

CMB

R-00943271

PUC
PUBLIC HEARING STATEMENT

Mr. Presiding Officer, members of the Public Utility Commission and attendees at the public hearing: KJR

I am Arthur Taylor, President of Muhlenberg College located in Allentown, Pennsylvania. I am grateful for this opportunity to describe to the Presiding Officer and the Commissioners present the impact of the proposed PP&L rate increase on my institution and our 1,600 students and their families, a number of whom reside in the PP&L service area, as well as similarly situated independent colleges who are a part of the University/College Coalition in this proceeding.

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1000 N. MARKET ST.
HARRISBURG, PA. 17102

Presently before the Commission is the Company's Supplement Number 50 to its Tariff Electric Pennsylvania PUC Number 200. This supplement requests an increase in total annual operating revenues in excess of \$260 million dollars or approximately 11.7% over the present level of revenues. As part of this filing, PP&L is requesting a minimum rate of return on its common equity of 13%. The return of 13% has been stated by the Company to be necessary to position it more favorably in the financial markets.

We are aware that the Commission will be considering the appropriateness of this request during the period of suspension of the increase until September 1995. We are also aware that there have been approximately 103 formal complaints filed against the proposed increase and that the Company's justification and statement of reasons for the proposed rate increase will be tested during these proceedings. The purpose of this statement is to advise the Presiding Officer and the Commission of the impact of this proposed increase upon Muhlenberg College and similar independent universities and colleges.

We will indeed feel the impact of the proposed rate increase. Muhlenberg's electric expense for the one year period of March 1994 through February 1995 was \$675,000. That usage of power places Muhlenberg under rate schedules LP-4 and GS-3 for our main campus account and we have several residential accounts. The total increase to Muhlenberg will be a minimum of \$65,700 in the first year according to the PP&L representative who services our account.

Muhlenberg and other colleges in our University/College Coalition -- Elizabethtown, Messiah, Dickinson, Kings, Wilkes University, The University of Scranton, and Keystone Junior College -- find themselves in rate classes where the vast majority of users are commercial or industrial businesses. These entities are usually able to pass along cost increases directly to customers who use their products. With the tremendous resource needs now and in the future to continue our mission of educating students, Muhlenberg and its coalition partners with limited resources will have to make major sacrifices to sustain quality education in the face of these increases in costs. We are not in the business of making a profit. We are in the business of educating students, and cost increases such as these inevitably impact students.

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Let me profile our operations, which are not dissimilar from those of our fellow coalition members. At Muhlenberg, approximately 90% of our total annual revenues are the result of tuition, room and board charges to students. Philanthropy and endowment earnings account for the remaining approximately 10%. Unlike state-supported universities, where subsidies might help to temper the effect of this proposed rate increase, we receive limited help from federal and state sources.

Our independent colleges are receiving pressure from other directions as well. In certain communities, attacks have been made upon our tax exempt status. We are further threatened at the national level with proposed cutbacks in financial aid programs to students which could affect nearly half of Muhlenberg College's enrollment. Institutional financial aid at colleges such as Muhlenberg ranges from 20% to 30% of our annual budgets. Through institutional aid, we subsidize over 50% of our students and their need continues to increase.

If we attempt to absorb these additional costs for electric power, valuable education programs would necessarily be impacted; if we pass along increases such as these to students in the form of raised tuition, the College would not gain ground because it will be required to provide increased student aid. The fact is that we have little choice. Our ability to raise additional revenue at this time either through increased tuition and fees or philanthropy is severely limited, and, therefore, cost increases such as the proposed rate increase are particularly harsh.

Let me say, parenthetically, that my institution has taken steps to conserve electricity where possible. We have installed energy efficient systems in our new buildings and renovation projects. We have computerized monitoring of our controls on a round-the-clock, seven-day-a-week basis. Most challenging of all, we are attempting to change the behavior of our students and staff and encouraging them to conserve through environmental classes. We want to increase these efforts, hopefully with help from PP&L. However, these efforts alone will not do it. Electricity usage for our colleges and universities will continue to be a significant expense as we meet student and faculty needs for computer access from living spaces and offices to campus networks and libraries.

In conclusion, we implore the Commission to recognize that independent colleges and other non-profit institutions in our rate class cannot react to these increases just simply by passing along the cost. We ask that, in considering this request for increased electric rates, we be treated in a manner which recognizes what we do, even if this means establishing a separate rate class to protect the financial health of our state's higher educational institutions.

END

DRAFT #2 3/29/95

ORIGINAL R-00943271

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TESTIMONY

OF

EDWARD A. ESSL, JR.
CAPITAL CITY TASK FORCE COORDINATOR
PENNSYLVANIA STATE LEGISLATIVE COMMITTEE
OF THE
AMERICAN ASSOCIATION OF RETIRED PERSONS

BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

PUBLIC INPUT HEARINGS
RE: PENNSYLVANIA POWER & LIGHT CO.

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FOLDER

DOCKETED
AUG 16 1995

Pennsylvania State Museum
3rd and North Streets
Harrisburg, PA
Thursday, March 30, 1995

KJR

I AM PLEASED TO APPEAR HERE TODAY AND PRESENT TESTIMONY OPPOSING THE PENNSYLVANIA POWER AND LIGHT COMPANY PROPOSAL TO INCREASE RESIDENTIAL RATES IN 24 COUNTIES IN PENNSYLVANIA.

I SHOULD LIKE TO BEGIN WITH SOME PERSONAL DATA BEARING UPON THE ISSUE.

I AM A RESIDENT OF CUMBERLAND COUNTY AND A PP & L CUSTOMER. I LIVE IN AN ALL ELECTRIC "POWER HOUSE" WHICH BEARS AN ADDRESS PLAQUE SHOWING PP & L LOGO. I HEAT, COOL, COOK, ILLUMINATE, AND ENTERTAIN ELECTRICALLY.

I BOUGHT THE HOUSE USED IN 1976 AND THAT TIME MY ENERGY BILLS WERE \$55.00 MONTHLY. SINCE THEN I HAVE REPLACED A DRAFTY DOOR WITH A STEEL AIR TIGHT DOOR, REPLACED ALL THE WINDOWS WITH DUAL PANE ARGON GAS INSULATED VINYL, AND REPLACED THE AGING HEAT PUMP WITH A MORE EFFICIENT UNIT. I HAVE ALSO REDUCED AIR LEAKAGE THROUGH THE PATIO DOOR BY BUILDING AN INSULATED SUN ROOM, AND I INSTALLED AN INSULATED DRAFT FREE GARAGE DOOR.

ADDITIONALLY MY ONCE 72 DEGREE HOUSE IS NOW KEPT AT 68 DEGREES DURING THE WINTER MONTHS (60 DEGREES AT NIGHT), AND 75 DEGREES IN

THE SUMMER. TEMPERATURE CHANGES ARE MADE AUTOMATICALLY BY MY ENERGY SAVING SET BACK THERMOSTAT. MOST LIGHT BULBS ARE 60 WATT AND I'VE INSTALLED FLUORESCENT LIGHTS WHEREVER POSSIBLE.

DESPITE THESE EFFORTS I HAVE SEEN MONTHLY BILLS IN EXCESS OF \$300.00 AND LATELY AVERAGING \$135.00. I AM TOLD MY RATE OF INCREASE WOULD BE 11% RAISING MY COST TO \$150.00.

ALTHOUGH I HAVE GREATLY IMPROVED THE EFFICIENCY OF MY ENERGY USAGE. I HAVE FAILED TO REDUCE MY COSTS OR EVEN CONTAINED THEM. I MIGHT ADD THAT THERE ARE ALSO THREE FEWER PERSONS IN THE HOUSEHOLD SINCE 1990.

UNLIKE MANY, I CANNOT SAY THAT THE REQUESTED INCREASE WILL CAUSE ME ANY SERIOUS PROBLEM, HOWEVER, AS I BELIEVE YOU WILL SEE FROM THE FOLLOWING DATA, THERE ARE THOSE WHO CAN ILL AFFORD TO MAKE THE ENERGY SAVING INVESTMENTS I HAVE MADE. WORSE THERE ARE THOSE WHO CANNOT AFFORD THEIR CURRENT UTILITY COSTS WHO LIVE IN WINTER COLD, SUMMER HEAT, AND NIGHTLYT GLOOM AND MUST DECIDE BETWEEN HEAT, FOOD OR MEDICATIONS. I STAND HERE TODAY TO GIVE VOICE TO THEIR MISERY.

IN PENNSYLVANIA THE AVERAGE LOW-INCOME ENERGY EXPENDITURE IS \$93.55 (1992 FIGURES), WHEREAS THE SOCIAL SECURITY MONTHLY INCOME FOR WIDOWS AND WIDOWERS WAS \$640.30 AND FOR RETIRED WORKERS \$671.80 LEAVING A MERE \$546.75 AND \$578.25 RESPECTIVELY FOR ALL OTHER EXPENSES. DOING THE MATHEMATICS WE FIND THAT ENERGY COSTS ARE 14.6% AND 13.9% RESPECTIVELY FOR EACH GROUP.

OLDER AMERICANS CONSUME ABOUT 21% OF ALL ENERGY IN THE RESIDENTIAL SECTOR. FIFTY-FOUR (54) PERCENT OF ALL OLDER HOUSEHOLDS HEAT WITH NATURAL GAS AND 14.9% USE ELECTRICITY FOR HEATING AND COOLING. SINCE, AS WE HAVE INDICATED, OLDER HOUSEHOLDS SPEND A LARGE PORTION (14.6 AND 13.9 PERCENT) OF THEIR INCOME ON ENERGY THEY ARE PUT AT SERIOUS RISK WHEN ENERGY MARKETS INCREASE RATES.

IN PENNSYLVANIA THE AARP REPRESENTS 1,900,000 MEMBERS OVER AGE 50. MOST OF OUR MEMBERS ARE SOCIAL SECURITY RECIPIENTS AND IT IS ESTIMATED THE 1,925,456 SENIORS OVER AGE 65 AND 1,182,276 AARP MEMBERS RESIDING IN THE 24 EFFECTED COUNTIES WOULD BE SERIOUSLY EFFECTED BY ANY RATE INCREASE. ADDITIONALLY, OUR RECORDS INDICATE 172,869 PERSONS OVER AGE 65 AND BELOW THE POVERTY LEVEL RESIDE IN THE EFFECTED COUNTIES.

NATIONALLY THE AVERAGE COST PER KW HAS RISEN ANNUALLY SINCE 1979 FROM 4.6 CENTS TO 8 CENTS IN 1993, A 73.9% INCREASE IN A MERE 14 YEARS.

BUT AVERAGES MASK THE TRUE INCREASES; FOR EXAMPLE: COMPARING THE YEARS 1980 TO 1991, FOR THE SAME PERIOD THE RATE OF INFLATION WAS 77% WHILE ENERGY PRICES ROSE IN

CALIFORNIA	103%
GEORGIA	78%
KANSAS	82%
LOUISIANA	86%
AND WASHINGTON	80%

PENNSYLVANIA ROSE 72%, A SEEMINGLY CONSERVATIVE RISE, HOWEVER WHEN COMPARED TO THE NATIONAL AVERAGE INCREASE PER KW FOR THE SAME PERIOD IT WAS A HEALTHY 1.9% AHEAD OF THE NATION'S 73.9%.

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. FURTHER BECAUSE THE INCOME OF THE POOR HAS NOT KEPT

PACE WITH INFLATION, ENERGY COST INCREASES CAN ONLY RESULT IN FURTHER HARDSHIP.

BECAUSE AARP BELIEVES ENERGY RATES SHOULD BE REASONABLE AND AFFORDABLE WE OPPOSE ANY PP&L INCREASE AT THIS TIME.

