase Violates the 1.5 Times System Average Cap and the Principle of Gradualism.

The Company asserts that it has followed the principles of gradualism in its filing and that it has been guided by the goals of moving all classes closer to the system average rate of return in limiting increases to 1.5 times the system average rate increase. PP&L Main Brief, p. 248. In addition, the Company asserts that its proposal will "correct the overstated discount and rate design for interruptible customers." Id.

It is unequivocally clear that the Company's attempts to "correct the overstated discount and rate design for interruptible customers" has violated the principles of gradualism and the 1.5 times system average increase goal that it alleges as its goal.

---

<sup>1</sup>Of course, PPLICA opposes the resource valuation approach for interruptible customers because it fails to reflect PP&L's monopsony power and it inequitably deviates from the cost-of-service approach afforded all other customers. See PPLICA Main Brief, pp. 78-82.

The Company's rate allocation proposal (and concomitant rate design for interruptible customers) results in, as the Company recognizes, an increase to interruptible customers on LP-5 of 28%. Indeed, as the Company has also recognized, its rate design proposal will result in an increase to those customers of 22%, even if it receives no base rate relief. In short, while the totality of interruptible customers are faced with increases ranging to 28% to 35%, the system average increase requested by PP&L is 11.7%. As such, PP&L is attempting to increase rates to the interruptible class by nearly three times the system average. The Company has clearly violated its goal of limiting increases to 1.5 times the system average increase and its alleged adherence to the principle of gradualism. PPLICA Main Brief, pp. 67-68.

Although the Company's chart on p. 250 of its Brief (Table I), indicates a percentage rate increase to LP-5 of 15.45%, this chart is deceiving in that it fails to identify the increase to interruptible rates that would be effected as a result of the Company's rate design. As aforementioned, that increase would approach 28% for LP-5 customers (and 22% even if PP&L has provided no base rate relief). As such it is clear that despite its insistence that its approach is the most fair and equitable, PP&L's distribution proposal with respect to its treatment of the interruptible class is violative of the principle of gradualism and the 1.5 times system cap to which PP&L improperly states that it adheres.

4. The Company's Proposed Rate Design for Interruptible Customers, and the Increases Effected Thereby, are Grossly Out of Balance, Unjust and Unreasonable.

In its main brief, PP&L attempts to justify its sordid treatment of the industrial interruptible customers by first attempting to belittle the industrial customers claims. PP&L states that "the industrial customers argue based on general claims of competition." PP&L Main Brief, p. 271 (emphasis added). PPLICA is hard pressed to understand how PP&L can argue that the effects of competition on industrial customers are merely supported by "general claims." Six individual PP&L industrial customers testified in this proceeding as to the competitive exigencies that they are faced with in their respective markets and the need for competitively priced inputs like electric supply. See PPLICA Statements No. 1-6. Moreover, PPLICA identified in its main brief the national recognition of increased competition in the electric utility industry. PPLICA Main Brief, pp. 65-67. PP&L's ignorance of competitive realities is therefore obvious, unless, of course, reference to such competition is made for the benefit of PP&L. How could PP&L's position be more transparent and self-contradictory than to dispute PPLICA's claims of competition, while citing competition as a reason for greater business risk and a higher return on common equity? The Commission must not be fooled by such duplicity.

Regardless, the Company's assertion that it has struck a "balance" in allocating rates to interruptible customers that are "reasonable" is absurd. PPLICA fails to see the balance

in a proposal that produces at 22% increase to interruptible rates even if PP&L received no base rate relief.

The Company's proposed interruptible rates are, simply put, anti-competitive. PP&L asserts that arguments in opposition to its proposal are flawed "for a variety of reasons." However, the reasons noted by PP&L are either irrelevant or incorrect. PP&L states that a threshold error of the industrial argument is that its witnesses treat electricity as the "deciding factor" in whether to shift production or relocate. PP&L Main Brief, p. 271. Despite the fact that for many PPLICA members electricity costs are a significant factor in whether to shift production or relocate, this point is not threshold to the PPLICA argument regarding the inappropriateness of PP&L's interruptible rate design. The key to the PPLICA argument in this proceeding with respect to PP&L's treatment of interruptible customers is that the Company has failed to abide by the principle of gradualism and the 1.5 times system cap, despite the Company's lip-service to those goals. Regardless, costs of production matter for all PPLICA members, and under the rubric of "cost of production" lies the cost of energy. To the extent that cost is driven by PP&L's inequitable, unrealistic and anticompetitive proposal, then certainly, that cost becomes a major factor in deciding whether to shift production or relocate. See PPLICA Statements No. 1-6. However, the bottom line, is that the PP&L proposal unreasonably deviates from the current interruptible rate design and is violative of the principle of gradualism.

In implicit recognition of the fact that its proposal does violate the principle of gradualism and the 1.5 times system cap, the Company notes that the interruptible rate option is not the proper tool to address the threat of individual customers reducing their consumption or leaving the Company's system. PP&L Main Brief, p. 272. The Company notes that it has several tools to retain and attract businesses including EDI/IDI credits, demand free days, real time pricing, and its competitive rate rider. Id.

The Company's assertions are simply without merit. Contrary to the Company's assertion that the interruptible rate option is not a "proper tool," in 1992, PP&L noted when proposing its Optional Interruptible Rate Option that it was indeed the proper tool for addressing the threat of individual customers reducing their consumption or leaving the Company's system. See PPLICA Cross-Ex. Exh. No. 5. As PP&L stated, its Economic Development Initiative program (which includes the interruptible rate option) seeks to "contribute to an economic environment that attracts and retains businesses in PP&L's service territory." Id. at 1. PPLICA is hard pressed to understand how PP&L can now say that the interruptible rate option is not a proper tool, especially it being given that PPLICA members unequivocally utilize the interruptible rate option in the absence of the Company providing any other viable competitive alternatives.

Toward that end, the "tools to retain and attract businesses" which PP&L now cites do not effect the same types of results that occur through use of the interruptible rate option. Although PP&L's EDI/IDI credits have merit, under the Company's proposal in this

proceeding, the cost of those credits are charged back to the classes in which customers making use of them reside; consequently, their value is diluted.

With respect to its provision of other "competitive" offerings, PP&L witness Kasper has noted that the Company plans to phase out its EDI credit and demand free day offering (PP&L Statement No. 8, pp. 16-17, 20), while its real time pricing offering only applies to incremental load or shifted load (Tr. at 779-80). Consequently, it is clear that the interruptible rate option is indeed the most viable and effective tool for addressing the competitive needs of individual industrial customers.

Toward that end, PP&L has mischaracterized the interruptible rate proposal sponsored by PPLICA in this proceeding. PP&L states that the customer-specific competitive options that it has offered are far preferable to the across-the-board lower interruptible rates urged by PPLICA and Bethlehem. PP&L Main Brief, p. 273. PPLICA is not recommending that interruptible rates be lowered in comparison to current rates. PPLICA is requesting that those interruptible rates be lower than those proposed by PP&L.

PP&L's criticisms of PPLICA witness Baron in ignoring PP&L's proposed customer-specific competitive options are equally misplaced. PP&L states that the Commission rejected the challenge to the Company's closing of its interruptible rate earlier this year on grounds that it would harm the competitive standing of local businesses. However, the distinction that PP&L fails to draw is that the issue in that case was the closure of the interruptible rate, not the 27% to 35% increase at issue in this proceeding. In short, at issue

is the Company's proposed increase to interruptible rates, and the Company's proposal with respect to that issue is anti-competitive.

