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August 31, 2004

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DOCUMENT

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2004 AUG 31 PM 3:55
PA PUC
SECRETARY'S BUREAU

Re: Pennsylvania Public Utility Commission v.
PPL Electric Utilities Corporation
Docket No. R-00049255

Dear Secretary McNulty:

Enclosed for filing are three copies of the Transcript Corrections for the transcript of the hearing held on August 11, 2004, and August 12, 2004, in the above-captioned proceeding.

A copy has been served today on all known parties in this proceeding. A Certificate of Service to that effect is enclosed.

Sincerely,

Steven C. Gray
Assistant Small Business Advocate

Enclosures
cc: Hon. Allison K. Turner
Administrative Law Judge

Parties of Record

Robert D. Knecht

44

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OSBA Transcript Corrections
August 11, 2004
Docket No. R-00049255

Transcript Page and Line Numbers	Reads	Should Read
P. 878 line 17	Yes there is	Yes there are
P. 889 line 12	Planning Assessment and Accountability	Planning, Analysis, and Accountability
P. 890 lines 19, 20	some of which information	some of the reasoning

OSBA Transcript Corrections
August 12, 2004
Docket No. R-00049255

Transcript Page and Line Number	Reads	Should Read
P. 1043, line 14	prepare a response during	prepare and sponsor
P. 1050, line 8	talking it in	talking about it in
P. 1051, line 8	theoretical decision	theoretical discussion
P. 1051, line 16	by cost consolidate and cost based	by cost allocation and are cost based

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
v.	:	Docket No. R-00049255
PPL ELECTRIC UTILITIES CORPORATION	:	

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Re: Pennsylvania Public Utility Commission
v. PPL Electric Utilities Corporation
Docket No. R-00049255

Dear Secretary McNulty:

Enclosed, for filing, are three copies of the Transcription Corrections for the transcript of the hearing held on August 10, 2004, in the above-referenced proceeding.

As indicated on the enclosed certificate of service, copies are being served on all parties.

Respectfully submitted,

John H. Isom

JHI/jl

Enclosure

c: Certificate of Service

21

Transcript Corrections
August 10, 2004
Docket No. R-00049255

Transcript Page and Line Number	Reads	Should Read
P. 584, line 5	In my own occasion	In my own experience
P. 596 line 18	I would also that	I would also note that

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **"Transcript Correction – August 10, 2004"** upon the participant(s), listed below, in accordance with the requirements of §1.54 (relating to service by a participant):

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September 1, 2004

BY HAND DELIVERY

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DOCUMENT FOLDER

In re: Docket No. R-00049255, et al.
Pa. P.U.C., et al. v. PPL Electric Utilities Corporation

Dear Secretary McNulty:

Enclosed for filing on behalf of The Sustainable Energy Fund of Central Eastern Pennsylvania are an original and nine (9) copies of its Main Brief in the above referenced matter. Copies of the Main Brief are being served upon the persons and in the manner set forth on the certificate of service attached to it.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By

Thomas T. Niesen

Encl.
cc: Certificate of Service (w/encl.)
Thomas J. Tuffey, Ph.D. w/encl.)
040901McNulty.wpd

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Administrative Law Judges Presiding
Allison K. Turner
Susan D. Colwell
Ember S. Jandebeur

Pennsylvania Public Utility Commission	:	**Docket No. R-00049255**
	:	
v.	:	
	:	
PPL Electric Utilities Corporation	:	

MAIN BRIEF OF THE SUSTAINABLE ENERGY FUND OF CENTRAL EASTERN PENNSYLVANIA

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DATED: September 1, 2004

TABLE OF CONTENTS

TABLE OF CITATIONS

I. INTRODUCTION

This proceeding concerns PPL Electric Utilities Corporation's ("PPL") Supplement No. 38 to Tariff Electric-Pa. P.U.C. No. 201 issued March 29, 2004 ("Supplement No. 38"). Supplement No. 38 proposes an increase in PPL's distribution rates of $164 million.

The Sustainable Energy Fund of Central Eastern Pennsylvania ("SEF") is a Pennsylvania non-profit corporation that receives all of its funding through the application of the Sustainable Energy Fund Rider in PPL's presently effective Tariff No. 201. The presently effective Rider is scheduled to expire on December 31, 2004. SEF St. No. 1 at 3-4.

PPL has proposed in its Supplement No. 38, Third Revised Page No. 19K, to continue the Sustainable Energy Fund Rider at the current rate of 0.01 cents per KWH until not later than December 31, 2009. SEF St. No. 1 at 4.

On April 28, 2004, SEF filed a Petition to Intervene in support of continued funding for SEF. SEF's intervention was unopposed and granted by Administrative Law Judge Allison K. Turner in her Prehearing Order No. 2 dated May 20, 2004.

SEF participated in the proceeding as an active party and sponsored the written rebuttal testimony of Thomas J. Tuffey, Ph.D., in support of continued funding for SEF. Dr. Tuffey appeared to sponsor his rebuttal testimony and was cross examined at the hearing on August 11, 2004.