Attach: Demographic Data

DEMOGRAPHIC DATA BY COUNTY
PENNSYLVANIA

COUNTY	TOTAL AGE 65+	POVERTY AGE 65+	MINORITY AGE 65+	SPANISH ORIGIN AGE 65+	AARP MEMBERS	AARP CHAPTERS	SENIOR CENTERS
Adams	4748	794	48	25	7054	3	5
Allegheny	199566	19403	16112	709	155545	107	80
Armstrong	11093	1466	97	40	7663	1	9
Beaver	24305	2278	1113	119	19033	1	4
Bedford	5893	1141	28	25	4037	0	5
Berks	441671	4788	574	257	28536	2	15
Blair	19482	2238	134	45	13149	4	10
Bradford	7653	1181	29	18	5833	1	6
Bucks	38299	3085	711	185	48686	3	13
Butler	15793	1588	84	41	14105	5	6
Cambria	25039	2556	345	101	15000	1	10
Cameron	953	90	1	3	751	0	2
Carbon	8327	797	4	45	5936	1	5
Centre	8542	849	42	28	8040	0	6
Chester	28686	2128	1859	142	33894	3	8
Clarion	5067	646	4	28	3550	0	4
Clearfield	10933	1484	48	20	8098	2	9
Clinton	4723	580	9	13	3446	0	4
Columbia	8262	1008	15	11	6301	2	6
Crawford	11481	1515	136	30	7187	2	6
Cumberland	19086	1639	201	61	21841	7	5
Dauphin	29145	3436	2597	163	22490	3	22
Delaware	71322	5304	4742	294	58003	12	14
Elk	4765	457	8	4	4021	1	9
Erie	30536	3020	656	94	16226	4	9
Fayette	22693	3762	814	89	13186	1	8
Forest	842	99	1	1	918	0	3
Franklin	13705	1626	213	45	11891	7	7
Fulton	1457	298	8	8	1025	0	2
Greene	5598	927	60	23	2997	0	3
Huntingdon	5275	796	62	13	5181	0	7
Indiana	10167	1408	68	29	7344	2	7
Jefferson	7037	1058	9	15	4081	0	5
Juniata	2417	346	1	17	1934	0	4
Lackawanna	37235	3816	106	82	45501	1	7
Lancaster	42338	3866	461	258	45501	5	9
Lawrence	14440	1521	274	50	9815	5	3
Lebanon	13634	1312	66	44	10541	1	1
Lehigh	35404	3356	199	185	26093	6	21
Luzerne	56119	6097	173	160	26045	1	13
Lycoming	15110	1763	157	41	11450	1	7
McKean	7771	808	26	15	5712	3	4
Mercer	16681	1504	516	34	12412	5	5
Mifflin	6318	864	28	20	3843	0	5
Monroe	9067	904	98	24	9306	2	4
Montgomery	80879	4701	2832	316	74516	10	12
Montour	2684	346	7	7	1496	0	2
Northampton	28301	3001	312	294	23487	5	11

DEMOGRAPHIC DATA BY COUNTY
PENNSYLVANIA

COUNTY	TOTAL AGE 65+	POVERTY AGE 65+	MINORITY AGE 65+	SPANISH ORIGIN AGE 65+	AARP MEMBERS	AARP CHAPTERS	SENIOR CENTERS
Northumberland	16150	2445	43	38	8758	1	9
Perry	3707	446	3	6	3019	1	6
Philadelphia	237370	39042	60405	2528	137848	13	30
Pike	3292	310	15	29	4037	1	2
Potter	2302	420	8	3	3032	0	4
Schuylkill	26955	3623	59	69	16172	0	5
Snyder	3544	442	5	7	2795	1	4
Somerset	10830	1614	26	32	6264	0	6
Sullivan	1036	125	0	2	576	0	1
Susquehanna	4922	679	24	14	4108	1	8
Tioga	4909	777	9	13	3785	1	4
Union	3531	404	8	10	2937	1	2
Venango	8083	939	43	18	7692	3	4
Warren	6467	556	24	6	5042	1	6
Washington	28742	2985	1046	205	20101	9	15
Wayne	5460	713	12	12	4254	1	3
Westmoreland	48711	5359	739	127	39143	10	12
Wyoming	2959	381	12	4	2450	0	2
York	35944	3959	620	120	37563	14	17
*** Total ***	1925456	172869	99189	7514	1182276	278	562

132 White Oak Road
New Holland, PA 17557-9722
717/354-6200
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AUG 4 1995

KJR

August 2, 1995

CHAIRMAN QUAIN'S
OFFICE

R- 943271

PP&L Rate Increase
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AUG 11 AM 8:41
P.U.C. DIV.
REG. CONTROL

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

Re: Docket # R-00943271
Public Utility Commission V. Pennsylvania Power & Light Company

Dear Chairman Quain:

Berk-Tek, Inc. is a medium sized manufacturing customer of Pennsylvania Power & Light Company (PP&L). We presently purchase about 12,000,000 KWHs per year under PP&L's LP-4 Optional Interruptible Power rate. Our annual billing for 1995 will approximate \$500,000.00 based on PP&L's present rates.

We are very much concerned about PP&L's recent rate filing and the effect that it would have on our electric bills. We have determined that if the proposed rate filing is approved, our bills would be increased by over 40%. Needless to say, this type of an increase would have a severe negative impact on our business. We currently employ about 400 people at our plant.

In reviewing the testimony in this case, it appears that every class of PP&L customer is represented with the exception of rate LP-4 and rate LP-4 Interruptible customers. Larger customers (rates LP-5 and LP-5 Interruptible) are represented by the Industrial Customer Alliance (ICA). Smaller commercial customers (rates GS3 and GS1) are represented by the Office of Small Business Advocacy. Residential customers are represented by various consumer groups. We are concerned about the possibility that a disproportionate share of the rate increase will be borne by rate LP-4 and rate LP-4 Interruptible customers. We are especially concerned that a distinction will be made in the value of interruptible power between rate LP-4 Interruptible and rate LP-5 Interruptible customers.

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August 2, 1995
Page 2

We agree with much of the testimony and arguments which have been presented by the Industrial Customer Alliance. However, the ICA arguments have been limited to the class of customers they represent, namely rate LP-5 and LP-5 Interruptible customers. There is no valid reason to make a distinction in the value of interruptible power for rate LP-4 Interruptible and rate LP-5 Interruptible customers.

We are also concerned that Interruptible customers in general will bear a greater portion of the rate increase than firm customers. PP&L initiated their Optional Interruptible Power rate as part of an overall Economic Development filing less than three years ago. We feel that Optional Interruptible Power was an integral part of this filing and that the reduced cost of electricity prevents many of PP&L's industrial customers from leaving the PP&L service area.

We hope that you will consider the above statements when making your final decision on this filing. Thank you for your interest in this matter.

Very truly yours,



Steven P. Talarico
Controller

c: Vice Chairperson Lisa Crutchfield
Commissioner John Hanger
Commissioner Robert K. Bloom
Commissioner David W. Rolka
Secretary John Alford

ORIGINAL

KJR

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY,
COMMISSION, ET AL.

V.

PENNSYLVANIA POWER & LIGHT
COMPANY

Docket No. R-00943271,
R-00943271C001

et seq.

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AUG 7 1995

EXCEPTIONS OF ERIC JOSEPH EPSTEIN, PRO SE

PUBLIC UTILITY COMMISSION
SECRETARY BUREAU

Mr. Eric Joseph Epstein respectfully files the following Exceptions of the Recommended Decision of Administrative Law Judge, the Honorable Robert A. Christianson (hereinafter referred to as the "Court") in the above mentioned matter:

EXCEPTION I) The Court allowed Mr. Epstein's Brief with "caution that references are not all to record evidence. I am not accepting the references in the brief as evidence because such an acceptance would be unfair and would be contrary to normal practice...It is correct that notice could be taken of some of his references but the main brief is too late for notice to be asked, under the circumstances. (Page 95)...I repeat that I am not specifically striking portions of the brief but I am not relying on them for factual content (Page 182.)" Considerable discussion was generated by Pennsylvania Power & Light (PP&L) in their Motion to Strike and Mr. Epstein's Response to PP&L's Motion to Strike. Mr. Epstein respectfully requests clarification as to specific factual references which will not be admitted into evidence.

EXCEPTION II) Mr. Epstein is in slight variance with the Court's term "intergenerational" and is seeking clarification. Mr. Epstein concurs with the Court's desire not to burden future generations (pages 96 and 100), and strongly argued for such an approach. Mr. Epstein also argued for Corporate responsibility for investment decisions relating to nuclear power generation. Mr. Epstein specifically introduced and discussed the prudence argument on three separate occasions with the following

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PP&L witnesses: Mr. Ronald Hill, Pages 448-455; Mr. Thomas LaGuardia, Page 1059, Lines 13-24 and Page 1060; and, Mr. Douglass Krall, Page 1925, Lines 16-24 and Page 1927, Lines 9-13.) Mr. Epstein is asking the Court to clarify its position by declaring whether or not it concurs with the argument that: a) Present rate payers as well as *shareholders* share an intergenerational fiscal burden, (Page 96); and, b) If premature shutdown of a nuclear power plant constitutes an unfair economic burden on rate payers. Present and future customers would not be exposed to "speculative," unpredictable costs if PP&L had not made a voluntary decision to invest in nuclear power production.

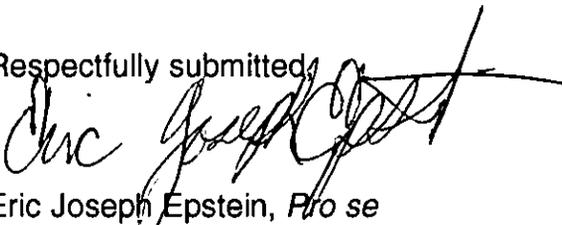
EXCEPTION III) The Court recognized the issue of radioactive waste disposal. Mr. Epstein discussed the issue of low-level radioactive waste (LLRW) management extensively throughout his Main Brief, Reply Brief and Rely to PP&L's Motion to Strike. In addition, Mr. Epstein cross-examined PP&L's witnesses Mr. Thomas LaGuardia (Pages 1034, Lines 13-25, Pages 1035 through 11037 and Page 1038, Lines 1-18; Page 2107, Lines 23-25, Page 2108 through 2111 and Page 2112, Lines 1-22); and, Mr. George Jones (2269-2272) at length about the economics and uncertainty of low-level radioactive waste isolation. (Also, refer to Rebuttal testimony of Mr. Thomas LaGuardia, Page 8 Lines 7-22, Page 9, 10 and Page 11 Lines 1-5.) LLRW issues in this rate case were materially impacted by South Carolina's final decision to reopen Barnwell after the close of evidentiary hearings on July 1, 1995. This decision is of great import since it relates directly to the most expensive variable (Page 1015, Lines 1-5) in the decommissioning formula: low-level radioactive waste transportation, storage and isolation. In fact, the Company's expert admitted he was familiar with the possible reopening of Barnwell (page 2107, Lines 23-25, Page 2108, Lines 1-9) and testified, "If and when [Barnwell's reopening] is approved by the House [South Carolina], that is something to be looked at. That could be looked at." (Page 2108, Lines 8-9.) The Company's expert witness, Mr. LaGuardia, projected decommissioning estimates assuming LLRW could only be handled through the Appalachian Compact system (Page 1034, Lines 13-19.). Mr. Epstein vigorously encourages the Court and Commission to direct PP&L, through its subcontractor, TLG, to prepare a revised study of low-level radioactive waste costs based on this recent development. Failure to do so, could provide PP&L with a substantial financial windfall.

EXCEPTION IV) The Court also recognized the issue of operating capacity without offering a determination. (Page 182.) Mr. Epstein seeks clarification and requests the Court to state if it agrees with the view that premature shutdown of the Susquehanna Steam Electric Generating Station is: a) Probable (Page 1023, Lines 15-25 and Page 1024 Lines 1-20; Page 1046, Lines 7-9; and Page 2272, Lines 6-21); and, b) If such an occurrence constitutes an unreasonable financial burden for rate payers.