Despite this, PP&L argues that the level of the rate increase to interruptible customers that is proposed is just and reasonable. PP&L Main Brief, p. 277. PP&L argues that PPLICA's opposition to the rate increase to interruptible customers evidences "a complete absence of perspective and balance." Id. PP&L argues that because rates paid by interruptible customers prior to 1992 and rates paid by firm customers in 1984 were comparable to the rates that interruptible customers would be paying under PP&L's current proposal, then its proposal must be reasonable.

It is axiomatic that firm rate levels paid in 1984 and interruptible rates paid in 1992 are not at issue in this proceeding. As such, for PP&L to posit that its interruptible customers will actually be receiving a 5% rate decrease in this case (as juxtaposed against rates in 1984 and 1992) is absurd. PP&L is comparing 1985 firm rates with 1994 interruptible rates and 1992 rates with 1994 rates. Clearly, these comparisons are irrelevant.

The Company further skews the analysis of PPLICA's current interruptible rate proposal by stating that interruptible rates as proposed and adopted in 1992 were seriously flawed and that they "failed to provide commensurate benefits to the Company and its other customers." PP&L Main Brief, p. 278. This statement is flatly inconsistent with PP&L's statements in the 1994 case where it sought to close the interruptible rates and stated that the objectives of its 1992 interruptible rate option offering had been met and that therefore the

rate should be closed. See Pa. P.U.C. et al., v. Pennsylvania Power & Light Co., R-943081 (Opinion and Order entered February 15, 1995). As PP&L noted in its "Statement of Reasons" in that case, it sought closure of the interruptible option because "the economic development objective of these service options [had] been fulfilled." As such, the Company's argument is disingenuous at best and should be ignored.

PPLICA proposes a rate design through its witness Baron such that interruptible rates can be increased by 1.5 times the system average. Clearly, this is not a request to lower interruptible rates. Rather, it is an attempt to achieve a meaningful movement toward the system average rate of return and to respect the principle of gradualism. PP&L's contentions to the contrary must be ignored.

5. PP&L's Allocation of Costs Associated with EDI/IDI Credits Must be Rejected.

PP&L argues that costs associated with its provision of EDI/IDI credits should be allocated to the rate classes in which participants in the program reside (PP&L Main Brief, pp. 286-87), even though PP&L recognizes that the entire system benefits from the program (id. at 286). PPLICA opposes PP&L's illogical and inequitable allocation proposal. PPLICA Main Brief, pp. 52-54.

PP&L's offering of EDI/IDI credits benefits all customers, and costs associated with their provision should be shared accordingly. This is especially so given that the alternative (rate class specific) proposal offered by PP&L would have the effect of causing non-

participants who happen to be in the same rate class as participants to bear a disproportionate share of the cost as compared to non-participants who do not reside in a rate class that includes EDI/IDI beneficiaries; i.e., those customers would receive a share of the system benefit but would not be responsible for any cost. Id. EDI/IDI credits must be allowed on a system-wide basis as per PPLICA's recommendation. PPLICA Statement No. 7, pp. 33-38.

**B. The OCA's Recommended Use of a Peak and Average Cost of Service Study Methodology for Cost Allocation Purposes Must be Rejected.**

1. Use of the Peak and Average Cost of Service Study Methodology is Violative of Recent Commission Precedent.

The OCA has proposed that production and transmission related costs be allocated using the peak and average cost of service study methodology. OCA Main Brief, p. 265. The OCA argues (erroneously) that the peak and average methodology properly recognizes both demand and energy components of the power production investment, and the OCA consequently recommends that the production investment be allocated on a 61% energy and 39% demand basis. Id. at 267-69. Toward this end, the OCA asserts that an energy demand classification of production investment as per the peak and average methodology has, on occasion, been adopted by this Commission as well as commissions from other jurisdictions; to the extent that the OCA argument implies that adoption of the peak and average method is a matter of precedent, its argument is disingenuous. See OCA Main Brief, pp. 270-74.

As recognized by PPLICA in its Main Brief and through the testimony of its witness Baron, the OCA's peak and average cost of service study methodology is flawed for a number of reasons. See PPLICA Main Brief, pp. 56-60. In addition, PP&L has identified several other reasons for rejecting the peak demand and average energy allocation proposed by the OCA. See PP&L Statement No. 7-R, pp. 8-10. Importantly, PP&L witness Kleha has noted that witness Johnson's proposed methodology would produce extremely

unreasonable results to the extent that it allocates approximately 60% of the cost of the Company's generation facilities on an energy basis, thus sudden and various substantial increases in cost responsibility for large, high load factor industrial customers would occur. Id. at 9. As such, OCA witness Johnson's method would assign greater production costs responsibility to those customer classes who increase their load factors and use the PP&L system more efficiently. As noted by witness Kleha, these increased load factors provide benefits to the Company and all of its customers and they should be encouraged and not discouraged as they would be by an implementation by the OCA proposal. Id. at 9-10. Moreover, witness Kleha notes that the failure of the OCA proposal to contain a demand component within the allocation of energy costs renders the results of his analysis biased and inconsistent. Id. at 10.

The OCA's citation to various Commission decision and alleged support of its peak and average proposal are as faulty as its peak and average analysis. Specifically, the OCA cites to Pennsylvania Public Utility Commission v. West Penn Power Company, 54 PaPUC 602 (1981), for the proposition that capacity costs should be allocated on the basis of average demands while corresponding to the energy basis on which fuel costs were allocated at that time. OCA Main Brief, pp. 270-271. The OCA also notes that in 1990, the Commission adopted the use of the peak and average methodology for cost of service purposes in yet another West Penn Power base rate case at Pennsylvania Public Utility Commission v. West Penn Power Company, 73 PaPUC 454, 518 (1990). OCA Main Brief, p. 272. It is more

than noteworthy to magnify that the OCA has clarified in a footnote that in a subsequent West Penn base rate case, the Commission rejected the OCA's peak and average study. Pennsylvania Public Utility Commission v. West Penn Power Company, 79 PaPUC 122, 210 (1993); OCA Main Brief, p. 273, n. 89. In short, though a peak and average approach may have been "accepted" in the past, it is certainly not preferred by the Commission. Importantly, it is the 12 CP methodology recommended by PP&L and PPLICA in this proceeding that the Commission has previously adopted for PP&L. See Pennsylvania Public Utility Commission v. Pennsylvania Power & Light Company, 59 PaPUC 332, 394-98 (1985).

2. The OCA's Criticism of PPLICA Witness Baron's Modified Cost of Service Study Analysis and Cost Allocation Proposal is Without Merit.

The OCA generically argues that because it has criticized the Company's proposed 12 CP cost of service study for improperly over-allocating costs to the residential class, that PPLICA witness Baron's revenue allocation proposal, since it is based on a modified 12 CP cost of service study, also improperly assigns a larger percentage increase to the residential class than is "reasonable and appropriate." OCA Main Brief, p. 294. PPLICA is hard pressed to understand how its revenue allocation proposal results in rates to the residential class which are "unreasonable and/or inappropriate." PPLICA has proposed to move all rates toward the system average rate of return while maintaining a 1.5 times cap on any class and rate schedule increases (as per the principle of gradualism). Indeed, though PPLICA

proposes a methodology and cost allocation which seeks to reduce subsidies by 50% at proposed rates, that goal is subject to the 1.5 times system average increase cap. Consequently, rather than require that the residential class achieve a reduction in the subsidies that it received of \$100 million at present rates to \$50 million, PPLICA has proposed that in keeping with the 1.5 times constraint, residential subsidies are reduced by only 40%, or to the \$60 million level. PPLICA Statement No. 7, p. 56. This results in a percentage increase (assuming that PP&L receives its entire \$262 million increase) for the residential class of 17.55%; PPLICA proposes an equal percentage increase to the LP-4 and LP-5 interruptible classes. PPLICA Statement No. 7, p. 54, Table 2. In addition, to the extent that PP&L is authorized a rate increase of only \$20 million (consistent with the PPLICA proposal), the residential class would receive an increase of only 1.37% (again, the interruptible classes would receive an identical percentage increase). PPLICA Statement No. 7, p. 58, Table 3. Given the \$100 million subsidy received by the residential class under present rates, increases to the residential class on a percentage basis that are consistent with the 1.5 times constraint and which are equivalent on a percentage basis with increases to the interruptible class clearly are reasonable and appropriate. The OCA's contention to the contrary must be rejected.