SEF submits this Main Brief in support of continued funding for SEF. As set forth herein, Third Revised Page No. 19K of Supplement No. 38 should be approved as filed.[1]

---

[1] Since continued funding is the only issue addressed herein, SEF has, consistent with the *Note to the Standardized Brief Format included with Judge Turner's Prehearing Order dated May 12*, 2004, appropriately modified the format of its Main Brief and the outline presented with it. SEF, moreover, has not attached either of standardized Table I or Table II to its Main Brief inasmuch as it is not proposing any adjustment to PPL's rate filing or supporting information.

II. SUMMARY OF ARGUMENT

Third Revised Page No. 19K of PPL's Supplement No. 38 proposes continued funding for SEF of 0.01 cents per KWH. Continued funding of SEF as proposed in Supplement No. 38 is consistent with the Public Utility Code and the public interest.

Funding is expertly administered. SEF uses an Enterprise Business Model to analyze and evaluate investment opportunities consistent with Mission Statement. Through the application of a set of mission metrics, benefits to PPL ratepayers are quantified.

Renewable energy technologies and sustainable energy enterprises, however, are still only a nascent and evolving industry in Pennsylvania. Like the other funds across the state, SEF needs more time to expand its capabilities and firmly establish its long-term viability.

Currently, moreover, Pennsylvania funding of SEF-type organizations is less than that which is occurring in each and every one of Pennsylvania's other peer states. If Pennsylvania were to deny continued funding, it would stand alone and in stark contrast to its neighbors and likely allow the benefits of SEF-type projects, in the form of clean air, less emissions, job creation and more, to flow away from Pennsylvania to those neighbors.

The opposition of certain parties to continued funding, is inconsistent with the policies of the current administration in Pennsylvania and what is occurring throughout the nation and contrary to the public interest as well. Projects funded by SEF relieve stress on the distribution system thereby benefitting the system.

The statutory requirement of "just and reasonable" imports flexibility in the exercise of the ratemaking function and the Commission is vested with discretion to

decide the factors it will consider in setting rates. Continued funding of SEF is an appropriate factor to reflect in the rates which will be set in this proceeding.

Third Revised Page No. 19K of Supplement No. 38 should be allowed to go into effect as filed.

III. EXPENSES - SEF FUNDING

A. PPL's Proposal for Continued Funding of SEF

SEF is a Pennsylvania non-profit corporation formed in accordance with the terms of the Joint Petition for Full Settlement of PPL's Restructuring Plan and Related Court Proceedings at Docket No. R-00973954. SEF St. No. 1 at 3 and PPL St. No. 7 at 21.

SEF has a seven-member Board of Directors nominated by the Joint Petitioners to the Restructuring Settlement and approved by the Public Utility Commission ("Commission"). The Commission reviews and approves SEF's by-laws and SEF submits an annual audit report and semi-annual audit report to the Commission. PPL St. No. 7 at 21-22; SEF St. No. 1 at 26; N.T. 823-825.

SEF receives all of its funding through the application of the Sustainable Energy Fund Rider in PPL's presently effective Tariff No. 201. The presently effective Rider is scheduled to expire on December 31, 2004.[2] SEF St. No. 1 at 4.

The purpose of the fund, as noted in PPL's Restructuring Settlement Agreement, is "... to promote the development and use of renewable energy and clean energy technologies, energy conservation and efficiency which promote clean energy." PPL St.

---

[2] The presently effective Rider provides as follows:

SUSTAINABLE ENERGY FUND

The Company will establish a sustainable energy fund which shall be funded from the Distribution Charges in each Rate Schedule at the rate of 0.01 cents per KWH (less applicable gross receipts tax) on all KWH delivered to all customers beginning on January 1, 1999 and ending on December 31, 2004, or until the Commission establishes new Distribution Charge rates, whichever is longer.

No. 7 at 22. SEF's Mission Statement is as follows (SEF St. No. 1 at 4 and PPL St. No. 7 at 22):

> "Our mission is to promote, research, and invest in clean and renewable energy technologies, energy conservation, energy efficiency, and sustainable energy enterprises that provide opportunities and benefits for PPL ratepayers."

Over the five year life of the presently effective Sustainable Energy Fund Rider, annual funding has been as follows (PPL St. No. 7 at 22)[3]:

1999	2000	2001	2002	2003	Total
$3,038,981	$3,233,012	$3,326,903	$3,357,900	$3,379,544	$16,336,340

PPL has proposed in its Supplement No. 38 to continue the Sustainable Energy Fund Rider at the current rate of 0.01 cents per KWH until not later than December 31, 2009. SEF St. No. 1 at 4. Third Revised Page No. 19K of Supplement No. 38 provides, in pertinent part, as follows (PPL Exhibit OGK 1 at Third Revised Page No. 19K):

> **SUSTAINABLE ENERGY FUND**
>
> The Company will establish a sustainable energy fund which shall be funded from the Distribution Charges in each Rate Schedule at the rate of 0.01 cents per KWH (less applicable gross receipts tax) on all KWH delivered to all customers beginning on the effective date of this rider and ending not later than December 31, 2009.