EXCEPTION V) Mr. Epstein would also like to draw to the Court's attention the promulgation of the following proposed rule, "Decommissioning of Nuclear Power Reactors by the Nuclear Regulatory Commission," (10 CFR Parts 2, 50 and 51, RIN 3150-AE96), Federal Register, Volume 60, Number 139, 37374-37388, July 20, 1995. This proposed rule change could significantly alter decommissioning planning processes and is much more timely than the criteria used by PP&L's expert witness Thomas LaGuardia who relied on "General Requirements for Decommissioning Nuclear Facilities" June 27, 1988. (Thomas LaGuardia, Direct Testimony, Page 12, Lines 8-14 and Page 42, Lines 9-19.) Mr. Epstein suggests that the Court and the Commission revisit decommissioning issues based on this pivotal development. Failure to do so could upset the delicacies of decommissioning funding.

Mr. Epstein would like to formally thank the Court, and all parties in the proceeding, for being sensitive to scheduling difficulties inherent in *pro se* participation.

Respectfully submitted,



Eric Joseph Epstein, *Pro se*
2308 Brandywine Drive
Harrisburg, PA 17110

AUGUST 7, 1995

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AUG 7 1995

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, ET AL.

PUBLIC UTILITY COMMISSION
SECRETARY BUREAU

v.

Docket No. R-00943271

PENNSYLVANIA POWER and LIGHT
COMPANY

CERTIFICATION OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals named below by US mail or hand delivery in accordance with the requirements of Section 1.54.

The Honorable Robert A. Christianson
Administrative Law Judge
Pennsylvania Public Utility Commission
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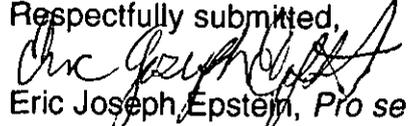
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Respectfully submitted,


Eric Joseph Epstein, Pro se
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DATE: AUGUST 7, 1995

KJR

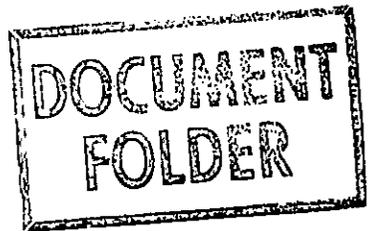
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August 10, 1995



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John G. Alford, Secretary
Pennsylvania Public Utility Commission
B-20 New Filings, North Office Building
P. O. Box 3265
Harrisburg, PA 17105-3265

RE: Pa. P.U.C. v. Pennsylvania Power & Light Co.,
Docket No. R-00943271, et seq.

Dear Secretary Alford:

Enclosed for filing are an original and nine copies of the Exceptions of Central Eastern Pennsylvania Fuel Oil Dealers.

Two copies have been served on all active parties of record in the manner indicated on the attached Certificate of Service.

Respectfully submitted,

Robert P. Haynes

RPH/pat
Enclosures
cc: All Parties of Record

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, et al.

v.

PENNSYLVANIA POWER & LIGHT CO.
Respondent.

.....
DOCKET NO. R-00943271, et seq.

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EXCEPTIONS OF COMPLAINANT
CENTRAL EASTERN PENNSYLVANIA FUEL OIL
DEALERS TO THE ADMINISTRATIVE LAW JUDGE'S DECISION

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DATED: August 10, 1995

DOCKETED
AUG 10 1995

INTRODUCTION

The Central Eastern Pennsylvania Fuel Oil Dealers (hereinafter "CEPFOD"), an ad hoc coalition of 37 PP&L ratepayers who compete with PP&L for the sale of residential heating fuel, respectfully except to Administrative Law Judge Robert A. Christianson's ("ALJ's") Recommended Decision of July 28, 1995 with respect to rate design of the RTS and RS rates. Specifically, CEPFOD:

- (1) opposes the introduction, without cost justification, of the third RS rate billing block; and
- (2) seeks the elimination, or alternatively modification, of the unquestionably subsidized RTS rate.

PP&L continued to promote its RTS service long after it knew the rate would not benefit the system. Therefore, CEPFOD supports the ALJ's recommendation to close the RTS rate to new customers effective December 31, 1995.¹ However, in response to this artificially low RTS rate, certain ratepayers installed more expensive heating equipment. CEPFOD recognizes that provision must be made to prevent harm to these customers. Therefore, CEPFOD recommended that PP&L credit RTS customers for \$50 a month, at its shareholders' expense, to enable those customers who relied upon the rate differential to recover their investment. CEPFOD excepts to the ALJ's rejection of this recommendation.

¹ Recommended Decision ("Rec. Dec.") pp.232, 235-236.

Alternatively, CEPFOD proposes that the subsidization of the RTS rate, which the ALJ recommended be continued for existing customers without limit, be eliminated as quickly as possible by reducing the 2.3¢/kwh differential between RTS and RS customers and eliminating it completely effective December 31, 1999.

EXCEPTIONS

1. The ALJ Erred by Recommending an Unjustified Introduction of a Third Block to the RS Rate (Rec. Dec. pp.230-231)

Preliminarily it should be noted that PP&L provided no empirical evidence to support its proposed introduction of a third block to its RS rate (CEPFOD Statement No. 1 at p.44).² Similarly, the ALJ's only finding of justification -- that it "appears to be a reasonable ratemaking step and I find little basis for opposition, on my part" (Rec. Dec. p.231) -- does not refute this fact.

As the ALJ notes, PP&L attempts to justify a third billing block "to ensure a more equitable recovery of both unrecovered customer-related costs and demand-related costs in the early blocks of rate, rather than the trailing block" (Rec. Dec. p.228). However, the only reason that PP&L has "unrecovered" customer costs is because it grossly over-calculates such costs.

The Commission has held that the customer charge should be designed to recover only those costs that are directly associated

² This issue was addressed in CEPFOD's Main Brief at p.29 and CEPFOD's Reply Brief at pp.11-12.

with the metering and billing of residential customers. The Commission has stated:

"[B]asic customer costs" [are] those expenses for items the Company must have in place each month for each customer. This includes the costs for the meter and service drop, meter reading and billings. It excludes consideration of "customer-related" costs of transformation and distribution plant.

Pennsylvania Public Utility Commission v. West Penn Power Company, 59 Pa. PUC 552, 612, 69 PUR4th 470, 521 (1985) (emphasis added).

OCA witness Johnson testified that PP&L's determination of its customer cost included large amounts of allocated costs that are an inappropriate basis upon which to set the customer charge, including:

the portion of lines and transformers deemed by the Company to be customer related, allocated portions of intangible plant, general plant and working capital; all allocated operating and maintenance expenses; depreciation expense on the above plant; and taxes.

OCA St. 3 at 23.

PP&L's own calculation of the allocated costs excluding lines and transformers (OTS Cross-Examination Exh. 13) similarly improperly included large amounts of allocated O&M expenses, uncollectibles, administrative and general expense, and customer information and services expenses (OCA St. 3 at 24).

Even if transmission and distribution costs could be properly included, PP&L's allocation methodology is flawed. PP&L's customer cost is based in part on allocating the

distribution system cost by use of a minimum system analysis. Rather than using the costs of its actual plant in such an analysis, PP&L used the cost of the new, larger, and more costly facilities currently being installed. The use of this larger "minimum" system inflates the cost responsibility of such a theoretical minimum system, which is supposed to reflect the smallest possible system that can be installed to serve a customer under a low or no load hypothetical situation (CEPFOD Statement No. 1 at 28). For some items, such investments were overstated by more than four times (CEPFOD Statement No. 1 at 29). In fact, most of the plant costs which PP&L attributes to this minimum system are actually associated with serving expected customer demand, not merely providing access.³

³ The ALJ's recommendation compounds the problem by failing to account for the load carrying capability of plant included in the minimum system. As the authoritative treatise provides:

Costs analysts disagree on how much of the demand costs should be allocated to customers when the minimum-size distribution is used to classify distribution plant. When using this distribution method, the analyst must be aware that the minimum-size distribution equipment has a certain load carrying capability, which can be viewed as a demand-related cost.

NARUC Cost Allocation Manual, p.95.

If such minimum system concept is allowed, demand allocators must be adjusted in order to account for the portion of demand that is served by minimum system capacity. By failing to do so, a disproportionate share of distribution cost is systematically allocated to small residential and GS customers, thereby understating the cost of serving larger and secondary voltage customers.

When total actual customer costs, computed by CEPFOD to be \$8 (CEPFOD Statement No. 1, p.42), is compared to the customer charge awarded by the ALJ (\$6.48 [\$4.80 plus a recommended increase of 35 percent]), all unrecovered customer costs are recovered in the first energy block $[(\$8.00 - \$6.48) = \$1.52 \div 200 \text{ kwh} = 0.76/\text{kwh}]$ versus the 1.96¢/kwh current differential between the first and second RS blocks].

Even when the revised customer cost of \$10.71 per month computed by PP&L itself (OTS Cross-Examination Exhibit 13) is compared to the customer charge awarded by the ALJ, there is only \$4.23 of unrecovered customer cost $(\$10.71 - \$6.48)$. Of this, \$3.92 is recovered by the differential in the first energy block $(\$1.97/\text{kwh} \times 200 \text{ kwh})$. Only 31 cents, a de minimis amount, is unrecovered. Should the Commission accept PP&L's customer cost allocations, rather than those of CEPFOD and the OCA, this "unrecovered customer cost" could still be recovered by increasing to 220 kwh, the division point between the first and second energy blocks. There is no need to add a third energy block.

PP&L's own evidence does not require the institution of this third totally unjustified energy block. Introduction of such rate differential will only serve to shift recovery of demand and energy-related expenses to small RS customers, such as non-heating customers, for the benefit of larger users such as electric heat customers. As explained below, PP&L has previously interfered with competitive market forces in the heating fuel

market by its introduction of the subsidized RTS rate; it should not be permitted to do so again by this unjustified third RS billing block.

2. The ALJ Erred by Recommending the Anticompetitive Subsidized RTS Rate Continue Indefinitely (Rec. Dec. pp.240-241)

By focusing upon whether or not PP&L manifested any "significant predatory intent" (Rec. Dec. p.241), the ALJ has overlooked the undisputed facts. Specifically: the fact that RTS is subsidized;⁴ PP&L has known this since at least 1987;⁵ and RTS was not a successful load management tool.⁶ In spite of this knowledge, PP&L continued promoting the rate for several

⁴ PP&L's initial filing based on its own analysis demonstrates a negative rate of return of 2.36 percent for RTS and projects a negative rate of return of 0.43 percent for its recommended rate (N.T. 595). However, CEPFOD's expert witness, Dr. Steven Andersen, prepared an analysis showing an RTS rate deficiency of \$26.4 million, more than \$4.0 million greater than PP&L's own analysis (CEPFOD Statement No. 1, Schedule A). Every other expert witness who prepared a cost of service study came to a similar conclusion: OCA - negative 2.49 percent rate of return (OCA Statement No. 3, Exhibit CE-J1, Schedule 1); Bethlehem Steel Corporation - negative 2.90 percent rate of return (Bethlehem Steel Exhibit MEB-3, Schedule 1); PP&L Industrial Customer Alliance - negative 3.10 percent rate of return (PPLICA Exhibit SJB-2 at p.5); University College Coalition - negative 4.39 percent rate of return (UCC Exhibit KE-1, Schedule 4). See also CEPFOD Exhibit 8, p.104; CEPFOD Statement No. 1, p.3, March 26, 1985 "the program is a net cost to all ratepayers as a whole."; CEPFOD Exhibit 7, pp.89, 95.

⁵ CEPFOD Exhibit 7, pp.89, 95; see also CEPFOD Exhibit 8, p.104; CEPFOD Statement No. 1, pp.11-12, 37.