3. The OCA's Use of the "Resource Value" Approach Regarding Interruptible Service Must be Rejected.

The OCA argues that interruptible service should be "valued" for cost of service purposes consistent with the Company's (flawed) peaking capacity valuation approach (OCA Main Brief, pp. 285-86), though witness Johnson proposes a different "credit" than that proposed by the Company.

As aforementioned, PPLICA opposes the "valuation" approach utilized by the Company and the OCA (PPLICA Main Brief, pp. 48-50, 78-82) as it fails to recognize PP&L's inherent monopsony power and because the approach fails to afford interruptible customers the same cost-of-service based pricing that is afforded to all other customers on the PP&L system. Id. Even if the "value" approach is utilized, that value must be properly reflected as noted by PPLICA witness Baron. PPLICA Statement No. 7, pp. 26-27. Both PP&L and the OCA understate the contribution made by the interruptible class. Id.

## REVENUE REQUIREMENT

**A. The Company's Proposed Rate of Return on Common Equity of 13.00% is Based on Faulty Analyses, Is Unreasonably Inflated, and Must Be Rejected.**

1. Contrary to the Assertions of the PP&L, Its Capital Structure Ratios Must Be Based on the End of the Historic Test Year and Not Upon a Future Test Year Which Incorporates Speculative Equity Issuances.

In its main brief, PPLICA argued that the Company's historic capital structure should be utilized in identifying a fair rate of return because the anticipated, end of the test year capital structure ratios employed by the Company incorporated the effects of a speculative \$100 million equity issuance. PPLICA Main Brief, pp. 28-29. The quantified effect of the PPLICA capital structure adjustment is a reduction of the Company's requested revenue requirement of \$5.017 million. PPLICA Statement No. 9, p. 32, Exh. LK-5 (improperly identified as Exh. LK-4 in PPLICA's main brief).<sup>2</sup>

The Company has argued in its brief that "[t]here is absolutely no basis upon which to reject the future test year data for . . . capital structure ratios." PP&L Main Brief, pp. 201-02. Contrary to this assertion, Commission precedent militates against the use of capital structure ratios which incorporate the effects of speculative equity issuances. Indeed, in Pennsylvania Public Utility Commission, et al., v. National Fuel Gas Distribution Corp., et al., 73 PaPUC 552 (1990), the PUC affirmed the ALJ's rejection of a revised capital

---

<sup>2</sup>The OCA has also argued for adjustments to PP&L's capital structure. See OCA Main Brief, pp. 219-31.

structure which incorporated the effects of a proposed equity issuance in part because the proposed issuance was "unsure at this moment," i.e., speculative. 73 PaPUC at 606. Given that the record evidence is clear that the Company is not committed to the stock issuance (Tr. at 1796) and that the Company did not conduct a numerical study evaluating the prudence of such an issuance (Tr. at 53-55), the effects of that proposed equity issuance are too speculative for incorporation into the capital structure ratios utilized in this proceeding. PP&L has failed to bear its burden of proving the reasonableness of using a capital structure based on a speculative equity issuance. Consequently, the alternative capital structure recommended by PPLICA (utilizing historic test year data) should be adopted.<sup>3</sup> PPLICA Statement No. 9, Exh. LK-5 (identifying common equity of 44.96%, preferred stock of 7.91%, and long-term debt of 47.13%).

2. PP&L Has Voluntarily Increased Its Risk In This Proceeding, Thereby Implicitly Inflating Its Proposed Return on Equity.

PP&L argues in its brief that its common equity cost rate must reflect the increased risk that it faces resulting from the emergence of increasing competition in the electric supply industry. PP&L Main Brief, p. 210. As PP&L witness Moul stated:

---

<sup>3</sup>Simply because PPLICA witness Baudino did not respond to the rebuttal testimony of PP&L witness Moul on this issue does not establish that the Company's ratios are reasonable as the Company argues at page 202 of its main brief. Indeed, PPLICA did not respond with surrebuttal testimony to Moul's rebuttal because that testimony merely provided a rationale for the issuance; it failed to assert that the Company was truly committed to the speculative issuance.

When customers engage in either self-generation or bypass of a utility's integrated system, the electric utility is faced with the prospect of losses occasioned by stranded investment and unrecovered costs. With increased emphasis on market-determined prices and competition in the electric generation market and the trend toward open access of the transmission network . . . , an entirely new dimension has been opened in the electric utility business.

PP&L Statement No. 12, pp. 9-10; PP&L Main Brief, pp. 210-11. In recognition of the risks posed by increasing competition, the Company has noted that the risk to the Company is "severe" because "[t]he Company has a significant number of industrial customers, who are more likely and better able to capitalize on new competitive options . . . ." PP&L Main Brief, p.212. As such, the Company has proclaimed that it has made a "major commitment" to retain existing industry and attract new business. Id. at 215. In short, the Company has recognized that its treatment of industrial customers necessarily impacts its level of risk in today's competitive market.

Despite this, the Company has proposed to increase industrial interruptible rates by 28% for LP-5 customers, and by 22% even if the Company is provided no base rate relief. Given that the Company asserts that its risk is increased to the extent that its industrial customers are encouraged to self-generate or seek other competitive alternatives, the Company's proposal to substantially increase industrial rates even in the absence of a base rate increase constitutes a voluntary increase in risk; the Company's proposed return on equity is inflated because it implicitly incorporates a voluntarily-assumed increase in risk.

As such, the Company's proposed return on equity of 13.00% should be rejected, and the PPLICA recommended ROE of no more than 10.85% should be approved.

3. PP&L's Attempts to Ameliorate the Effects of the Flaws Contained in Its Risk Premium, Comparable Earnings, CAPM, and DCF Analyses are Woefully Inadequate for the Purpose of Rehabilitating Its Rate of Return

As PPLICA argued in its main brief, PP&L's rate of return analysis is flawed both with respect to its reliance upon disfavored methodologies and with respect to its failure properly apply those methodologies as well as the preferred Discounted Cash Flow ("DCF") methodology. PPLICA Main Brief, pp. 16-26. Nonetheless, PP&L argues that its reliance upon results from the DCF, risk premium, CAPM, and comparable earnings methods is proper.

With respect witness Moul's DCF analyses, PP&L properly notes that witness Moul updated his results to indicate DCF findings for PP&L and his barometer group of 12.46% and 11.85% respectively. PP&L Main Brief, p. 220; PP&L Statement No. 12-R, Sch. 1, p. 1. However, despite these very small downward adjustments (of three and 12 basis points), these findings are still based upon witness Moul's faulty 4% estimated growth rate. PP&L Main Brief, p. 219. The expected growth rate utilized by PP&L witness Moul is inflated and unsubstantiated, thus PP&L's DCF findings must be thoroughly discounted. PPLICA Main Brief, pp.17-18.