With Commission approval, PPL would use existing procedures to collect and disburse funds to SEF beginning January 1, 2005. PPL St. No. 7 at 24.

PPL witness Dahl identified the following reasons for continued SEF funding (PPL St. No. 7 at 24-25):

> "... First, the SEF has effectively managed its funding and has a strong balance sheet. For the reporting period ending June 30, 2003, the SEF

---

[3] Further funding in a similar amount of approximately $3,300,000 is expected for calendar year 2004.

had unrestricted net assets of $12,203,454. Second, state government also plays a key role in supporting environmental initiatives. As evidenced by Governor Rendell's budget proposal, quality of life and environmental issues are significant components. In other words, it is likely that state government may provide funding or other incentives to address environmental issues. Third, PPL Electric also is attempting to balance the needs of supporting important public policy objectives (i.e., protecting and improving the environment) while minimizing the cost impact on all customers. Continuing the current funding mechanism for the SEF appears to strike a proper balance. Fourth, over the years there *has been a modest but steady increase in kWh usage by all customers.* This increase in kWh usage translates into a slight increase in funding for the SEF. Finally, the whole arena of renewable energy technologies and sustainable energy enterprises is still a nascent and evolving industry in Pennsylvania. The various SEFs across the state need more time to expand their capabilities and to firmly establish their long-term viability. Given the important role of state government in supporting environmental initiatives, PPL Electric believes that funding the SEF of Central and Eastern Pennsylvania at .01 cents per kWh is the appropriate level of support from all customers.

In his rebuttal testimony, Mr. Dahl further explained that the continuation of SEF supports broad public policy objectives regarding the environment, establishes partnerships with government to address environmental needs, promotes the development of renewable energy technologies and helps to achieve a cleaner environment over the long run. SEF needs additional time and continued funding to further enhance its capabilities, pursue new areas of environmental interest and expand its working relationships and coordination with state government and other partners. PPL St. No. 7-R at 46.

B. SEF's Use of Funding

SEF uses an Enterprise Business Model to analyze and evaluate investment opportunities consistent with its Mission Statement. SEF St. No. 1 at 4 and 29. This Model allows SEF to best steward the money it receives and "get the best bang for the buck." N.T. 780-783.

SEF invests in either projects or organizations. If a project, it must be in the PPL service territory. If an organization, whether for-profit or not-for-profit, its product or service must be able to benefit PPL ratepayers. SEF St. No. 1 at 10.

SEF's website contains a complete description of SEF's preferred technologies, how to apply for SEF funding and how projects will be evaluated. Through information submitted by and dialogue with the applicant, SEF evaluates each proposal and quantifies the benefit to PPL ratepayers using the following mission metrics (SEF St. No. 1 at 10):

- KWHs renewable or clean energy generated;
- KWHs conventional energy saved;
- jobs created;
- money leveraged;
- environmental benefit, and
- people educated

Using three examples of SEF funded projects, Dr. Tuffey explained how these mission metrics are used to evaluate projects to assure demonstrable benefits to the PPL ratepayer (SEF St. No. 1 at 10-13):

> Below I illustrate with three examples: two program related investments and one grant; how the SEF uses performance metrics to assure benefits to the PPL ratepayer.
>
> Bear Creek Wind Farm

• Kwhs renewable energy generated/yr	55,000,000
• Kwhs convention energy saved/yr	N/A
• Jobs created	397 job years over 20 year life
• Money leveraged	$30,500,000
• Environmental Benefit	30,195 tons/year CO^2 avoided 7,590 homes equivalent 209 tons/year SO^2 avoided
• People educated	Unknown

Bear Creek is a wind farm sited within the PPL territory with 20.5 MW nameplate capacity and .36 capacity factor. The SEF commitment of $1,500,000 in debt leverages an additional $3,000,000 from the other Pennsylvania funds, $2,000,000 in production rebates from the PECO settlement funds managed by the Sustainable Development Fund, and $24,000,000 from private sources including the developer, institutions that can utilize the tax credit, and an investment bank.

The estimate of job years is over the projected 20 year life of the project. Several sources were considered including, FPL experiences, Lawrence Livermore National Laboratory, and the March 2004 report by Black & Veatch entitled *Economic Impact on Renewable Energy in Pennsylvania* (available at: www.cfalleghenies.org/images/EnergyStudy1.pdf). The Black & Veatch Report was ultimately relied on to estimate job years due to its currency and Pennsylvania specificity. The years estimated are for manufacture, construction, and operation, the latter two hopefully provided within the PPL territory. The environmental benefit is estimated based on pollution avoided from the Pennsylvania source generation mix of fossil, nuclear and other. Homes equivalent is the estimate of the number of average residences within the PPL territory that would have full consumption provided by the project.