⁶ Since from the late '80's PP&L knew its peak was shifting to the same time of day for which it was granting RTS customers lower rates (PP&L St. 6-R, pp.3-7; PP&L Initial Brief at 255).

years⁷ so that most customers have been added after PP&L knew its RTS rate was a load management failure.⁸

In spite of these facts, PP&L proposed, and the ALJ has recommended, that the cost of the subsidized rate now be shifted to other classes. Even after CEPFOD opposed PP&L's proposed rates and PP&L sought to close the existing 2.3¢/kwh differential between RTS and RS customers by December 31, 1999 (Rec. Dec. p.232), the ALJ has recommended this 2.3¢/kwh subsidy continue in perpetuity (Rec. Dec. p.235), while at the same time finding "PP&L is competing for market share" with CEPFOD members (Rec. Dec. p.241).

CEPFOD members simply desire to be able to compete on the basis of price, where that price is based upon cost, i.e., the opportunity to compete in a free market. For most of the last decade PP&L has known that this program showed a negative return on equity (see Footnotes 4 and 5 supra). In fact, the incremental revenue derived from RTS space heating is less than the incremental fuel cost (CEPFOD Statement No. 1, p.3; CEPFOD Exhibit No. 2, p.5).

PP&L's own documents concede that PP&L must subsidize its heating prices to be competitive. Almost ten years ago PP&L

⁷ PP&L did not begin to phase out its promotional activities until 1991. Indeed, some promotional activities were continued until the current year (PP&L Initial Brief p.255). A key promotional selling point -- the huge discount -- which is applied to all usage, including air conditioning, appliances, etc., and continues to be offered.

⁸ Sixty percent of the RTS customers have been added since 1988 (CEPFOD Statement No. 1, p.13).

observed: "The impact of lower fossil fuel prices on [market share] will depend largely on the length of time current low pricing levels remain in effect. PP&L's standard residential rate cannot compete on a price-only basis with either gas or oil in the heating fuel market" (CEPFOD Exhibit 2, p.3, emphasis added). Prior to this rate case, the burden of the RTS subsidy has been borne by PP&L shareholders. The ALJ now recommends that this subsidy of PP&L's competitive position be paid by all other ratepayers.

In the face of evidence that -- RTS was shifting load to the same time of day that was becoming PP&L's peak; that PP&L knew this but continued for years to promote the RTS rate anyway; that the RTS rate is (and always has been) subsidized; and that the company is now seeking to shift the subsidy to other classes -- the ALJ has recommended that the 2.3¢/kwh differential between RS and RTS continue indefinitely (Rec. Dec. pp.232, 235). While paying lip service to the goal of fundamentally bringing all customers to the system average rate of return (Rec. Dec. p.224), the ALJ recommends retaining the 2.3 cents per kwh differential and that it be continued without a definite termination date.

CEPFOD recommends⁹ that the Commission abolish the RTS rate; however, because certain ratepayers installed more expensive heating equipment at PP&L's urging, some provision must be made to prevent harm to these customers. The cost of PP&L's

⁹ CEPFOD addressed the RTS issues at pp. 16-28 of its Main Brief and pp.3-10 of its Reply Brief.

imprudence should not be borne by its ratepayers. For that reason, CEPFOD has proposed that RTS customers who lose the rate receive a \$50 per month credit at PP&L's stockholders' expense.

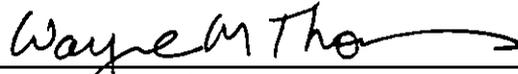
Additional installation costs for such equipment approximate \$4,500. (Wilkes Barre Public Input Transcript, p.410, cited by OCA at Initial Brief, p.298). A \$50 a month credit for five years provides an additional \$3,000 towards recovery of such additional costs. Almost half of the equipment utilizing this rate was installed before 1990 (CEPFOD Statement No. 1, p.13), so that a majority of the ratepayers' costs have already been recovered through the 2.3¢/kwh rate differential between the RS and RTS rates (which differential is realized on summer air conditioning as well as heating). The \$50 credit fully protects RTS customers who change to RS (see CEPFOD Exhibit 17). The Commission should recognize that abolition of the RTS rate would still permit RTS customers to utilize the RTD rate which would continue to permit existing RTS customers to enjoy a comparative rate advantage.

Alternatively, the RTS rate should be discontinued by December 31, 1999, and, in the interest of gradualism, the 2.3¢/kwh differential should not be maintained. Instead, PP&L's filed proposal, to increase the RTS energy charge from 2.84¢/kwh to 4.50¢/kwh, should be approved.

CONCLUSION

CEPFOD respectfully requests that the Commission adopt its exceptions.

Dated: August 10, 1995



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CERTIFICATE OF SERVICE

RE: Pennsylvania Public Utility Commission et al. v. Pennsylvania Power & Light Company, Docket No. R-00943271 et. seq.

I hereby certify that I have this day served the document identified in cover letter upon the parties of record and in the manner indicated below which satisfies the requirements of §1.54:

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Commission on Economic Opportunity

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August 11, 1995

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AUG 11 1995

**PUBLIC UTILITY COMMISSION
SECRETARY BUREAU**

RE: Pennsylvania Public Utility Commission et al. v. Pennsylvania
Power & Light Company
Docket No. R-00943271

Dear Secretary Alford:

Enclosed for filing please find the original and nine copies of Exceptions to the Recommended Decision of Administrative Law Judge, the Honorable Robert A. Christianson offered by the Commission on Economic Opportunity in the above-docketed proceeding. As evidenced by the enclosed certificate of services, copies have been served on the Office of Special Assistants, Pennsylvania Public Utility Commission and all active parties in this case.

Sincerely,


Eugene M. Brady
Executive Director

Enclosures

CC: ALJ Christianson
Office of Special Assistants, PUC
All parties of record

**DOCUMENT
FOLDER**

ORIGINAL

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY,
COMMISSION, ET AL.

v.

PENNSYLVANIA POWER & LIGHT
COMPANY

Docket No. R-00943271
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AUG 11 1995

AUG 15 1995

PUBLIC UTILITY COMMISSION
SECRETARY BUREAU

EXCEPTIONS OF THE COMMISSION ON ECONOMIC OPPORTUNITY

The Commission on Economic Opportunity (hereafter referred to as "CEO") respectfully files the following Exceptions to the Recommended Decision of Administrative Law Judge, the Honorable Robert A. Christianson (hereafter referred to as the "Court") in the above mentioned matter:

EXCEPTION 1) In its Main Brief, CEO made arguments in support of four recommendations designed to: 1) strengthen the chance for success of PP&L's proposed new Social Programs, 2) help mitigate the adverse effects any increase will have on PP&L's low income ratepayers, 3) ensure that Social Program benefits are equitably distributed among PP&L's low income residential ratepayers and across geographical boundaries based on demographic indicators of need, and 4) PP&L should be mandated to include a program for low income baseload customers in its Social Program portfolio.

In its decision, the Court agrees that CEO raises "some valid considerations" but chooses not to specifically recommend any of them because the Court feels that they are beyond the scope of this rate making proceeding. The Court further suggests that they "might be considered in other contexts."¹

Also in Main Brief CEO made arguments in support of three recommendation designed to: 1) strengthen PP&L's demand side management program by increasing its presence in PP&L long range integrated resource planning process, 2) lessen the rate impact of PP&L's demand side management programs by increasing access to direct program benefits for existing and baseload residential ratepayers. Specifically, CEO recommended that: 1) investments in DSM should be increased relative to its annual revenues, 2) the portfolio should be redesigned such that existing and baseload ratepayers have access to direct programs benefits, including energy education 3) existing energy conservation providers in PP&L's service territory should be directly involved in the design, development, and implementation of all new DSM programs.

¹Recommended Court Decision page 80

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The Court suggests that some of CEO's recommendations concerning PP&L's DSM programs "might be good," but does not recommend any changes to PP&L programs because these recommendations are "beyond the scope of this rate making proceeding."²

CEO must ask -- in what other context should these matters be considered if not in the rate case? CEO strongly believes that its arguments and recommendations are directly relevant to ensuring the cost-effective use of the ratepayer funds PP&L spends on Social Programs and Demand Side Management. Further, they are directly relevant when attempting to address the adverse effects that any rate increase resulting from this case will have on low income PP&L ratepayers.

EXCEPTION II) In rejecting CEO's recommendation that, in exchange for any rate increase, PP&L be required to increase its funding for WRAP and other Social Programs, the Court states that

We can easily get to the point where ratepayer funds are being squandered rather than used wisely. This is especially true because some of the theories behind customer benefit from these programs are relatively untried and untested.³

This is completely in error. These are not theories, they are scientific facts. There are a number of resources which document the effectiveness of these programs, and PP&L made reference on Brief to the fact that "the Commission has clearly recognized the benefits to all customers of promoting weatherization, energy conservation, energy education, and energy efficiency,"⁴ the Public Utility Commission's July 1995 report documents the multiple cost-effective benefits LIURP produces for participating utilities and ratepayers⁵. The theory behind the energy conservation portions of PP&L's proposed new Social Programs are the same as those behind LIURP. PP&L is clear that it only seeks rate relief for certain energy "conservation, efficiency, load management and rate incentive costs associated with its new Social Programs."⁶ How can it be said that they are untried and untrue?

EXCEPTION III) In judging the relevancy of CEO's arguments and recommendations, the wording of the Court's decision gives the appearance that PP&L's assertions regarding the

²Recommended Court Decision page 265.

³Recommended Court Decision page 80.

⁴PP&L Main Brief page 118.

⁵See the Pennsylvania Public Utility Commission, Bureau of Consumer Services, July 1994 and July 1995 reports on Pennsylvania's Low Income Usage Reduction Program in collaboration with the Pennsylvania State University Consumers Services Information System Project.

⁶PP&L Reply Brief page 51.

adequacy of PP&L's DSM portfolio are taken at face value. There is no specific discussion of CEO's arguments and recommendations to counter references to statements made by PP&L. This can give the impression that certain subjective statements made by PP&L in Brief were not challenged, thus giving the appearance that they are objectively based. For example, the Court refers to PP&L's assertion that "CEO has simply failed to provide any factual evidence that a major expansion and refocusing of the DSM program would be in the best interests of PP&L and its customers," but nowhere mentions that CEO presented empirically based arguments with detailed references to support its positions. CEO respectfully requests clarification as to why its DSM arguments and recommendations are not specifically cited nor summarized in the Court's decision.

The Commission On Economic Opportunity would like to thank the Court for allowing our participation in this proceeding and for the support and guidance it provided throughout the process.

Respectfully submitted,

A handwritten signature in cursive script that reads "Gene Brady".

Gene Brady, Executive Director
Commission on Economic Opportunity
211 South Main Street
Wilkes-Barre, PA 18701

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, Commission on Economic Opportunity's Exceptions to the Recommended Decision of Administrative Law Judge, the Honorable Robert A. Christianson, upon the Office of Special Assistants, Pennsylvania Public Utility Commission, and all 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 11th day of August 1995.



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August 11, 1995

VIA UPS NEXT DAY AIR

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SECRETARY'S OFFICE
Public Utility Commission

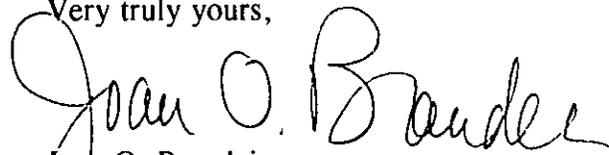
Re: Pennsylvania Public Utility Commission v. Pennsylvania Power & Light Company; Docket No. R-00943271

Dear Secretary Alford:

Enclosed for filing with the Commission are an original and nine (9) copies of the Exceptions to the ALJ's Recommended Decision submitted on behalf of Bethlehem Steel Corporation concerning the above-captioned proceeding.

As evidenced by the attached Certificate of Service, all parties to this proceeding have been duly served. Please date stamp a copy of this transmittal letter and kindly return for our filing purposes.

Very truly yours,



Joan O. Brandeis

For SCHNADER, HARRISON, SEGAL & LEWIS
Attorneys for Bethlehem Steel Corporation

Enclosures

cc: All Parties of Record
The Honorable Robert A. Christianson

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC
UTILITY COMMISSION

v.