PP&L has also attempted in its main brief to substantiate its updated risk premium finding of 13.25% by noting that the Commission has, despite mixed reviews in the past, taken "administrative notice" of risk premium findings. PP&L Main Brief, p. 221 (citing to Pa. P.U.C. v. West Penn Power Co., Docket No. R-00942986 (December 29, 1994)). Of course, the "mixed reviews" to which PP&L alludes are outright rejections of the risk premium and CAPM methods. See, e.g., Pennsylvania Public Utility Commission v. Philadelphia Suburban Water Co., 75 PaPUC 391, 430 (1991) (expressly rejecting risk premium and CAPM methods); Pennsylvania Public Utility Commission v. Pennsylvania Power Co., 67 PaPUC 91, 164 (1988) (risk premium analysis is subject to too wide a divergence to rely on). Indeed, in the case cited by PP&L where the Commission took "notice" of the risk premium and CAPM approaches, the Commission actually relied upon the DCF method. Moreover, the Commission most recently opined in Pennsylvania Public Utility Commission v. City of Bethlehem (Water), 160 PUR4th 375, 414 (1995), that the risk premium analysis was not to be relied upon in its deliberation of the equity return. Consequently, PP&L's risk premium analysis must be rejected both as a matter of PUC precedent and because of the flaws inhering in witness Moul's actual risk premium analysis (PPLICA Main Brief, pp. 20-22).

PP&L's arguments in support of its reliance upon the Capital Asset Pricing Model ("CAPM") method (updated consistent with witness Moul's rebuttal testimony) are equally without merit. PP&L witness Moul's CAPM analyses were flawed (see PPLICA Main

Brief, pp. 22-24; PPLICA Statement No. 8, pp. 48-55), and the Commission has routinely opted not to rely upon the CAPM approach (see, e.g., Pennsylvania Public Utility Commission v. Pennsylvania Power Co., 67 PaPUC 91, 164 (1988) (rejecting CAPM and risk premium approaches)).

PP&L also notes in its main brief results of witness Moul's Comparable Earnings analysis. PP&L Main Brief, pp. 223-24. As PPLICA noted in its main brief and through its testimony, this approach is improperly based upon an accounting, rather than a market, approach, thus it overstates investors' required return and must be rejected. PPLICA Main Brief, pp. 18-20; PPLICA Statement No. 8, pp. 42-45.

In sum, PP&L has failed to bear the burden of proving that its proposed return on equity of 13.00% is reasonable, given that the various methodologies upon which it relied in establishing that proposal are unreliable as a matter of Commission experience and as erroneously applied by PP&L.

4. The Company's Attempts to Undermine The Validity of Reliance Upon the DCF Methodology and PPLICA Witness Baudino's Proposed Rate of Return on Common are Without Merit.

PPLICA witness Baudino (as well as OTS witness Deardorff and OCA witness Kahal) has relied principally on the DCF method in recommending a rate of return on common equity for PP&L of no more than 10.85%. PP&L asserts in its main brief that the "primary

flaw" in each of these three rate of return witnesses' presentations is their "exclusive" reliance upon the DCF approach. PP&L Main Brief, p. 225.

PPLICA notes that contrary to the assertions of PP&L, PPLICA witness Baudino did not rely "exclusively" on the DCF method. Though PPLICA witness Baudino relied "primarily" on the DCF method, he did so through the independent DCF analysis of PP&L and two comparison groups. PPLICA Statement No. 8, pp. 19-21. Nonetheless, witness Baudino did not simply average the results of his three DCF analyses (which would have resulted in a rate of return on common equity of cost of equity recommendation of 10.71%) as he would have done if relying "exclusively" on the DCF approach; rather, he proposed a 10.85% rate of return on equity based primarily upon his DCF analyses, but which also reflected investor expectations and struck a "balance between risk and reward in today's marketplace." *Id.* at 36.

Regardless, if primary reliance upon the DCF approach is the "primary flaw" in witness Baudino's rate of return presentation, then his presentation is not flawed at all! As PPLICA noted throughout its main brief, this Commission has routinely relied almost primarily upon the DCF method in establishing a fair rate of return. See, e.g., Pennsylvania Power Company, 67 PaPUC 91; West Penn Power Co., Docket No. R-00942986, Order entered December 29, 1994; City of Bethlehem (Water), 160 PUR4th 375; PPLICA Main Brief, pp. 12, 28-29. If PP&L believes that adherence to Commission precedent is a flaw, one must query the legitimacy of PP&L's approach.

Finally, PP&L makes one lame attempt to specifically discredit PPLICA witness Baudino by stating without explanation that he mismatched growth rates in his DCF analyses. PP&L Main Brief, p. 230. The crux of PP&L's argument is apparently that witness Baudino utilized slightly different growth rate data for each of his DCF analyses; however, witness Baudino thoroughly and forthrightly explained his derivation of growth rates for his DCF analyses. PPLICA Statement No. 8, pp. 24-29 (PP&L), 31 (Baudino comparison group), 33-34 (Moul Barometer Group). PP&L utterly failed to take issue with witness Baudino's growth rate distinctions in this proceeding beyond merely noting that he used slightly different measures of growth for each analysis (the bases for which witness Baudino provided thorough explanation). See PP&L Main Brief, p.230, PP&L Statement No. 12-R, p. 19. As such, PP&L's "criticism" must be ignored.

**B. The Company's Attempts to Justify Its Inflated Request for An Increase in Total Annual Base Rate Operating Revenues of \$261,635,000.00 Fail to Satisfy Its Burden of Proof.**

1. The Company Has, in fact, Requested an Increase in Total Annual Base Rate Operating Revenues of \$240 Million, Not \$261 Million.

The Company reasserts in its main brief that it has requested an increase in total annual base rate operating revenues of \$261,635,000. PP&L Main Brief, p. 10. The \$261 million increase that PP&L requests reflects the proposed recovery in PP&L's Energy Cost Rate ("ECR") of costs related to the loss of off-system sales to Jersey Central Power and Light Company ("JCP&L"), and therefore includes a \$21 million ECR credit. As explained by PPLICA witness Baron and confirmed by PP&L witness Kleha, if the Company's JCP&L ECR recovery proposal is rejected, PP&L will credit base rates, instead of the ECR, by approximately \$21 million for off-system capacity revenues, also resulting in a net increase of \$240 million. Tr. at 2148-49; PPLICA Statement No. 7, pp.11-13. Therefore, the net increase requested by the Company is \$240 million, not \$261 million, irrespective of whether the JCP&L ECR proposal is accepted.

2. The Company's Opposition to Adjusting Its VERP Cost Recovery Proposal to Recognize Net Costs and Amortization Over Ten Years is Unreasonable.

The Company's filing reflects a proposal that will allow it to defer and amortize costs associated with its Voluntary Early Retirement program ("VERP") over a five-year period, at a cost of \$15.172 million per year. PP&L Statement No.2, pp. 12-14; PP&L Exhibit Future

1 (revised), Schedule D-10. PPLICA has argued that this proposal is unreasonable because it fails to account for savings PP&L will realize prior to the date rates resulting from this proceeding are implemented and because the Company's five-year amortization proposal will allow the Company to complete cost recovery for pension supplements and social security bridge payments well in advance of those payments. PPLICA Statement No. 9, pp. 26-29; PPLICA Main Brief, pp. 43-44. Consequently, PPLICA has proposed that PP&L's claim be adjusted to recognize the net cost (which recognizes the savings in question) to the Company, resulting in a reduction to the Company's revenue requirement of \$5.289 million. PPLICA Statement No. 9, p. 28; PPLICA Main Brief, p. 44. In addition, PPLICA proposed a ten-year amortization schedule (consistent with PP&L's 11 year VERP plan), resulting in a reduction to PP&L's revenue requirement of an additional \$4.275 million. Id. Thus PPLICA has proposed that PP&L's proposed revenue requirement be reduced by \$9.564 million regarding VERP issues.