Londonderry School

• Kwhs renewable energy generated/yr	N/A
• Kwhs conventional energy saved/yr	67,860
• Jobs created	not estimated
• Money leveraged	$2,100,000
• Environmental Benefit	37 tons/yr. CO2 avoided 9 houses
• People educated	850 students

Londonderry School is a private school in Harrisburg that has built a new Leadership in Energy and Environmental Design ("LEED") Silver school. SEF *agreed to take $500,000 debt subordinated to Waypoint Bank. Waypoint was not* familiar with LEED construction standards and the associated energy and environmental benefits. By subordinating to Waypoint, SEF took on the "green" risk and Waypoint made the greater loan. The estimate of students is over the projected 20 year life of a school with a capacity for just over 200 students.

Clean Energy Expo- Penn State Convention Center

• Kwhs renewable energy generated/yr	N/A
• Kwhs conventional energy saved/yr	N/A
• Job created	Not estimated
• Money leverage	$120,000
• Environmental Benefit	N/A
• People educated	10,000 to 11,000

SEF provided a $10,000 grant to the West Penn SEF to sponsor The Clean Energy Expo which was held approximately 6 months ago. SEF made the commitment early to provide support for the first Expo. The West Penn SEF, as host, granted $25,000. Each of the other Pennsylvania funds also provided $10,000, and other grants were made by public and private sources. The two-day Expo was very successful. Over 150 exhibits were presented and close to11,000 people visited the exhibit area and attended workshops.

SEF files an Annual Report with the Commission and the Joint Petitioners in which it details its operations for the prior twelve month period. SEF's Annual Report for the Period July 1, 2002 through June 30, 2003, is attached as Attachment A to SEF Statement No. 1. The following excerpt from the Overview on Mission Progress Section of the 2002/2003 Annual Report provides a flavor of the substantial progress of SEF since its inception (SEF St. No. 1, Attachment A):

1.0 OVERVIEW ON MISSION PROGRESS

* * *

[SEF's] principal measure of impact relates to mission accomplishment, what we are doing to promote, research, and invest in clean and renewable energy technologies, energy conservation, energy efficiency, and sustainable energy enterprises that provide opportunities and benefits for PPL ratepayers. As we complete our third year of operation, we can report that we are making significant progress.

Several specific areas are noteworthy:

- Wind power development in Pennsylvania and elsewhere in PPL territory
- Significant growth in Leadership in Energy and Environmental Design (LEED)-certified green buildings
- Emerging electric technologies
- Community economic development
- Sustainable energy education

Wind Powering Pennsylvania

Encouragement and support of wind power development has been a major theme for SEF. We believe we are a key factor in Pennsylvania's emergence as the major wind power state east of the Mississippi, and in PPL's having the highest concentration of wind farms in the state. ...

* * *

By the end of 2004, we expect three major new wind farms to be operational in PPL's territory, with some degree of SEF involvement in all. They are as follows:

- Bear Creek @ 20 MW
- Undisclosed @ 40 MW
- Waymart @ 61.5MW

We played the strongest role in the Bear Creek project, less than 10 miles southeast of Wilkes-Barre. We championed support amongst the other Pennsylvania Funds and helped to broker the power purchase agreement by PPL. Made a $1.5 million subordinated debt commitment, complementing a further $3 million syndication, in process, by the other Pennsylvania Funds ...

* * *

On the demand side, we hold an equity position in CEI and provide debt financing and a line of credit. We are one of CEI's founding investors, and the only Clean Energy Fund that has a program-related investment. A number of state funds have, however, provided grants, including New York, New Jersey, Massachusetts, Connecticut, and Illinois, and CEI also received $3.5 million in grants from the PECO merger ...

* * *

Growth in LEED-Certified Green Buildings

Pennsylvania has the second highest number of LEED-certified buildings in the country. We are supporting an abundance of activity in PPL territory in various ways, as follows:

- $500,000 loan to the Londonderry School, Harrisburg, toward construction of a new LEED Silver school ...

- $25,000 grant to St. Stephens Cathedral School, Harrisburg, toward construction of a LEED Silver school addition ...

- $19,510 grant to Eastern York School District toward construction of a LEED-certified school and a PV installation.

- Disbursed an additional $25,000 grant to the Green Building Association of Central Pennsylvania as a result of its significant progress in educating professionals and building owners in green building design.

- PPL has opened a new company headquarters building that we hope will win LEED Gold certification, which would make it one of only two such commercial buildings in the U.S. ...

- $1,060 grant to SEDA-COG, an 11-county community development organization in Lewisburg, to explore green building options. This grant has contributed to SEDA-COG's decision to build an Energy Resources Center, a LEED Silver office building. It is through this energy center that SEDA-COG delivers energy audit and other services to the residential and small business sectors ...

Emerging Technologies

- Our financing of PowerWeb, in collaboration with SDF as the lead, has produced valuable products. PowerWeb designed the technology for the new Westinghouse Lighting Retrolux t-5 wireless light bulb. This highly efficient technology is a 30% improvement over current state-of-the-art commercial lighting and is the first of a class of *smart building* lighting technologies. It is progressing through UL approval, and a contract for the first 10,000 units has been awarded. PowerWeb load management software, a separate business line focused on demand side management, was installed in over 100 major industrial sites in PJM Territory, covering some 800 mW of contracted controllable load during times of peak demand.