PENNSYLVANIA POWER &
LIGHT COMPANY

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DOCKET NO. R-00943271

EXCEPTIONS
OF
BETHLEHEM STEEL CORPORATION

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SECRETARY'S OFFICE
Public Utility Commission

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Dated: August 11, 1995

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I. INTRODUCTION

On December 30, 1994, Pennsylvania Power & Light Company ("PP&L") filed Supplement No. 50 to its Tariff Electric Pa. P.U.C. No. 200 requesting an increase in its annual base rate revenues of \$261,000,000. Supplement No. 50 also proposed changes to the rate design of PP&L's Rate Schedules LP-4 and LP-5, and in particular to the way in which its large industrial customers are charged for interruptible service. Bethlehem Steel Corporation ("Bethlehem"), PP&L's largest retail customer, intervened in the proceeding.

On January 27, 1995, the Pennsylvania Public Utility Commission (the "Commission") instituted an investigation into the lawfulness, justness and reasonableness of PP&L's proposed rates. Extensive hearings were held and on May 26, 1995, the record in this proceeding was closed. On July 31, 1995, ALJ Christianson issued his Recommended Decision (the "RD") in which he found that the rates contained in Supplement No. 50 were unjust, unreasonable and unlawful. In the RD, ALJ Christianson made various recommendations. Bethlehem's exceptions to certain of those recommendations are set forth hereafter.

In this proceeding, Bethlehem focused solely on cost of service, revenue allocation, rate structure and rate design issues, and will confine its Exceptions to the ALJ's recommendations on these issues. However, the fact that it has elected not to except to the ALJ's recommendations on other issues, including, the PP&L's claimed revenues, rate base and operating and other expenses, should not be deemed to be an approval or agreement by Bethlehem with respect to the ALJ's or the Company's position on these issues.

II. EXCEPTIONS

A. **The ALJ Erred in Failing to Make Certain Adjustments to PP&L's Cost of Service Study.**

In this proceeding PP&L submitted a flawed cost of service study which (a) erroneously allocated generation costs to interruptible loads; (b) made only a token "credit" adjustment to the rate base allocated to interruptible classes to reflect the "value" of interruptible service; (c) allocated the revenue differential arising from EDI and IDI credits only to customers classes participating in such programs; and (d) failed to disaggregate payments to non-utility generators into the proper energy and capacity components. These flaws resulted in serious distortions to the rate of return produced by rate classes which contain interruptible customers and ultimately in an unjust and unreasonable allocation of the revenue requirement among PP&L's various customer classes..

The ALJ has properly accepted the adjustments to PP&L's cost of service study proposed by Bethlehem and certain other parties with respect to the allocation of EDI and IDI costs among all of PP&L's customer classes (RD at pp. 209, 260) and with respect to the correct allocation of NUG payments on a demand and energy basis (RD at p.208). Bethlehem supports these recommendations, as well as the ALJ's recommendation regarding Rate Schedule ISA (RD at p. 255).

However, the ALJ erred in accepting PP&L's allocation of generation costs to interruptible load in the cost of service study (RD at p. 206) and in accepting the amount of PP&L's adjustment to the rate base to reflect the value of interruptible load. (Id.)

PP&L's treatment of interruptible load in the cost of service study does not reflect actual cost causation. PP&L has made no distinction between its interruptible service, basically treating all of its load as firm. It has recognized a "value" to its 287 megawatts of interruptible load by assigning to that load a token investment cost equal to \$300 per kW of interruptible load. The amount of this credit is then subtracted from the total electric plant in service allocated to those classes that have interruptible load.

As discussed in Bethlehem's Main Brief, because the Company does not plan generation facilities to serve its interruptible load, that load does not cause the Company to incur any generation-related capital costs. Such costs are incurred to provide firm, not interruptible service. Accordingly, it is entirely inappropriate to assign capacity costs to the interruptible load, and the ALJ erred in accepting PP&L's allocation of such costs to interruptible load in the cost of service study.

B. The ALJ Erred in Accepting PP&L's Capacity Credit Approach to Establishing Interruptible Service Rates.

In this proceeding, PP&L has used a non-traditional resource value approach to interruptible load in its cost of service study as well as in its rate design. Under PP&L's proposed rate design, all service to interruptible customers is charged at PP&L's rates for firm

service and a credit (approximating the value of a CT peaking unit) is given for the amount of the customer's load which can be interrupted. The ALJ has endorsed this approach in the RD.

Valuing interruptible load at the cost of installing a hypothetical combustion turbine entirely misconstrues the true nature, value and use of interruptible load to the PP&L system. Moreover, as noted in Bethlehem's testimony and in its Main Brief, the method used by PP&L is incomplete in that there is no reflection of any avoidance of depreciation, taxes, fuel costs or operation and maintenance expenses. Accordingly, even if the bogus capacity credit concept were mistakenly adopted, PP&L's value of \$300.00 per kW substantially understates the cost of a CT.

The ALJ has erred in adopting PP&L's resource value rate design for interruptible service. The Commission should reject this approach and require cost-based rates. When rates are based on costs, each customer, to the extent practicable, pays what it costs to provide the service received. If rates are based on factors other than cost, then some customers will pay the costs properly attributable to other customers. Rates allocated in this manner are inherently unjust and will lead to a loss of sales to customers, such as large industrial companies, which have, or may have in the future, alternatives available to them. This loss in turn will ultimately result in higher rates to remaining customers, assuming PP&L's shareholders are not required to absorb the loss.

C. The ALJ Has Mistakenly Equated “Value of Service” Ratemaking with Competitive Rates.

The Recommended Decision contains a lengthy discussion of “Interruptible Service.” On page 250 of the RD, the ALJ makes the following observations:

“The PP&L proposal also indicates a preference for “value of service” ratemaking rather than “cost of service” ratemaking. I view this as entirely appropriate, given the context. I would rather overtly go to the value of service theory rather than pretend that we are really dealing with cost of service when we are dealing with attempts to meet competition or keep customers.

ALJ has erred in mistakenly recommending a “value of service” approach to ratemaking in a regulated arena. “What the market will bear” may be the result in a competitive marketplace where customers have a choice of suppliers, and such choice acts as a downward pressure on prices. In a regulated arena, there is no such downward pressure however. This is clearly illustrated by PP&L’s attempt to impose a 22% or greater increase in rates to its large interruptible customers, an increase that is not justified by any properly performed cost of service study in this proceeding. Cost-based ratemaking is the protection that the utility’s customers have against predatory pricing. Cost-based rates are an integral part of the regulatory bargain. The Commission must reject the ALJ’s misguided views on value of service pricing.

D. The ALJ Erred in Accepting PP&L's Proposed Changes in Rate Design and in Refusing to Order PP&L to Establish a Separate Rate Class for Interruptible Customers.

In its rate design for Rate Schedules LP-5 and newly proposed LP-6, PP&L is proposing a major change from its existing rate design for interruptible service. This change would result, even without any increase in revenue whatsoever, in a rate increase for LP-5 interruptible customers of approximately 22%. In its proposed rate design, PP&L has eliminated the discrete rate for interruptible service which exists in its current tariffs. Instead of a rate which reflects the inferior interruptible service, PP&L is proposing to charge all LP-5 (and LP-6) customers, both firm and interruptible, at the same firm rates. It would then "recognize" the value of interruptible service by applying a credit to the firm rates for the amount of interruptible service taken by the customer.

The ALJ erred in recommending acceptance of this rate design. At a time when competition is acknowledged to be the single most important trend in the electric industry, PP&L is proposing to impose a substantial rate increase on its industrial customers who will most likely be able to take advantage of a competitive utility marketplace. Moreover, when the increase to the interruptible rates is disaggregated from the increase to firm rates, it becomes clearly evident that the proposed increase to interruptible rates under Rate Schedules LP-4 and LP-5 violates this Commission's long-established principles of gradualism.

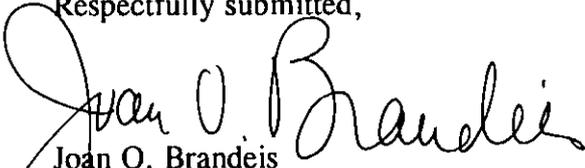
The proposed rate structure has no inherent advantage over the current structure of Rate Schedule LP-5 and should be rejected. PP&L's proposed change is a poorly masked attempt to increase rates to interruptible customers, even if no increase were granted in this proceeding. The ALJ's recommendation regarding this proposal must be rejected and the existing rate design should be retained. The Commission should require that any increase approved for Rate Schedule LP-5 should maintain the rate relationships between firm and interruptible service that are embedded in the current rate design.

Alternatively, PP&L should file a separate tariff for interruptible service which recognizes that non-firm service is an option which should be offered to eligible customers because it provides a benefit to both PP&L, the participating customers and all other rate payers.

III. CONCLUSION

The ALJ erred in accepting PP&L's treatment of interruptible load in the cost of service study. Allocating capacity costs to interruptible load and "valuing" such load at the cost of a combustion turbine results in an unjust and unjustifiable revenue allocation to PP&L's LP-5 interruptible customers. The ALJ also erred in accepting PP&L's proposed rate design for LP-5 and LP-6 interruptible customers. The Commission should reject these recommendations and accept the proposals put forth by Bethlehem in this case.

Respectfully submitted,


Joan O. Brandeis
SCHNADER, HARRISON, SEGAL & LEWIS
Counsel for
BETHLEHEM STEEL CORPORATION

Dated: August 11, 1995

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, et al.

v.

PENNSYLVANIA POWER & LIGHT
COMPANY

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DOCKET NO: R-00943271

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AUG 14 1995

SECRETARY'S OFFICE
Public Utility Commission

CERTIFICATE OF SERVICE

I hereby certify that I am serving the attached Exceptions to the ALJ's Recommended Decision by UPS Next Day Air or Hand Delivery upon the persons listed below:

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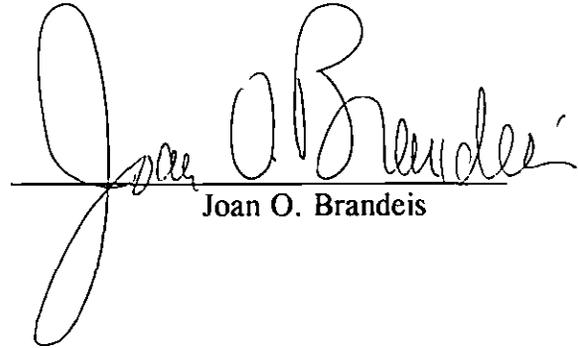
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Joan O. Brandeis

Dated this 11th day of
August, 1995



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

KJR

IN REPLY PLEASE
REFER TO OUR FILE

August 11, 1995

JOHN G. ALFORD, SECRETARY
PA PUBLIC UTILITY COMMISSION
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HARRISBURG, PA 17105-3265

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Re: Pa. P.U.C. v. Pennsylvania Power
& Light Company
Docket No. R-00943271

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Dear Secretary Alford:

Enclosed please find an original and nine (9) copies of the **Exceptions** of Office of Trial Staff for filing in the above-docketed proceeding. Copies are being served upon all parties of record.

Very truly yours,

Johnnie E. Simms
Senior Prosecutor
Office of Trial Staff

Enclosure

JES:sjh

cc: Honorable Robert A. Christianson
Office of Special Assistants
Parties of Record

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Administrative Law Judge
Robert A. Christianson

Pennsylvania Public Utility
Commission, et al.

v.

Pennsylvania Power & Light
Company

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**EXCEPTIONS OF
THE OFFICE OF TRIAL STAFF
TO THE RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE CHRISTIANSON**

Kenneth L. Mickens
Johnnie E. Simms

Senior Prosecutors

THE OFFICE OF TRIAL STAFF
P.O. Box 3265
Harrisburg, Pa. 17105
717/787-1976

DATE: August 14, 1995

**DOCKETED
AUG 11 1995**

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Administrative Law Judge
Robert A. Christianson

Pennsylvania Public Utility
Commission, et al.

v.