Predictably, PP&L opposes these adjustments. PP&L argues that its VERP has not produced the cost savings alleged by PPLICA witness Kollen. PP&L Main Brief, p. 82. PP&L cites to testimony provided by its witness Berish which initially indicates savings were offset by the need for overtime, temporary and contract employees in the aftermath of VERP's initiation (id.); however, cross-examination of the PP&L witness indicated that the "wages" which allegedly offset savings may well have been part of the VERP buyout. Tr. at 2051-53 (the OCA is still awaiting an On-The-Record Data Request regarding this issue;

OCA Main Brief, p. 159, n. 42). Consequently, the Company's assertion that imputed cost savings have not been generated to date is unsubstantiated.

The Company also argues that PPLICA's proposed ten-year amortization is improper because it is "inconsistent with the Commission's general treatment of similar costs." PP&L Main Brief, p. 83. In support PP&L states that the PUC does not allow utilities to earn a return on the unamortized balance of an expense amortization, therefore, the Commission usually adopts three to five-year amortization periods. *Id.* at 84. The cases to which PP&L cites deal with the recovery of interest over an entire amortization period (Pa. P.U.C. v. National Fuel Gas Distribution Corp., 72 PaPUC 1, 26-27 (1989); Butler Township Water Co. v. Pa. P.U.C., 81 Pa. Cmwlth. 40, 473 A.2d 219, 223 (1984)). PP&L's argument misses the point; the VERP expense is paid out and incurred over a ten-year period. As such, recovery over a ten-year period of the expense is reasonable. Any assertion that the length of amortization "could" deny a portion of underlying costs on a present value basis is too speculative to warrant serious consideration.

3. The Company's Continued Support for Recovery of Deferred SFAS 106 Costs Belies the Fact that the Legality of Such Recovery is Still in Question.

PP&L has requested that it be entitled to recover \$31.095 million in "costs" resulting from compliance with Statement of Financial Accounting Standard No. 106 (SFAS 106), amortized over 17.3 years. PP&L Main Brief, p. 91; PP&L Exhibit Future 1 (revised) Schedule D-6. The Company's request to recover an amortization of prior period SFAS 106

amounts results in an annual cost of service of \$1.797 million and a revenue requirement of \$1.894 million. PPLICA Statement No. 9, p. 30. PPLICA challenges PP&L's claim for recovery of deferred SFAS 106 costs because the legality of such recovery is currently pending before the courts of this Commonwealth. PPLICA Statement No. 9, pp. 30-31; PPLICA Main Brief, pp. 44-45.

PP&L argues in its main brief that its claim for deferred SFAS 106 costs does not violate the general rule against retroactive or single-issue ratemaking, nor does it violate the Commonwealth Court's decision in Popowsky v. Pennsylvania Public Utility Commission, 164 Pa. Commw. 338, 642 A.2d 648 (1994) ("PP&L"). PP&L Main Brief, pp. 91-96. PP&L notes also that its proposed recovery is consistent with the Commonwealth Court's decision and Popowsky v. Pennsylvania Public Utility Commission, 164 Pa. Commw. 600, 643 A.2d 1146 (1994) ("PAWC"). Id. In so doing, PP&L makes much of the fact that the Court's decision in PP&L rested on its determination that the Commission inappropriately attempted to permit the recovery of prior period costs outside of a base rate case, while in the PAWC case, the Court affirmed the recovery of SFAS 106 costs in part because the Company sought recovery in the context of a base rate proceeding. However, what PP&L fails to note is dispositive; while the Court in PAWC determined that SFAS 106 transition obligation costs arise from the extraordinary and nonrecurring one time event and thus may be treated as an exception to the rule against retroactive ratemaking the Court in PP&L did not reach this issue. Given that both cases are currently the subject of petitions for allocatur

before the Supreme Court of Pennsylvania regarding this issue as well as retroactive ratemaking issues, PP&L's request for recovery of deferred SFAS 106 costs should be denied consistent with this Commission's rejection of a similar claim by West Penn in Pennsylvania Public Utility Commission v. West Penn Power Company, Docket No. R-00942986 (Order entered December 28, 1994). As such, PPLICA recommends a downward adjustment to PP&L's expenses of \$1.797 million. PPLICA Statement No. 9, p. 5; PPLICA Main Brief, Appendix F, Table II.

4. The Company's Request to Increase Its Allowed Annual Nuclear Decommissioning Accrual for SSES Must be Rejected.

PP&L requested to increase its annual accrual for the two nuclear units at the Susquehanna Steam Electric Station ("SSES") by more than four times the previous level, from a \$7.126 million total company to \$30.042 total company (\$23.570 million on a jurisdictional basis). PPLICA Statement No. 9, p. 19. PPLICA opposes this requested increase ostensibly because the Company improperly annuitized its total projected decommissioning cost based upon an assumed after tax rate of return of only 5.50%. *Id.* at 20-25; PPLICA Main Brief, pp. 42-43. The Company argues extensively that its 5.5% after-tax earnings rate should be used to calculate the annual decommissioning accrual and that adjustments to the rate proposed by PPLICA and other parties should be rejected. PP&L Main Brief, pp. 138-143.

The Company admits that it might earn more than 5.5% on the trust fund, but it speculates that because the cost of decommissioning SSES may increase it more than the estimated 4.0% change in the consumer price index, it should be entitled to earn a lower return. PP&L Main Brief, p. 138. PPLICA fails to see the logic in this approach. The bottom line is that PP&L wants ratepayer dollars far in advance of the date for decommissioning SSES, and ratepayers are entrusting PP&L with their money for a significant period of time. Given that PP&L wants an opportunity to earn the 10.23% rate of return itself, PP&L's ratepayers certainly deserve better performance on their "investment" than the 5.5% after tax rate of return that PP&L has proposed for the nuclear trust fund.

The Company also makes much of the fact that it cannot "guarantee" any earnings, that it cannot control the ultimate performance of its investments on behalf of the trust fund, and that tax rate and tax policy changes could also effect trust fund returns. PP&L Main Brief, p. 142. PP&L argues that because it has "no influence over any of these factors," PPLICA's proposal to require that the Company utilize an earnings rate equal to its claims overall rate of return is "illogical."

The uncertainty which PP&L fears with regard to its control over the selection of its investments in the decommissioning trust fund applies equally to its control over the ultimate performance of the investments it makes with respect to its claimed overall rate of return. As such, PPLICA's proposal is no less lacking in logic than PP&L's requested rate of return

on common equity. In accord with the PPLICA proposal, the Commission should apply a requested rate of return of 10.23% in identifying the annual SSES nuclear decommissioning accrual, thereby resulting in a reduction of \$19.927 million in PP&L's requested revenue requirement. PPLICA Statement No. 9, p. 25.

5. The Company's Attempts to Justify Prospective Recovery of Costs Associated With Future Fossil Fuel Plant Decommissioning are Without Legal Merit.

PP&L has proposed to establish an annuity to prospectively recover the costs of dismantling sixteen (16) fossil fuel generating plants. PP&L Exhibit Future 1 (revised) Schedule D-12; PP&L Statement No. 3, p. 22. PP&L's proposal inflates its requested revenue requirement by \$45.022 million. PPLICA Statement No. 9, p. 7. PPLICA (and various other parties) challenges the Company's claim as it is contrary to both Court and Commission precedent. PPLICA Main Brief, pp. 34-38; PPLICA Statement No. 9, pp. 7-11. Nonetheless, PP&L argues in its Main Brief that the Commission should approve its proposal.

Toward that end, PP&L recognizes that its proposal would represent a departure from Court and Commission precedent (PP&L Main Brief, p. 147) and that, even if its proposal were rejected, costs associated with fossil fuel plant decommissioning would be recoverable as a form of net negative salvage. *Id.* at 147-148. PP&L argues, however, that because of the significant expenditures which it speculates will be necessary to decommission entire

generating facilities, the traditional net negative salvage method will result in an inequitable distribution of costs among different generations of customers. Id. at 148.