* * *

- The promotion of light-emitting diode (LED) technology in traffic signal applications has begun. Such applications have been found to result in 80 to 90% energy savings, reduced maintenance, enhanced safety benefits, and a 2- to 3-year payback time. We have committed to a $21,000 grant to the City of Lancaster, Department of Public Works to conduct a demonstration project and associated technology transfer assistance to encourage the adoption of LED technology throughout central Pennsylvania.

- We have been an early member and financial supporter of the Alternative Fuels Council as it seeks to further the Commonwealth's position to reduce dependency on foreign fuel. SEF is a sponsor of the Alternative Fuels Council's first conference.

- We are committed to wind power next-generation blade technology, through Advantek, as mentioned previously.

- We are encouraging photovoltaic power generation for appropriate applications. Our HersheyPark project has a strong PV footprint. SEF has entered into another cooperative agreement with the Sustainable Development Fund, our long-term partner on several activities, to co-fund several PV demonstration projects. SEF has made commitments for PV demonstration grants to Illicks Mills in Bethlehem, Souderton Area School District, Eastern York School District, and St. Stephen's Cathedral School in Harrisburg.

* * *

Community Economic Development

Our financing of the following projects is representative of our progress in community economic development, and a further means to benefit the residential community:

- The SEDA-COG financing activity, a $2.1 million syndication being developed, supports community economic development in eight counties in the northwest sector of our territory ...

- We provided an $180,000 loan to the Allentown Technology Center, a business incubator anchoring a critical boundary to the downtown Allentown revitalization effort, to improve energy efficiency with a state-of-the-art computerized energy control system.

- In Lower Windsor Township, we assisted with a grant for a new LEED-certified township building.

- In Lancaster, we are providing grant funding to Community Basics, Inc. (Lancaster Housing and Community Development) to evaluate the use of deep quarry water as a specialized heat exchange medium for a 300-unit residential housing project that the city has committed to make as green as possible.

- In Hazelton, we are providing grant funding to the Pine Street Project, which consists of 24 units of residential housing built to Energy Star standards.

- We have been very active in Scranton. Last year we reported on our success in recruiting and relocating an emerging electric vehicle company, Nova Cruz LLC, from New Hampshire to Scranton. Unfortunately, the company's new product did not achieve the market acceptance hoped for and the company discontinued operations. SEF was the largest secured creditor with fiduciary responsibility of recovering funds on behalf of all creditors and shareholders.

  We were equally committed to make every effort to recruit a new electric vehicle company to the area, to preserve both jobs and the technology footprint. We are pleased to report that with participation from Scranton Chamber of

Commerce, DCED, and Ben Franklin Technology Partners, we were able to recruit Oxygen SpA, a leading electric vehicle manufacturer in Italy, to Scranton. Although Oxygen SpA is still in its early stages, it has selected Scranton as its North American headquarters. (The sale of assets was completed in August 2003; beyond this reporting period, however, it is appropriate to note that we were also instrumental in the development of a new entity, Xootr LLC, that purchased assets of the company and has also indicated its intention to remain in Scranton.)

Education

SEF has a significant commitment to sustainable energy education in PPL territory and Pennsylvania. We believe our current portfolio upon fulfillment will result in over 10,000 student-learning experiences per year. We have determined, however, that a far greater need must be addressed, which involves opportunities to educate tomorrow's consumers and decision makers. We intend to continue our education program, as evidenced by the following.

- $84,000 grant to HersheyPark for wind energy and photovoltaic exhibits and associated sustainable energy theater production. The family theme and clean environment focus of the park, coupled with its high-volume exposure, provide a wonderful opportunity to educate ...

- Wilson College has an existing environmental focus, The Fulton Center for Sustainable Development. ... We have committed to a $25,000 grant, which will allow Wilson College to include sustainable energy topics in all of its programs, particularly those addressing residential consumers ...

In sum, SEF expertly administers its funding. It uses an Enterprise Business Model to analyze and evaluate investment opportunities consistent with its Mission Statement. Through the application of a set of mission metrics, benefits to PPL ratepayers are quantified. Its balance sheet and market position in developing sustainable energy technologies, businesses, and capabilities are strong.[4] It has made and, with the continued funding proposed in Supplement No. 38, will continue to make

[4] SEF's audited financial statements for the fiscal year ended June 30, 2003 are included with Attachment A to SEF Statement No. 1.

significant contribution to building a new sustainable energy environment within the PPL territory and throughout Pennsylvania. *See* SEF St. No. 1, Attachment A at 9.

C. Continued Funding of SEF Is Just and Reasonable and Consistent with the Public Interest

Every rate charged by a public utility must be "just and reasonable." Section 1301 of the Public Utility Code, 66 Pa. C.S. §1301, provides as follows:

> Every rate made, demanded, or received by any public utility ... shall be just and reasonable, and in conformity with regulations or orders of the commission.