Pennsylvania Power & Light
Company

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: Docket No. R-00943271
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**EXCEPTIONS OF
THE OFFICE OF TRIAL STAFF
TO THE RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE CHRISTIANSON**

AND NOW, comes the Office of Trial Staff, by its senior prosecutors and, pursuant to 52 Pa. Code §5.533, files the following Exceptions to the Recommended Decision of Acting Chief Administrative Law Judge Robert A. Christianson, dated July 28, 1995, and transmitted to the participants by cover letter of the Acting Chief Administrative Law Judge, dated July 31, 1995:

I. Introduction

The Acting Chief Administrative Law Judge's ("ALJ") Recommended Decision issued July 31, 1995, is in most respects, well-reasoned and based upon sound

ratemaking and legal principles. Accordingly, the Office of Trial Staff ("OTS") strongly urges that the Pennsylvania Public Utility Commission ("Commission") adopt most of the findings in ALJ Christianson's Recommended Decision.

However, there are a few issues in the Recommended Decision that merit additional comments by OTS. Consequently, the following are Exceptions by OTS to some of the recommendations by ALJ Christianson. Based upon the sound ratemaking and legal principles of OTS's Exceptions, the Commission should resolve these issues consistent with the position of OTS in its Final Opinion and Order in this instant proceeding.

II. EXCEPTIONS

1. OTS Excepts To The Administrative Law Judge's Allowance Of \$2,500,000 For PP&L's Social Programs For Its Urban Service Territories.

OTS Main Brief, pp. 72-82.

OTS Reply Brief, pp. 52-57.

Recommended Decision, pp. 72-80.

In this proceeding, Pennsylvania Power & Light Company ("PP&L") has introduced six new social programs and funding for two existing programs. OTS recommended total disallowance of the costs relating to three of the new social programs, namely, Build-A-Neighborhood, Affordable Housing, and Small Business Programs. As presented in OTS's Main Brief, OTS lauds PP&L's recognition and willingness to address the socio-economic problems of its service territory. While PP&L's commitment to its customers' socio-economic problems is laudable, the issue in

this proceeding is whether the proposed programs addressing those problems are in the public interest and appropriate for ratemaking treatment. OTS M.B., p. 73.

In determining whether PP&L's proposed social programs are in the public interest and appropriate for ratemaking treatment, there is a need for a brief description of the respective programs. PP&L, through its witness Thomas C. Stathos, described the proposed "Build-A-Neighborhood Program", in pertinent part, as follows:

Most community representatives contacted by PP&L indicated that improving urban neighborhoods is a critical need. The deterioration of urban neighborhoods threatens the economic and social viability of cities and metropolitan areas. The flight of urban businesses and homeowners to suburbia has relegated some downtown areas and their surrounding neighborhoods to de facto second-class status. Promoting the development of strong neighborhoods addresses a variety of key issues such as affordable housing, crime, economic development, and civic pride.

OTS M.B., p. 75; PP&L St. 11, p. 17.

A similar definition, as quoted above, was presented by PP&L witness Stathos for the "Affordable Housing Program". PP&L provided the following pertinent description of its proposed "Small Business Program":

Small businesses often play an important role in maintaining the viability of the neighborhoods where they are located. Neighborhood grocery stores, for example, are very important to people who lack transportation or have limited mobility because of physical impairments. Significant job growth is generated by small businesses, but they are very susceptible to failure in their first several years of existence. Many small start-up businesses begin in downtown urban areas because they cannot afford to lease buildings in prime locations. In addition, they often lack the capital or other necessary resources to locate their businesses in shopping malls.

Under the Small Business Program, PP&L would provide a variety of services to existing and new small businesses in urban areas. A new business would be defined as being in existence for less than one year. The Company's efforts would be coordinated with community development organizations that are addressing the needs of small business owners.

OTS M.B., pp. 75-76; PP&L St. 11, p. 20.

Based upon PP&L's own descriptions of the programs, it is clear that in this proceeding, PP&L is seeking to receive permission from the Commission to use ratepayers' monies to address the "socio-economic" problems of its urban service territory. In responding to OTS's adjustment in this area, PP&L has argued that "the Commission has ample authority to permit recovery of conservation, efficiency, load management and rate incentive costs". Recommended Decision, p. 79. OTS submits that the primary purpose of the Programs is to address "socio-economic" problems, and that any conservation, efficiency, load management and rate incentive costs associated with the Programs will be minimal at best.

Moreover, PP&L did not provide any mechanism for segregating ratepayers contributions, in an escrow account, from shareholders contributions thereby avoiding a commingling of funds. Accordingly, ALJ Christianson concluded, in pertinent part, as follows:

I tend to agree with OTS that PP&L might be somewhat pushing the envelope concerning some of these programs. There is a valid suspicion that PP&L is using ratepayer funds, or seeking to use ratepayer funds, to do social good, unrelated to valid utility considerations (Emphasis added).

Recommended Decision, p. 80.

Notwithstanding the above quoted reservation, ALJ Christianson concluded that he is "willing to give PP&L the benefit of the doubt." Id., p. 80. OTS submits that since "valid suspicion" exists, then the benefit of the doubt should not be given to PP&L, but rather to the public interest and the ratepayers of PP&L.

OTS is fully aware that in recent years, the Commission has allowed utilities to institute programs to assist their respective ratepayers who need assistance in paying their bills. See Pennsylvania Public Utility Commission v. Philadelphia Electric Company, R-891364 (May 16, 1990); Pennsylvania Public Utility Commission v. Equitable Gas Company, R-901595 (November 21, 1990). PP&L's request, in the instant proceeding, goes beyond assisting ratepayers who may need assistance in paying their bills, to funding programs to solve the socio-economic problems of its urban service territory. Granted there exists the possibility that resolving the socio-economic problems of society may have a collateral effect on assisting ratepayers in paying their bills; however, the issue is whether the Commission is empowered in adopting the specific socio-economic remedies proposed by PP&L.

While the appellate courts in Pennsylvania have not ruled on the specific issue of whether the Commission can utilize ratemaking as a tool to solve the specific socio-economic remedies advocated by PP&L in the instant proceeding, the Commonwealth Court, in dicta, opined that such ratemaking is prohibited by the Public Utility Code:

We can agree with the appellants that ratemaking should not be made more difficult by the employment in the process of personal socio-economic theories or, indeed, any consideration other than of the law and the fact of record.

Decisions concerning the kind and extent of subsidy which should be afforded to needy residential customers should, it seems, be left by regulatory agencies and courts to the legislative branch of government, as indeed the Commission seems to have concluded in its Generic Study just mentioned. Certainly there is nothing in Pennsylvania law which now empowers the Commission to require one customer simply to pay another's utility bill; and, as we have mentioned, the utility may not and could not for the long be required to provide such subsidy out of its capital (Emphasis added).

United States Steel Corporation v. Pennsylvania Public Utility Commission, 37 Pa.

Commonwealth Ct. 173, 185, 390 A.2d 865 (1978). While the Commonwealth Court was addressing whether the Commission could require one customer to pay another customer's utility bill, OTS submits that the ruling is analogous to PP&L's request that customers pay directly or indirectly for urban neighborhood revitalization, start-up costs for small businesses or provide affordable housing for other customers. Simply put, the same principle applies in that socio-economic decisions concerning the kind and extent of subsidies for needy customers should be left to the legislative branch of government.¹

Aside from the obvious statutory and appellant decisions prohibiting the Commission's adoption of PP&L's proposal, there are also practical considerations as well. Namely, there is no identifiable cost benefit to PP&L's customers, as the Company has not performed any cost benefit analysis relative to these Programs. One of benefits listed by PP&L has been the potential lowering of accounts receivable write-offs; however it is pure speculation as to whether any net savings will develop in the absence

¹ As previously noted, PP&L has failed to provide a mechanism for segregating ratepayers' contributions from shareholders' contributions, such as escrow accounts in funding the Programs.

of a cost benefit analysis. In some instances, such as the Build-A-Neighborhood and Affordable Housing Programs, to the extent the benefits of these programs are extended to non-electric heating customers, no benefits will accrue to overall PP&L customers. OTS M.B., p. 82. Furthermore, to the extent these programs are extended to new PP&L customers, reductions in uncollectible accounts cannot materialize, as those customers could potentially increase uncollectibles. Id., p. 82.

Accordingly, OTS's recommended disallowance of \$2,500,000 associated with the Build-A-Neighborhood, Affordable Housing, and Small Business Program should be adopted by the Commission.

2. The ALJ Improperly Rejected OTS's Adjustment To Limit PP&L's Claim For Pension Expense To The Annual Cash Contribution Calculated By The Company's Actuary.

OTS Main Brief, pp. 86-91.

OTS Reply Brief, pp. 38-41.

Recommended Decision, pp. 50-53.

In this proceeding, PP&L proposes to change from a cash to an accrual basis of accounting for pension under SFAS 87. OTS Ex. 4, Sched. 7. The Company is requesting the SFAS 87 pension expense of \$10,224,000 and rate base of \$5,273,000 for the capitalized portion on a jurisdictional basis. OTS is in disagreement with the Company's pension expense claim, and accordingly has made adjustments on a PUC jurisdictional basis to Operations and Maintenance expenses by \$10,224,000 and rate base by \$5,273,000, respectively.²

² The Pennsylvania jurisdictional equivalent for this amount is \$10,224,000. The Revenue Requirement equivalent amount is \$10,773,000. See, Appendix A, Table II, attached to OTS's Main Brief.

In rejecting OTS's adjustment, the ALJ concluded that he agreed with the "fundamental principle that an accrual method is better than a cash method." Recommended Decision, p. 52. OTS submits respectfully, that the ALJ's rationale for rejecting OTS's adjustment for pension expense is flawed. Notably, it must be noted that SFAS 87 is to allow the user of the financial statements to compare the pension plans and expenses among different companies. OTS M.B., p. 87. Additionally, SFAS 87 does not address funding requirements of pension plans or the ratemaking treatment of the expense and should not be used for any purpose other than the disclosure of financial data for book purposes. OTS St. 4, p. 11. Accordingly, the ALJ's adoption of the Company's SFAS 87 ratemaking treatment should be rejected, since the amount is not designed to be recovered in a rate proceeding. OTS St. 4, p. 11.

The position advocated by OTS of treating pension expense on a "cash only" basis is consistent with the Commission's rulings on this issue. For example, in Pennsylvania Public Utility Commission v. West Penn Power Company, 73 Pa. P.U.C. 454, 119 PUR 4th 110 (1990), the Commission determined that pension expense should be treated on a cash basis:

. . . We agree with the OTS that pension expense should be treated on a "cash only" basis. As pointed out in the OTS filings on this issue, WPP's pension is currently overfunded, and IRS regulations will allow no tax deductible contributions for 1990. It is the contributions that WPP will actually make to the pension fund during the test year (\$0) which is the relevant amount in considering the allowable expense for ratemaking purposes (Emphasis added).

p. 488.

The Commission confirmed its ruling that pension expense should be treated on a "cash only" basis in Pennsylvania Public Utility Commission v. West Penn Power Company, R-942986, (December 29, 1994), as follows:

On review of this issue, we agree with the ALJ's recommendation. The record evidence shows that the Company will be required to make a payment into the pension fund during the test year. We emphasize, however, that our decision today to allow the Company's claim for SFAS 87 pension expenses for ratemaking purposes should not be construed as a reversal of our position in West Penn 1990. Indeed, we are convinced that our West Penn 1990 decision and our ruling in the instant proceeding on the issue of SFAS 87 pension expenses are consistent. In West Penn 1990, we made clear our view that we will not allow the rate recovery of pension expense absent a finding that a payment obligation will incur during the test year at issue. *Id.*, p. 488. The ALJ is correct in finding that the first determination is whether a payment to the pension fund is due during the test year. We are convinced that clearly it is.