PP&L's argument is interesting, not because it has any substantive merit, but because it exposes PP&L's true interest in this proceeding: to guarantee up front recovery of anticipated future costs, thereby increasing any potential stranded investment prior to the onset of deregulation. Query why else PP&L would be so concerned with the potential for future intergenerational inequities when it has already recognized that the costs of fossil fuel plant decommissioning will be recoverable in any event. Id. at 148; Tr. at 1865.

PP&L also argues that its prefunding proposal is prudent because it is a response to the Court's significant public health and safety concerns that attend the retirement and dismantling of fossil-fuel generating facilities, and that annuitizing decommissioning costs will assure that public health and safety risks are adequately addressed upon such retirement. PP&L Main Brief, pp. 149-50. The Company's argument, however, is without weight. The Company is already obliged under the current precedent to comply with the appropriate public health and safety standards and must ensure the proper retirement of its fossil fuel generating facilities. Consequently, whether prospective decommissioning costs are annuitized is irrelevant to compliance. The Company must assure that public health and safety risks are adequately addressed upon retirement of its fossil fuel plants regardless of whether it is provided prospective recovery of costs.

Amazingly, the Company also argues that PPLICA witness Kollen's opposition to the Company's claim for fossil decommissioning costs, to the extent that it is based upon legal precedent, is "not a valid basis" for disallowing the Company's claim. PP&L Main Brief, p. 151. PPLICA is astonished that PP&L is arguing that legal precedent is not a valid basis for disallowing the Company's claim. PPLICA is equally astounded by PP&L's attempt to equate the health and safety risks associated with fossil plant decommissioning to the health and safety risks associated with nuclear plant decommissioning. See PP&L Main Brief, p. 153. This is especially so given that PP&L has itself admitted that unlike nuclear facilities, there are no requirements that apply to the funding of the decommissioning of fossil fuel plants and there is no legal requirement that the decommissioning of the fossil fuel plant be funded in advance. PP&L Statement No. 13-R, pp. 14-15.

To the extent that PP&L also argues that other parties have failed to address its intergenerational equity "concerns," the Commission need only be reminded it is PP&L who must bear the burden of proving the reasonableness of its proposal. Similarly, to the extent that PP&L attempts to stave off criticisms of its proposal because of its use of a minimum of forty-nine (49) major assumptions (Tr. at 951), PPLICA asserts that where, as here, a party is seeking to overturn Commission and Court precedent, speculation like that which attaches to PP&L's proposal must militate strongly against its proposal.

6. The Company's Attempts to Justify Its Proposal to Levelize Its Modified Sinking Fund Depreciation for SSES Must Be Rejected.

PP&L has proposed to change the manner in which it accrues depreciation on SSES from the modified sinking fund method (MSF) to a levelized depreciation method. The Company's proposed modification increases test year expenses by approximately \$30 million. PP&L Statement No. 4, p. 13; PPLICA Statement No. 9, p. 16. PPLICA has recommended that the Commission reject the Company's request to recover additional costs related to "levelization" because the request will "reach beyond the end of the test year," will actually harm ratepayers, and will vitiate this Commission's purpose in approving the MSF method in the first instance. See PPLICA Main Brief, pp. 40-41; PPLICA Statement No. 9, pp. 17-18. the Company's arguments to the contrary are easily refuted.

The Company fails to expressly address the criticism identified by PPLICA Witness Kollen that PP&L's accelerated depreciation recovery is not accompanied by an offsetting carrying charge benefit as should be required in order to actually levelize the effect on ratepayers; the Company merely argues that PPLICA witness Kollen's contention is (allegedly) based on a static assumption of the rate base. In undermining its own argument, the Company speculates that witness Kollen's assumptions are unrealistic because the Company assumes that investment in new plant will exceed reductions in rate base attributable to accrued depreciation. In short, the Company uses an assumption to criticize witness Kollen's assumption. PP&L Main Brief, pp. 164-65. Such folly must be ignored.

PP&L also properly notes that PPLICA witness Kollen opposes its levelization proposal as an attempt to "reach beyond the end of the test year." PP&L attempts to argue that because it employs a straight-line method to depreciate the rest of its plant-in-service, its proposal to levelize SSES depreciation is not an inappropriate deviation that reaches beyond the end of the test year. PP&L main brief, pp. 165-66. Unfortunately, PP&L's comparison of levelization with the straight-line method is irrelevant, since the deviation that is occurring is with regard to levelization and the MSF method. As noted in PPLICA's Main Brief, the deviation which PP&L seeks is from the MSF method that it proposed in the SSES 1 and 2 cases. Toward that end, PP&L's denial that its proposal will accelerate depreciation recovery (and thus result in a premature collection of depreciation) is based on an improper comparison of levelization and straight-line methodologies. See PP&L Main Brief, p. 167. PP&L chose not to use the straight-line depreciation for SSES; it chose to use the MSF method. Consequently, in comparing PP&L's proposed levelization method with the MSF method, PPLICA witness Kollen correctly characterizes the Company's proposal as an acceleration of the depreciation method and as a premature collection of depreciation from customers. See PPLICA Statement No. 9, pp. 17-18.

Having failed to bear the burden of proving the reasonableness of its proposal, PP&L's requested revenue requirement should be reduced by \$30.626 million. PPLICA Statement No. 9, p. 5; PPLICA Main Brief, Appendix F.<sup>4</sup>

7. The Company's Attempts to Justify Its Proposal to Decrease the Depreciable Lives of Certain Fossil Fuel Plants Belie the Record Evidence in this Proceeding and Must be Rejected.

The Company requested an incremental revenue requirement of \$19.22 million in order to shorten the depreciable lives for certain fossil fuel generating units. PP&L Statement No. 5, p. 7-8; PPLICA Statement No. 9, p. 12. PPLICA has opposed the claim as the Company has provided no economic basis or quantified data or analyses that indicate that shortening the depreciable lives for these units is necessary or proper and because the record evidence is clear that continued operation of the units in question through the year 2013 is both prudent and economical. PPLICA Statement No., pp. 13-15; PPLICA Main Brief, pp. 38-40.

PP&L has argued extensively in its main brief that its proposed deactivation year of 2003 is a watershed year which, because of a combination of factors, establishes a point beyond which operation of the units in question is "highly uncertain." PP&L Main Brief, p. 169. Of course, all of these factors were known to PP&L when it developed its ARP for

---

<sup>4</sup>PPLICA's Main Brief at page 41 improperly identified the reduction to the revenue requirement as \$19.927 million. The citation in the Main Brief to PPLICA Statement No. 9, p. 5 correctly identifies the reduction to the revenue requirement as \$30.626 million.

1994 and its Five-Year Coal Upgrade Plan which concludes that the continued operation of the units in question through the year 2013 is "prudent and economical." As such, PP&L's arguments in support of the "uncertainty" of operation beyond the year 2003 do not establish evidence of a substance sufficient to approve the deactivation proposal.

PP&L makes a number of other arguments in support of this proposal. See PP&L Main Brief, pp. 171-80. The bottom line, however, is that the clear weight of the record evidence indicates, through PP&L's own filings with this Commission, that the fossil fuel plants in question need not be deactivated prior to the year 2013. Consequently, PP&L's proposal to shorten the depreciable lives based on the deactivation date of the year 2003 must be rejected, and its requested revenue requirement must be reduced by \$19.222 million.

PPLICA Main Brief, p. 40, Appendix F; PPLICA Statement No. 9, p. 4.