The Commission is vested with discretion to decide what factors it will consider in setting or evaluating a utility's rates. *Popowsky v. Pa. P.U.C.*, 683 A. 2d 958, 961 (Pa. Cmwlth. 1996). It has broad discretion in determining whether rates are reasonable. *City of Pittsburgh v. Pa. P.U.C.,* 400 A.2d 672 (Pa. Cmwlth. 1979); *Popowsky v. Pa. P.U.C.*, 683 A. 2d 958, 961 (Pa. Cmwlth. 1996). In *Pa. P.U.C. v. Pennsylvania Gas and Water Company (Water Division),* 424 A. 2d 1213, 492 Pa. 326, 337 (1980), the Pennsylvania Supreme Court explained that the phrase "just and reasonable" imports flexibility in the exercise of the ratemaking function:

> "There is ample authority for the proposition that the power to fix "just and reasonable" rates imports a flexibility in the exercise of a complicated regulatory function by a specialized decision-making body and that the term "just and reasonable" was not intended to confine the ambit of regulatory discretion to an absolute or mathematical formulation but rather to confer upon the regulatory body the power to make and apply policy concerning the appropriate balance between prices charged to utility customers and returns on capital to utility investors consonant with constitutional protections applicable to both. *See Utah Power and Light Co. v. PSC*, 107 Utah 155, 190-191, 152 P.2d 542, 558 (1944). *Accord, State v. N. J. Bell Telephone Co.*, 30 N.J. 16, 152 A.2d 35 (1959).

Here, PPL has included a continuation of SEF funding at a rate of 0.01 cents per KWH in its proposed Supplement No. 38, Third Revised Page No. 19K. The evidence of record summarized in Section B, *supra*, demonstrates that SEF expertly administers its funding. It uses an Enterprise Business Model and mission metrics to analyze and evaluate investment opportunities consistent with its Mission Statement. The evidence of record summarized in Section C, *infra*, further demonstrates that SEF funded projects provide direct benefit to the distribution system. The evidence of record demonstrates quite clearly that further funding is an appropriate factor to reflect in the rates which will be set in this proceeding.

Environmental issues are, moreover, important to customers and community leaders. With the continued funding proposed in Supplement No. 38, SEF will continue to make significant contribution to building a new sustainable energy environment, support public policy objectives regarding the environment, establish partnerships with government to address environmental needs and promote the development of renewable energy technologies. The public's interest in environmental issues is further support for reflecting SEF funding in the rates which will be set in this proceeding.

The benefits of renewable energy technologies are, in addition, well known and beyond dispute. *See* Section D, *infra*. Currently, Pennsylvania is at a relative disadvantage in the development of a sustainable energy infrastructure as well as the associated job creation of an emerging technology sector. *See* SEF St. No. 1 at 9. As shown in the comparison of peer state funding presented in Attachment C to SEF Statement No. 1, Pennsylvania funding of SEF-type organizations is less than that which

is occurring in each and every one of Pennsylvania's other Northeastern peer states.[5] If Pennsylvania were to deny continued funding, it would stand alone and in stark contrast to its neighbors. The benefits of SEF-type projects, in the form of clean air, less emissions, job creation and more, would flow away from Pennsylvania to neighboring states. Such a result would be inconsistent with the policies of the current administration in Pennsylvania and with the public interest as well. Once again, continued funding of SEF is an appropriate factor to reflect in the rates which will be set in this proceeding.

In the electric restructuring proceedings, Pennsylvania took a first step to promote renewable energy technologies when the Commission approved settlements and implementing tariffs that provided for the funding of sustainable energy funds. The next step of continued funding is appropriate and consistent with what has already occurred in the restructuring proceedings and what is continuing to occur in other states throughout the nation in regard to the development of a sustainable energy infrastructure. Continued funding is an appropriate factor to reflect in the rates which will be set in this proceeding.

D. Positions of the Other Parties

The positions of the other parties vary widely. Office of Trial Staff ("OTS") witness Michael J. Gruber, PPL Industrial Customer Alliance ("PPLICA") witness Stephen J. Baron and United States Department of Defense/Federal Agency ("DOD") witness Thomas J. Prisco oppose ratepayer funding of SEF as proposed in Supplement No. 38. Commission on Economic Opportunity ("CEO") witnesses Eugene Brady and John Howatt, PPL Public Lighting Users Group ("PLUG") witnesses John E. Bradley,

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[5] Bordering states like New York and New Jersey, for example, are financing sustainable energy at rates at least 5 to 6 times greater than Pennsylvania. SEF St. No. 1 at 8.

Joseph V. Link, PE, and Michael G. Musser, II, and Office of Small Business Advocate ("OSBA") witness Andrew M. Schwarz express support for continued funding with certain caveats. Messrs. Brady and Howatt recommend that SEF allocate 36 percent of annual funding for a residential photovoltaic ("PV") program. Mr. Schwarz recommends that management of new monies be turned over to the Pennsylvania Energy Development Authority ("PEDA"). PLUG witnesses Bradley, Link and Musser plan to explore the availability of grants from SEF. They also address matters of accountability and transparency. John Hanger, the witness for Citizens for Pennsylvania's Future ("PennFuture"), recommends a doubling of the proposed SEF funding level from .1 mill to .2 mill. The positions of the other parties are discussed below under two general subheadings: continued funding (witnesses Gruber, Baron, Prisco and Hanger) and structure/accountability (witnesses Bradley, Link, Musser, Brady, Howatt and Schwarz).