Opinion and Order at p. 44.

In the instant proceeding, the future test year ends September 30, 1995, and there is absolutely no record evidence that the Company will be making a cash contribution to its pension fund during the test year. PP&L Ex. Future 1, Revised, p. 1. In an attempt to qualify as an exception to the Commission's decision in West Penn 1990, PP&L witness Berish testified that "PP&L presently intends to reinstate cash contributions to its pension fund as early as the third quarter of 1996." PP&L St. 2-R, p. 13. In response, aside from the fact that the third quarter of 1996 is outside of the test year, even considering six months beyond the test year, OTS would remind the Commission that the amount contributed to pension funds is determined by the actuary, not the Company, and

is based on the Company's funding policy. OTS St. 4, p. 14. In any event, assuming arguendo that a third quarter 1996 contribution is necessary, there is unrebutted evidence that such payments do not actually have to be made until March 15, 1998. OTS St. 4, p. 15.

Finally, it appears that the ALJ has based his decision on the principle that the accrual method is better than the cash method. It may be true that the accrual method is better from an accounting viewpoint, however, in this proceeding, we are attempting to determine the ratemaking treatment for pensions not the proper accounting accrual. Second, the ALJ mistakenly believes that there is sound justification to treat pension expense consistent with SFAS 106. It must be noted that it is OTS's position that once the SFAS 106 Trust Account accumulates sufficient assets and no further contributions are required to cover the transition obligation or become overfunded, future ratemaking treatment would only recognize the actual cash contributions similar to the current treatment for pensions.

Accordingly, OTS recommends that PP&L's claim for pension expense be limited to the annual pension contribution computed in compliance with ERISA and IRS rules. Since PP&L has failed to satisfy these requirements, the total claim of \$10,224,000 should be disallowed.³

³ An adoption of OTS's SFAS 87 recommendation will result in a reduction to rate base base \$5,273,000 on a PUC jurisdictional basis.

3. The ALJ Has Improperly Overruled A Commonwealth Court Case.

OTS Main Brief, pp. 91-97.
OTS Reply Brief, pp. 41-45.
Recommended Decision, pp. 45-50.

In the instant proceeding, the Company's SFAS 106 claim of \$27,654,000, as presented in PP&L Exhibit Future 1, Schedule D-6, includes an "amortization of the deferred expense" component of \$1,797,000. OTS St. 4, pp. 8-9. The \$1,797,000, represents a 17.3 amortization of the \$31,095,000 of deferred OPEB costs which the Company claims has been accumulated for the period January 1, 1993 (when SFAS 106 was adopted) to September 30, 1995. *Id.*, p. 9. OTS, in this proceeding, recommended that PP&L's request for \$1,797,000, for the 17.3 year amortization of \$31,095,000 of accumulated deferred OPEB expenses, be denied by the ALJ and the Commission.

In rejecting the recommendation of OTS, the ALJ concluded, in pertinent part, that he is not "controlled by case law which could be read either way and is, in addition, on appeal." Recommended Decision, p. 50. OTS submits that the ALJ is controlled by case law, and whether it is on appeal has no bearing the present holding of the case. It is clear that the Commonwealth Court decision in Irwin A. Popowsky, Consumer Advocate v. Pennsylvania Public Utility Commission, 642 A.2d 648 (1994) ("PP&L"), provides sufficient rationale as to why PP&L's request to recover an expense associated with the amortization of the regulatory asset of accumulated deferred OPEB expenses is barred by the doctrine of retroactive ratemaking. It is clear that the PP&L case prohibits the use of an amortized expense associated with deferred accounting to avoid the prohibition against retroactive ratemaking.

Most of the arguments advanced by PP&L were rejected by Commonwealth Court in the PP&L case on the premise that the costs were anticipated at an earlier time and could have been recovered in an earlier proceeding. Namely, that PP&L could have recovered the costs had it filed a rate case rather than a request to the Commission for a declaratory order. Additionally, PP&L cannot support its claim that SFAS 106 costs is extraordinary (thereby effecting an exception to the doctrine of retroactive ratemaking) because the Company did not produce any evidence to suggest that the SFAS 106 ruling was not unanticipated. The ALJ completely overlooked the following pertinent facts:

SFAS 106 was released in December 1990 and not made effective until January 1993. This change had been under consideration for a long time. On November 22, 1982, the Financial Accounting Standards Board released a statement of preliminary views proposing that the accrual method be imposed for accounting of OPEBs, and on September 29, 1989, a proposed draft of the standards requiring the accrual methods was released. See, BNA, Inc., Securities Regulation and Law Report, Vol. 14, No. 46, p. 2051, November 26, 1982; BNA Pension & Benefits Reports, Vol. 16, No. 41, p. 1765, October 9, 1989.

Based upon the above quote, it is inconceivable that PP&L can suggest that SFAS 106 was unanticipated.

Accordingly, PP&L's recovery of \$1,797,000 for the 17.3 amortization of the deferred expense of \$31,095,000 should be denied. The disallowance will reduce O&M expenses by \$1,561,000 on a Pennsylvania jurisdictional basis.

4. The ALJ Improperly Rejected OTS's Application Of The Accrual Method To PP&L's Nuclear Decommissioning Claim.

OTS Main Brief, pp. 46-53.
OTS Reply Brief, pp. 14-20.
Recommended Decision, p. 99.

PP&L's request for nuclear fueled production plant decommissioning expense is based on a site specific study performed by Thomas S. LaGuardia. PP&L Ex. TSL-2. PP&L's share of the decommissioning cost of \$315.5 million for Unit 1 and \$408.4 million for Unit 2 in 1993 dollars was escalated at a rate of 4% to estimate the cost of decommissioning in the years 2022 and 2024, respectively. The projected value of the decommissioning trust in 2022 for Unit 1 and 2024 for Unit 2 was determined assuming the trust realizes a 5.5% annual after tax rate of return. The value of the trust was then deducted from the estimated cost of decommissioning to determine the net amount of additional decommissioning funds which must be provided for through the annuity method. This resulted in a claimed annual cost for decommissioning of \$12.6 million for Unit 1 and \$17.4 million for Unit 2. PP&L St. 3, p. 20. In effect, PP&L is requesting a \$22.9 million increase in its decommissioning expense for nuclear fueled power production plants, which would raise the total amount of this expense to \$30,042,000. PP&L Ex. Future 1, Sched. D-11.

In response, OTS has recommended an allowance of \$18,297,000 for nuclear decommissioning expense instead of the \$30,042,000 claimed by the Company. This results in an OTS adjustment of \$11,745,000. This allowance is based upon Mr. LaGuardia's 1993 cost estimate without the \$122.8 million in contingencies, the inflation

factor cost estimate of 4% per year and the trust fund estimated after-tax 5.5% per year growth. OTS Main Brief, p. 48.

The ALJ rejected the OTS allowance in part⁴ by disapproving OTS's application of the "accrual method," apparently because OTS witness Joseph J. Sivulich reflected the recovery of deficiencies in prior accruals over the remaining life of the nuclear unit.⁵ Recommended Decision, p. 99. OTS excepts here only to the ALJ's rejection of OTS's application of the accrual method and elimination of the inflation factor.

OTS witness Mr. Sivulich's accrual method is based upon the methodology employed by the Commission in providing for nuclear decommissioning expense in past PP&L rate cases. See, Pennsylvania Public Utility Commission v. Pennsylvania Power & Light Company, 59 Pa. P.U.C. 332, 384 (1985); Pennsylvania Public Utility Commission v. Pennsylvania Power & Light Company, 57 Pa. P.U.C. 559, 606-607 (1982).

Presumably, the ALJ rejected the OTS accrual approach based upon PP&L's criticism in its briefs. In this regard, PP&L has argued that OTS witness Mr. Sivulich improperly applied the accrual method in determining the annual nuclear decommissioning expense because he failed to reflect the recovery of deficiencies in prior accruals over a one year period, as was done in the previous PP&L proceeding.⁶ PP&L Main Brief, pp. 144-145.

⁴ OTS strongly supports the ALJ's rejection of the contingency factor which had been included by PP&L witness Mr. LaGuardia.

⁵ The ALJ's reasoning must be inferred because in regard to this issue he merely states "I do not accept the OTS variation which does appear to short-change the fund." Recommended Decision, p. 99.

⁶ According to PP&L witness Ronald J. Bernini, if the deficiencies are amortized over a one (1) year period, PP&L's claim would be increased by \$102.7. PP&L St. 3-R, p. 9.

However, the record in this proceeding clearly demonstrates that Mr. Sivulich appropriately allowed for the recovery of the decommissioning expense over the remaining life of the plant⁷, given the fact that the prior accruals in this proceeding accumulated over an 11-12 year period as opposed to a one year period in PP&L's last proceeding. In this regard, OTS witness Mr. Sivulich has testified as follows:

...It is difficult to believe that Mr. Berini is suggesting that a \$102.7 million deficiency, which was created over an 11 or 12 year period, should be amortized over one year for ratemaking purposes. In fact, the Company utilizes remaining life depreciation for its utility property, which requires that any past deficiencies in depreciation be recovered over the future (remaining) life of the asset. Accordingly, I believe that if there is an under recovery caused by changing cost estimates, it should be recovered

⁷ PP&L further argued that by amortizing the funding deficiency over the remaining life of the plant, future customers would be burdened with ever-increasing revenue requirements. PP&L Main Brief, pp. 145-146. However, as PP&L witness Mr. Krall has acknowledged, in many respects "present" customers will be "future" customers. Tr. 1883-1884. Moreover, PP&L witness Ronald E. Hill has testified that if there is an excess in the Susquehanna Steam Electric Station decommissioning fund after the plant is demolished, it will be returned to "future" customers (or current customers at that time). Tr. 402-403. Thus, it appears that it is difficult to distinguish between "present" and "future" PP&L customers. In any event, it appears that the benefits and burdens facing present customers and those who will be on the system in twenty (20) years, are about equal. Mr. Sivulich's method of applying the accrual method will not alter this equation.

over the remaining life of the nuclear unit. (Emphasis supplied).

OTS St. SR-2, pp. 2-3.

PP&L witness Mr. Bernini's criticism of the OTS position is further weakened by the fact that the numbers he employed to produce the alleged increase in PP&L's claim of \$102.7 million are inflated by the \$123 million of contingencies that the ALJ has recommended be disallowed. See, OTS Cross Examination Ex. 17; PP&L St. 3-R, Attachment 2; Recommended Decision, pp. 98-99.

The ALJ's failure to eliminate the inflation factor, as proposed by OTS, is directly contrary to Commission precedent. The Commission has previously determined that it is inappropriate to recognize inflation in regard to a nuclear decommissioning fund when the company plans to periodically update its decommissioning cost levels in future proceedings. Pennsylvania Public Utility Commission v. Pennsylvania Power Company, 64 Pa. P.U.C. 308, 351 (1987). In this regard, PP&L witness George T. Jones has stated that " PP&L will review the Susquehanna Decommissioning Cost Estimate at two-year intervals, or more frequently, if there are material changes to the applicable estimation information, to assure that the estimate is kept current throughout the life of the plant." OCA Cross Examination Ex. 15, Sched. II, Q. 2. If the applicable estimate information is going to be kept current during the life of the plant, there is no need to allow for an inflation factor.

In response, PP&L argued that the accrual method implicitly assumes that

earnings on the trust fund will always be sufficient to offset increases in the cost of decommissioning, which is not the case. PP&L Main Brief, p. 146. However, as discussed above, PP&L has already indicated that it plans to update its decommissioning expense claim at regular intervals. If the earnings are insufficient, the Company could propose an adjustment at that time. In fact, PP&L has proposed in this proceeding that it be relieved of the Black Lung restrictions so that it may increase the earning potential of the nuclear decommissioning reserve fund. The ALJ has recommended that this request be approved. Recommended Decision, p. 97.