## OTHER ISSUES

### **A. The Company's Proposal With Respect to the Recovery of Costs Associated with the Loss of Capacity Sales to Jersey Power Central & Light Company Must be Rejected.**

The Company has proposed that the calculation of its ECR be modified to permit recovery of non-energy revenue requirements of each returning 189 MW increment of the 945 MW slice that it has been selling to Jersey Central Power & Light Company ("JCP&L"). PP&L Statement No. 7, p. 22. Under its proposal, the Company would reflect the full cost of each "slice" of returning capacity in the ECR and credit all revenues from off-system sales. The Company also proposes that if its JCP&L proposal is rejected, then all revenues from off-system capacity-related sales should also be excluded from the ECR and treated as an element of base rates. PP&L Statement No. 7-R, pp. 34-35; PP&L Main Brief, pp. 291-295.

PPLICA opposes PP&L's proposal to include, as an expense item within the ECR, revenue requirements associated with JCP&L capacity. PPLICA Main Brief, pp. 32-34. As PPLICA noted in its main brief, to allow PP&L recovery of the returning JCP&L capacity sales, would be tantamount to allowing PP&L single-issue rate increases without consideration of off-setting the expenses, revenues, or other factors. In addition, these revenue requirements have been properly allocated to PP&L's wholesale jurisdiction, and PP&L should not be provided the opportunity to automatically increase retail rates whenever

a wholesale power contract is terminated. PPLICA Main Brief, pp. 32-33; PPLICA Statement No. 7, p. 75.

PP&L has also noted that if the Commission decides to exclude from the ECR any capacity costs associated with expiring wholesale contracts, then all revenues from off-system capacity-related sales should be excluded from the ECR and treated as an element of base rates only (PP&L Statement No. 7-R, pp. 34-35; PP&L Main Brief, p. 294). PPLICA is in agreement with this proposal. See PPLICA Main Brief, p. 34; PPLICA Statement No. 7, p. 77.

However, PP&L also proposes that if its JCP&L capacity proposal is accepted, then revenues should be credited to the ECR. PPLICA is opposed to this approach. Regardless of the Commission's ultimate disposition of the Company's JCP&L request, the Commission must include the fixed, test year level of capacity related off-system revenues received from PJM installed capacity credit, output reservation and transmission entitlement sales within base rates and remove them from the ECR. PPLICA Main Brief, p. 34; PPLICA Statement No. 7, p. 77.

**B. Attempts by the Sierra Club to Reinject the Efficacy of the ALJ's Ruling to Strike Portions of the Sierra Club Testimony are Procedurally Defective, Substantively Impotent, and Must Be Summarily Ignored.**

1. The Sierra Club's Attempts to Brief an Issue that Should Have Been Presented in a Petition Certifying a Material Question are Procedurally Defective and Must be Summarily Ignored.

Perhaps the only proper briefing technique utilized by the Sierra Club is to note that a portion of Sierra Club Statement No. 1 (p. 4, line 5 through p. 7, line 21, all of pp. 9-24, and related exhibits) was to be stricken from the record, that there would be separate record for the cross-examination of the excluded testimony, and that the ALJ determined that he would not certify the ruling striking the Sierra Club testimony to the full Commission as a material question under the Commission's rules. Sierra Club Main Brief, p. 13. From there, Sierra Club engages in the outrageous act of arguing in its Main Brief that the ALJ should reconsider his exclusionary rulings with respect to the Sierra Club testimony. Sierra Club Main Brief, p. 13-16. Amazingly, Sierra Club requests that the ALJ reconsider his ruling and permit the inclusion of the excluded testimony, subject of course to a reopening of the record for the purpose of cross-examination. *Id.* at 14, 24-25.

The Sierra Club request is procedurally defective and must be ignored. The ALJ ruled on PPLICA's Motion to Strike certain portions of Sierra Club Statement No. 1 at hearing on April 27, 1995, after oral argument was presented by the parties. Tr. at 1408-34. The Commission's regulations at 52 Pa. Code §5.302 provide that "[d]uring the course of a

proceeding, a participant may submit a timely petition to the Secretary requesting the Commission's review and answer to a material question which has arisen or is likely to arise." 52 Pa. Code §5.302(a). Almost one full month after the ALJ ruled on the Motion to Strike, on the last day of hearings, May 26, 1995, Sierra Club, through its counsel, requested that the ALJ consider certifying the issue as a material question to the Commission. Tr. at 2254-55. The ALJ unequivocally rejected the request (Tr. at 2255) and noted on the record that Sierra Club had waited until the last day of hearing on this issue rather than seeking review promptly, and that it was his opinion that Sierra Club was "not timely as to interlocutory review" pursuant to Section 5.302(a). Tr. at 2264.

Despite an earlier profession of an intention to file for interlocutory review from the Commission (Tr. at 2255), Sierra Club did not petition for Commission review in answer to the material question that it posed on the last day of hearings. That, of course, should have been the end of the matter.

However, Sierra Club has sought to inject the issue by arguing the merits of its petition for Commission review in answer to a material question at the briefing stage of this proceeding. That effort constitutes a gross violation of Commission procedure. The Commission's regulations specify "The Commission will not permit interlocutory review of rulings of presiding officers, made during the course of proceedings, except as permitted by the [A]ct and as specified in this subchapter." 52 Pa. Code § 5.301(a). The Sierra Club's attempts to require the ALJ to again rule on the Motion to Strike in his recommended

decision and its request that the Commission reverse the ALJ decision on the Motion to Strike constitute a violation of 52 Pa. Code § 5.301. As such, Sierra Club's argument with respect to this issue in its main brief must be stricken, and, at a minimum, it must be summarily ignored.<sup>5</sup>

Section 5.302 of the Commission's regulations also specify procedures that must be followed for the purpose of petitioning the Commission for review and answer to a material question. Those specific regulations require submission of a timely petition, the opportunity for each participant to file a brief to the Secretary for the sole purpose of supporting or opposing the petition and addressing the merits of the question at issue, and the filing of extracts from the record as will assist the Commission in reaching a decision. 52 Pa. Code § 5.302(a)-(c). In addition, the regulations provide that: "[n]o additional briefs are permitted unless directed by the Commission." 52 Pa. Code § 5.302(d).

The Sierra Club's brief has violated every subsection of § 5.302. The Sierra Club's request is untimely. The Sierra Club's request is in such a form that compliance with § 5.302(b) regarding briefs on the material question cannot be complied with. The "brief" provided by the Sierra Club is not of the type contemplated by § 5.302 thus subparts (a), (b), and (c), have been violated. Finally, to the extent that Sierra Club has provided a brief (or a portion thereof) on the issue despite having failed to properly petition the Commission for

---

<sup>5</sup>Appendix G to Sierra Club's Brief contains the testimony at issue, and it should also be stricken.

review in answer to the material question at issue, its brief violates 52 Pa. Code § 5.302(d).

Having wholly failed to comply with Commission's regulations, Sierra Club's efforts at seeking further review of the ALJ's ruling on the Motion to Strike portions of the Sierra Club testimony should be stricken, and, at a minimum, summarily ignored. This is especially so given that the Sierra Club "argument" necessarily includes a discussion of issues regarding extra-record evidence.

2. The Sierra Club's Proposal Otherwise Lacks Any Substantive Merit.

Although PPLICA is unwilling to engage in a thorough discussion of the extra-record evidence to which Sierra Club alludes in "briefing" the Motion to Strike issue, PPLICA believes that it suffices to note that it sought the Motion to Strike ostensibly because the issues addressed by the Sierra Club pertain directly to demand side management ("DSM") lost revenue and incentive recovery. The legality of lost revenue recovery and DSM incentive recovery was addressed by the Commonwealth Court by Order entered January 9, 1995, at Docket Nos. 3104 C.D. 1993, 904 C.D. 1994. The Commission appealed the Commonwealth Court's decision to the Supreme Court, and its Petition for Allocatur is pending before that Court at Docket No. 0164 M.D. Allocatur 1995. As such, Sierra Club testimony on DSM incentive surcharge, lost revenue recovery, and demand side cost recovery issues has been properly excluded from consideration in this proceeding. See Tr. at 1408-14.