1. Continued Funding

a. The Testimony of OTS Witness Gruber

OTS witness Gruber opposes the proposal in PPL's Supplement No. 38 for continued funding of SEF. Mr. Gruber states that SEF funding was established with a limited time period in the Restructuring Settlement and that PPL should adhere to that Settlement. He offers the further opinion that the proposed funding is a hidden tax for research which should be accounted for in Governor Rendell's budget proposal and not electric rates. SEF St. No. 1 at 5. Mr. Gruber's opposition to continued SEF funding as proposed in Supplement No. 38 should be rejected as set forth below.

First, the proposal for further funding in Supplement No. 38 is not precluded by the existing tariff language at currently effective Second Revised Page No. 19K. The

existing Rider expires on December 31, 2004. Supplement No. 38 proposes a continuation of the Rider until not later than December 31, 2009. SEF St. No. 1 at 6.

Second, whether one characterizes it as a "tax" or in some other fashion, the SEF funding provision is not "hidden." The present funding provision of 0.01 cents per KWH is separately identified and publicly displayed at Second Revised Page No. 19K of PPL's presently effective tariff. The proposed funding provision is, likewise, separately identified and publicly displayed at Third Revised Page No. 19K of PPL's proposed Supplement No. 38. SEF's use of funding is, likewise, available to the public and not "hidden." SEF maintains a public website at www.sustainableenergyfund.org where anyone can go to find information about SEF, including annual and semi annual reports filed by SEF with the Commission concerning SEF operations. The Commission's website also has a link to SEF's website. SEF St. No 1 at 6-7.

Third, characterization of SEF funding as a "tax" suggests a connection with government which SEF simply does not have. SEF is a private organization. Its staff is made up of people with private sector, business experience. It's Board does not have governmental officials on it. It invests in projects, including Demand Side Management projects, that reduce base load and benefit the transmission and distribution system. SEF St. No. 1 at 7.

Fourth, SEF does not fund research. The "research" that is part of the SEF Mission Statement is "research" done by SEF to identify technologies and business models suitable for SEF funding. SEF, in other words, investigates or attempts to identify technologies suitable for funding. This is an important point to understand about SEF. It does not fund energy research. SEF has no money available for research or

development. SEF funds early stage, but already developed, commercial products to help move those products closer to the marketplace. SEF St. No. 1 at 7.

Finally, whatever is in the Governor's budget concerning energy matters (which are proposals only with no guarantee of actual funding) should be viewed as a complement to SEF funding, not a replacement. Proposed increased funding for the Energy Harvest Program and seed funding for PEDA would not replace SEF funding. SEF already works hand in hand with DEP on Energy Harvest, not for Energy Harvest to replace SEF but to structure SEF financing to enable project managers to take best advantage of Energy Harvest financing structures. In the past, PEDA principally funded projects that were large scale waste coal to power projects, characterized by secure revenue streams, associated with PURPA pricing requirements. These projects are not at all similar to the projects funded by SEF. SEF St. No. 1 at 8-9.

Bordering states like New York and New Jersey are financing sustainable energy at rates at least 5 to 6 times greater than Pennsylvania. The Governor's budget proposals, *if funded*, coupled with continued SEF funding, would close the gap somewhat, but total funding would still be below the effort of neighboring states to develop not only a sustainable energy infrastructure but also the associated job creation of an emerging technology sector. SEF St. No. 1 at 8-9.

b. The Testimony of PPLICA Witness Baron

PPLICA witness Baron opposes"the inclusion of SEF funding as an element of distribution cost of service." Mr. Baron challenges proponents of SEF funding to establish that the SEF is related to distribution costs or service and that it provides

demonstrable benefits to distribution service customers. SEF St. No. 1 at 5.[6] Mr. Baron's opposition to continued SEF funding as proposed in Supplement No. 38 should be rejected as set forth below.

SEF funding provides demonstrable benefits to distribution service customers. In Section B, *supra*, we quoted at length from Dr. Tuffey's testimony (SEF St. No. 1 at 10 through 13) where he explains the metrics analysis applied by SEF to quantify project benefits in terms of KWHs renewable or clean energy generated; KWHs conventional energy saved; jobs created; money leveraged; environmental benefit; and people educated. Rather than repeat that analysis and those testimony references here, we respectfully incorporate Section B, *supra*, herein by reference.

In addition to the foregoing, Dr. Tuffey explained that SEF funding belongs in the distribution tariff for several reasons. First, SEF's energy conservation and demand management projects have undeniable distribution benefits. The reduction of customer load, or the shifting of that load to lower-peak periods, reduces the loading and stress on the distribution system, extending its life and ending or delaying the need for expensive distribution system upgrades. SEF St. No. 1 at 13.