Accordingly, the record indicates that OTS witness Mr. Sivulich properly allowed for the recovery of prior accruals over the life of the plant and properly removed the inflation factor from PP&L's nuclear decommissioning expense claim. Consequently, OTS submits that PP&L should be allowed \$18,297,000 for Nuclear Decommissioning Expense as opposed to the \$30,042,000 that it requested. This results in an OTS adjustment of \$11,745,000.⁸

⁸ The Pennsylvania Jurisdiction equivalent amount is \$8,581,000. The Revenue Requirement equivalent amount is \$9,043,000. See, Appendix A, Table II, attached to the OTS Main Brief.

5. The ALJ's Approval Of PP&L's Proposal To Change From Modified Sinking Fund Depreciation To Straight Line Depreciation For The Susquehanna Nuclear Property Installed Prior To January 1, 1989, Should Be Rejected.

OTS Main Brief, pp. 62-67.

OTS Reply Brief, pp. 29-32.

Recommended Decision, pp. 109-115.

Property installed at the Susquehanna Steam Electric Station ("SES") prior to January 1, 1989 is depreciated using the Modified Sinking Fund method ("MSF"). Under the terms of the agreement, the depreciation expense increases each year from 1996 through 1998 and will revert to straight line remaining life depreciation on January 1, 1999. Plant installed after December 31, 1988 is depreciated using the straight line method with the average life span procedure and remaining life technique. OTS St. 2, p. 30. The MSF method was constructed by the Company and accepted by this Commission as a means of deferring a portion of the large revenue requirement increase which occurred in connection with the in service dates of Susquehanna Units 1 & 2.

In this proceeding, PP&L has proposed a change to straight line for the identified property during the three (3) year period that will result in a higher level of depreciation expense for this rate case. OTS has opposed the proposed change to straight line depreciation. The ALJ has recommended that PP&L's request to change to the straight line method for the three (3) year period be approved. Recommended Decision, pp. 114-115. OTS excepts to the ALJ's recommendation.

The ALJ's rationale is that PP&L's request is reasonable since PP&L " went to the MSF method for particular reasons associated with the early depreciation of the

Susquehanna plants. It now seeks to move over to the standard straight line method a bit early." Recommended Decision, p. 115. While the ALJ's reasoning has a certain logical appeal, OTS believes that PP&L's ratepayers are entitled to the depreciation arrangement that the Commission ordered in PP&L's last rate case. PP&L is being treated fairly if it is required to continue with MSF because it will be allowed to recover depreciation expense in the future that has been booked in accordance with a previous Commission order.⁹ In this regard, PP&L has acknowledged that the continuation of MSF will not prevent it from recovering all of the depreciation expense to which it is entitled.¹⁰ PP&L Main Brief, p. 161. PP&L has requested the change solely because it will provide the Company with a higher revenue requirement in this case than if MSF were continued for the three (3) year period. OTS St. 2, pp. 32-33.

Accordingly, OTS recommends that PP&L's request to change from MSF to straight line depreciation for the three (3) year period on Susquehanna SES property installed prior to January 1, 1989, be denied. Consequently, PP&L's Susquehanna

⁹ PP&L has argued that continuation of MSF may require it to file more rate cases than it would otherwise. PP&L Main Brief, p. 163. However, PP&L witness Donald S. Hoch acknowledged under cross examination that he was not aware of a single instance in the past where PP&L had filed for a rate increase based solely upon the need to change its depreciation rates. Tr. 1857.

¹⁰ Initially, PP&L witness Donald S. Hoch testified that the continuation of MSF would prevent the Company from recovering all of its investment in nuclear plant. PP&L St. 4-R, p. 3. However, OTS witness Mr. Sivulich has refuted this allegation completely. He states "[t]he allegation that PP&L will not actually collect these amounts from ratepayers unless it files rate cases every year is of no consequence since whenever PP&L does file a rate case in the future, it will be allowed to utilize the increased depreciation it was allowed to book under MSF." OTS St. SR-2, p. 6.

depreciation expense for the future test year should be reduced by \$30,388,000.¹¹

6. The ALJ Erred By Failing To Initiate An Investigation Of Rate Schedule RTS.

OTS Main Brief, pp. 140-143.

OTS Reply Brief, pp. 65-67.

Recommended Decision, pp. 240-241.

A comprehensive discussion of this issue is provided in OTS's Main Brief. In summary, OTS witness Paul M. Yarolin has testified that an investigation of the Rate Schedule RTS class is needed because several questions arose during the course of the hearings in this proceeding and have yet to be answered. The questions are as follows: (1) What, if any, promises were made to RTS customers?; (2) Under what conditions were any such promises made?; (3) Whether any savings were promised over a specific time period?; and, (4) Whether representations were made (by PP&L employees) as to how long it would take to recover the investment required to obtain RTS service? OTS St. 3, p. 12.

The ALJ acknowledged the fact that OTS had requested an investigation of the RTS class (Recommended Decision, p. 234), but failed to specifically respond to such request in his Recommended Decision. Instead, the ALJ recommended the adoption of certain modifications to the RTS rate schedule proposed by PP&L in its rebuttal testimony and accepted (in part) adjustments proposed by the Office of Consumer

¹¹ The Pennsylvania Jurisdiction equivalent for this amount is \$23,832,000. The Revenue Requirement equivalent amount is \$25,112,000. See, Appendix A, Table II, attached to the OTS Main Brief.

Advocate ("OCA").¹² OTS excepts to this apparent rejection of OTS's request for an investigation.

In failing to find a need for an investigation of Rate Schedule RTS, the ALJ apparently accepted the two arguments offered by PP&L in support of its opposition to an investigation. OTS has demonstrated that that PP&L's arguments are without merit and should be rejected. PP&L first alleged that an investigation is unnecessary because rates are not contractual, thus the Company "did not and indeed could not guarantee that rates would not be changed over time." PP&L Main Brief, p. 259. OTS submits that rate case practitioners are certainly aware of the fact that rates are not "contractual." However, ratepayers may not fully understand that rates are not normally guaranteed for a certain period of time.¹³ In this regard, OTS witness Mr. Yarolin has recognized the fact that there is a great deal of confusion among the RTS class regarding their right to lower rates than the RS class. See, Public Input Tr. 115. These concerns have not been

¹² PP&L has proposed to modify the RTS rate schedule as follows: (1) to accept new customers for the rate schedule only until December 31, 1995; (2) to thereafter allow eligible persons to use a new rate schedule to incorporate newer technology and appropriate terms, conditions and rates; (3) to provide service to existing RTS locations through the life of the existing thermal storage units; and, (4) to propose no reduction in the existing 2.3 cents per kilowatt hour differential between RTS and RS customers before December 31, 1999. PP&L Main Brief, pp. 254-260. In response to two adjustments proposed by OCA, the ALJ recommended that notice to potential RTS be provided to fully inform them of the conditions relating to the rate prior to the Commission's order in this proceeding and that the December 31, 1999 cut off of the rate differential proposal be eliminated. Recommended Decision, pp. 231-236.

¹³ Certainly pursuant to a settlement which includes a "stay-out" provision for the company, customers might be reasonably assured of the fact that they will experience no rate increase for a certain period of time.

addressed in the letters sent out by PP&L to RTS customers in April, which were designed to clear up the misconception included in the March 27, 1995 letter sent to RTS customers by PP&L's Sales & Accounts department. See, PP&L Ex. OGK-9.

Second, PP&L argued that Mr. Yarolin's implicit factual assumption (that the RTS customers may fail to recover their investment) is purely hypothetical and represents only a remote possibility. PP&L Main Brief, p. 260. However, PP&L witness Oliver G. Kasper has testified that although he believes the pay-back period on the thermal storage system is five (5) years (Tr. 2166), he acknowledges that the systems vary in type, size and cost. Tr. 2166-2168. He has also acknowledged that since the thermal storage systems vary in cost and the usage pattern of the household, the pay-back period would vary as well. Tr. 2167. Moreover, OCA has alleged in its Main Brief that the pay-back period on these systems could be as long as twenty (20) years. OCA Main Brief, p. 302. Clearly questions remain as to the true pay-back period on these systems. This issue (and the others identified by OTS) are not sufficiently addressed by the modification to Rate Schedule RTS adopted by the ALJ.

Accordingly, OTS submits that it has demonstrated a need for further inquiry by the Commission into the circumstances under which customers obtained service under Rate Schedule RTS.

7. The ALJ Erred In Failing To Find That Rate Schedule SE Is an Off-Peak Rate.

OTS Main Brief, pp. 143-147.
OTS Reply Brief, pp. 67-69.
Recommended Decision, pp. 252-254.

Rate Schedule SE is an unmetered energy only street lighting service that

currently serves 58 customers. A comprehensive discussion of this issue is provided in OTS's Main Brief. In summary, OTS witness Mr. Yarolin has recommended that Rate Schedule SE be considered an off-peak service primarily because the service is not used during peak hours for seven (7) of the twelve (12) months of the year.

OTS St. 3, pp. 14-15. Mr. Yarolin has recommended that the Company file a rate with higher on-peak (winter) month rates and lower off-peak (summer) month rates. OTS St. SR-3, p. 12. SE customers would benefit because Mr. Yarolin has also proposed that they receive no increase in this proceeding. OTS St. 3, p. 15.

The ALJ rejected OTS's proposal because he accepted PP&L's argument that street lighting should not be considered to be "off-peak" because street lighting demand cannot be moved to other time periods like industrial demand. Recommended Decision, pp. 253-254. OTS excepts to this finding.

OTS witness Mr. Yarolin has testified that the ability to shift load is not the only criterion in determining whether a service is on-peak or off-peak. In this regard, "period of usage" is equally important. The record indicates that street lighting occurs primarily during off-peak periods of the year. OTS Ex. 3, Sched. 3, p. 2.

Mr. Yarolin has further demonstrated that no significant peak costs are incurred due to street lighting. OTS Ex. 3, Sched. 3, p. 2 demonstrates that Street and Area Lighting in total contributed only .001% of the system total demand for the months of April to and including October (a total of seven months). For the winter monthly peaks of November to and including March (a total of five months) the total peak demand for all Street and Area Lighting was only .4%. Moreover, Rate Schedule SE represents only

8% of the total Street and Area Lighting usage (PP&L Ex. OGK-2, Tabulation of Revenue Effects, p. 1), which does not represent a significant contribution to the winter monthly peaks.

In addition, as recognized by the ALJ (Recommended Decision, p. 254), street lighting is a service that is enjoyed by all classes of customers. Given the small number of SE customers, OTS believes that recognizing this rate as off-peak and not increasing the rate in this proceeding will have a very limited cost impact to other customer classes but could have a significant financial impact upon the the municipalities that are currently on Rate Schedule SE.

In fact, representatives of several municipalities testified at the Public Input hearings about the financial strain being placed upon their budgets by the cost of street lighting. In this regard, John Cawley from the City of Scranton testified about the budget shortfalls of municipalities and cities and the affect the proposed street lighting increase will have on their budgets. Public Input Tr. 376. Similar concerns were expressed in the City of Wilkes Barre (Public Input Tr. 406 & 413), City of Hazleton (Public Input Tr. 465) and the City of Bethlehem. Public Input Tr. 629. Consequently, the record demonstrates significant concern about the ability of these cities to pay a significant increase. Under these circumstances identifying SE as an off-peak rate and allowing no increase in this proceeding is clearly reasonable and in the public interest.

Accordingly, the record demonstrates that Rate Schedule SE is in fact an "off-peak" rate and should be so designated by the Commission. The change can be accomplished by ordering PP&L to file a tariff which provides an on-peak rate for five

(5) winter months (November through March) and a (lower) off-peak rate for the remaining seven (7) summer months (April through October). Moreover, as discussed above, Rate Schedule SE should not get any increase in rates in this proceeding.

III. CONCLUSION

For the reasons set forth herein, the Recommended Decision should be revised consistent with the Office of Trial Staff's Exceptions.

Respectfully submitted,



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Dated: August 14, 1995

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