3. Sierra Club's Proposal to Require Certification of a Comprehensive Energy Audit for Large Business Customers Prior to Receiving Any "Discount Rates" is Inequitable, Unreasonable, and Should be Rejected.

Sierra argues in the relevant portion of its main brief that as a precondition to illegibility for any discount rate, including economic development rates, a business customer must be certified so as to insure "maximum cost-effective DSM as a prerequisite to economic discount rates." Sierra Club Main Brief, p. 18. As PPLICA noted in its main brief, Sierra Club has provided no rationale for requiring energy audits for industrial customers, while not requiring them for any other customer with respect to "discount rates." PPLICA Main Brief, p. 83; PPLICA Statement No. 7-R, p. 24. Indeed, Sierra Club witness Biewald's proposal has been so poorly developed that he was unable to identify which rate schedules would fit within his definition of "discount rates" for PP&L. Tr. at 1438. Witness Biewald conceded that he would define as a "discount rate" one which produced a rate of return higher than the system average so long as it was a discount from the Commission approved tariff. Tr. 1438-42. Sierra Club witness Biewald also conceded that he is unaware of the level of discounts, if any, that exists on the PP&L system today and that he doesn't "know what the specific discounts are or what the basis is for determining those discounts." Tr. at 1450. Given the obvious illogic and lack of foundation for the proposal, it must be rejected.

Regardless, it is PPLICA's position that the Commission's ongoing investigation into electric utility DSM programs at PUC Docket No. I-00900005 is the appropriate forum for the Sierra Club proposal to the extent that it has any meaningful basis.

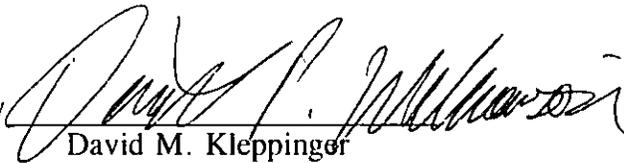
**III. CONCLUSION**

**WHEREFORE**, the PP&L Industrial Customer Alliance respectfully requests that this Commission approve the recommendations and proposals set forth by PPLICA in its Main Brief.

Respectfully submitted,

McNEES, WALLACE & NURICK

By



David M. Kleppinger  
Derrick P. Williamson  
100 Pine Street  
P. O. Box 1166  
Harrisburg, PA 17108-1166  
(717) 237-5214

Counsel for PP&L Industrial  
Customer Alliance

Dated: June 27, 1995

CERTIFICATE OF SERVICE

I hereby certify that I have served two copies of the foregoing Reply Brief on Behalf of the PP&L Industrial Customer Alliance on all known parties of record to this proceeding, in the manner indicated below, properly addressed as follows:

Service Via Hand-Delivery

**OFFICE OF ADMINISTRATIVE LAW JUDGES**

Hon. Robert A. Christianson  
Administrative Law Judge  
PA Public Utility Commission  
G-08A North Office Building  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Service Via First Class Mail

**OFFICE OF CONSUMER ADVOCATE**

Tanya J. McCloskey, Esquire  
Mary C. Kenney, Esquire  
Assistant Consumer Advocates  
Office of Consumer Advocate  
1425 Strawberry Square  
Harrisburg PA 17120

**CENTRAL EASTERN  
PENNSYLVANIA FUEL OIL  
DEALERS**

Robert P. Haynes, Esquire  
Mette, Evans & Woodside  
3401 North Front Street  
P.O. Box 5950  
Harrisburg, PA 17110-0950

**UNIVERSITY/COLLEGE COALITION**

Daniel P. Delaney, Esquire  
James P. Melia, Esquire  
Kirkpatrick & Lockhart  
204 North Third Street  
Harrisburg, PA 17101-1507

**ORIGINAL**

**OFFICE OF TRIAL STAFF**

Kenneth L. Mickens, Esquire  
Johnnie E. Simms, Esquire  
Office of Trial Staff  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**OFFICE OF SMALL BUSINESS  
ADVOCATE**

Karen Oill Moury, Esquire  
Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101

**CROWN AMERICAN CORPORATION**

Kenneth Zielonis, Esquire  
Stevens & Lee  
208 North Third Street  
Suite 310  
P.O. Box 12090  
Harrisburg, PA 17108-2090

**PENNSYLVANIA POWER & LIGHT  
COMPANY**

Paul E. Russell, Esquire  
Associate General Counsel  
Pennsylvania Power & Light Co.  
Two North Ninth Street  
Allentown, PA 18101-1179

David B. MacGregor, Esquire  
Thomas P. Gadsen, Esquire  
Anthony C. DeCusatis, Esquire  
Morgan, Lewis & Bockius  
2000 One Logan Square  
Philadelphia, PA 19103

**BETHLEHEM STEEL CORPORATION**

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

**MID-ATLANTIC ENERGY PROJECT  
(SIERRA CLUB)**

Alan J. Barak, Esquire  
Mid-Atlantic Energy Project  
Weidner Energy Law Clinic  
3700 Vartan Way  
Harrisburg, PA 17110-9450

**OFFICE OF CONSUMER ADVOCATE**

Mr. Thomas Catlin  
Mr. Matthew I. Kahal  
Exeter Associates, Inc.  
12510 Prosperity Drive,  
Suite 350  
Silver Spring, MD 20904

Mr. Dale Bridenbaugh  
MHB Technical Associates  
1723 Hamilton Avenue-Suite K  
San Jose, CA 95125

**DEPARTMENT OF DEFENSE**

David A. McCormick, General Attorney  
Regulatory Law Office  
Office of the Judge Advocate General  
Department of the Army  
DAJA-RL 3848  
901 N. Stuart Street, Room 713  
Arlington, VA 22203-1837

**THE LANCASTER CHAMBER OF  
COMMERCE AND INDUSTRY**

Christopher S. Underhill, Esq.  
Hartman Underhill & Brubaker  
221 East Chesnut Street  
Lancaster, PA 17602

**COMMISSION ON ECONOMIC  
OPPORTUNITY**

Mr. Craig Kuennen  
Commission on Economic  
Opportunity  
211 S. Main Street  
Wilkes-Barre, PA 18701-1596

**ERIC JOSEPH EPSTEIN**

Mr. Eric Joseph Epstein  
2308 Brandywine Drive  
Harrisburg, PA 17110

**UNIVERSITY/COLLEGE COALITION**

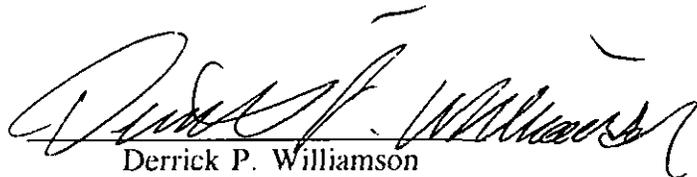
Cook, Eisdorfer & Associates  
2258 Schuetz Road  
Suite 205  
St. Louis, MO 63146

**CENTRAL EASTERN  
PENNSYLVANIA FUEL OIL  
DEALERS**

Mr. Steven Andersen  
Economic & Policy Analysis, Inc.  
13300 Council Bluff Drive  
Austin, TX 78727

**OFFICE OF SMALL BUSINESS  
ADVOCATE**

Mr. Robert D. Knecht  
Industrial Economics,  
Incorporated  
2067 Massachusetts Avenue  
Cambridge, MA 02140



Derrick P. Williamson

Dated this 27th day of June, 1995, in Harrisburg, Pennsylvania.