The distribution benefits of energy conservation and demand management are widely recognized. A good summary of these benefits is presented in an October 2003

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[6] In his surrebuttal testimony (PPLICA St. No. 1S at 19) and rebuttal testimony (PPLICA St. No. 1R at 11 - in response to the testimony of PennFuture witness Hanger), Mr. Baron introduced, for the first time, his opinion that a cost/benefit justification is required for SEF funding. N.T. 1107-1110; *Compare and contrast* PPLICA Statement No. 1S, page 19, lines 14 through 16, which state that "proponents of the funding have failed to establish that there are demonstrable benefits for ratepayers and that those benefits outweigh the costs that are proposed to be imposed on ratepayers" with PPLICA Statement No. 1, page 54, lines 5 through 7 which state that "proponents must establish that the SEF is related to distribution costs or service and provides demonstrable benefits to distribution service customers." After throwing down the gauntlet in direct testimony for proponents to establish "demonstrable benefits" and SEF having done so in Dr. Tuffey's testimony as explained in Section B, *supra*, and hereinafter, Mr. Baron should not be allowed in surrebuttal/rebuttal testimony to expand his test to include the additional requirement that "benefits outweigh costs."

report prepared for the Regulatory Assistance Project by Synapse Energy entitled *Portfolio Management: How to Procure Electricity Resources to Provide Reliable, Low-Cost, and Efficient Electricity Services to All Retail Customers* as follows (SEF St. No. 1 at 14-15):

> Many efficiency measures cost significantly less than generating, transmitting and distributing electricity. Thus, energy efficiency programs offer a huge potential for lowering system-wide electricity costs and reducing customers' electricity bills ...
>
> In addition to lowering electricity costs and customers' bills, energy efficiency offers a variety of benefits to utilities, their customers, and society in general.
>
> - Energy efficiency can help reduce the risks associated with fossil fuels and their inherently unstable price and supply characteristics and avoid the costs of unanticipated increases in future fuel prices.
>
> - Energy efficiency can reduce the risks associated with environmental impacts. By reducing a utility's environmental impacts, energy efficiency programs can help utilities and their ratepayers avoid the hard to predict costs of complying with potential future environmental regulations, such as CO2 regulation.
>
> - Energy efficiency can improve the overall reliability of the electricity system. First, efficiency programs can have a substantial impact on peak demand, during those times when reliability is most at risk. Second, by slowing the rate of growth of electricity peak and energy demands, energy efficiency can provide utilities and generation companies more time and flexibility to respond to changing market conditions, while moderating the "boom-and-bust" effect of competitive market forces on generation supply.
>
> - Since efficiency programs have a substantial impact on peak demand, they help reduce the stress on local transmission and distribution systems, potentially deferring expensive T&D upgrades or mitigating local transmission congestion problems.

- Energy efficiency can result in significant benefits to the environment. Every kWh saved through efficiency results in less electricity generation, and thus less pollution.

- Energy efficiency can also promote local economic development and job creation by increasing the disposable income of citizens and making businesses and industries more competitive, compared to importation of power plant equipment, fuel, or purchased power from outside the utility service territory.

- Energy efficiency can help a utility, state and region increase its energy independence, by reducing the amount of fuels (coal, gas, oil, nuclear) and electricity that are imported from other regions or even from other countries.

Dr. Tuffey provided the following several examples of SEF's energy conservation and demand management projects (SEF St. No. 1 at 15-16):

- PowerWeb, debt with payback via royalty payments on products sold, and warrants for stock purchase. PowerWeb "Omni Link" software is a Demand Side Management application that allows large, complex industrial users to manage their load demand during peak periods. During the 2003 SEF reporting period, in the Middle Atlantic Region, PowerWeb had 770 MW of load potential under contract. This is equivalent to a nuclear power plant of power that can be adjusted during critical peaking periods, clearly, a system benefit.

- The Twin Valley School Districts green, Leadership in Energy and Environmental Design ("LEED") silver school will save 172,200 KWhs per year of base load.

- The advanced energy control system for Allentown Technology Center, an in town business incubator, is saving 1,325,050 Kwhs per year of energy, and creating much needed jobs in a critical urban renewal zone.

- Grant support for the Green Building Association of Central Pennsylvania is designed to build capacity of professionals and building owners to upgrade beyond current building code to the advanced energy standards of the US Building Association Leaderships in Energy and Environmental Designer, typically a 30-40% improvement. It has been highly successful as evidenced by the growth in green buildings in PPL territory, including PPL headquarters as one of the few Gold LEED standard commercial buildings in the country.

Second, distributed generation projects funded by SEF also provide direct benefit to the distribution system.[7] Just like energy conservation, distributed generation projects reduce the loading and stress on the distribution system, extending its life and ending or delaying the need for expensive distribution system upgrades. The distribution benefits of distributed generation projects are widely recognized. An A.D. Little whitepaper entitled *Reliability and Distributed Generation* notes (SEF St. No. 1 at 16-17):

> DG can provide policymakers, regulators, wires companies, and customers with multiple options to increase reliability. The potential benefits of DG in addressing reliability concerns were specifically recognized in the DOE POST study as a way to "respond more rapidly to an increased demand for electricity in areas where demand is already high. DG can be installed within the distribution system or at a customer's site, as a separate solution or in combination with market-driven incentives such as interruptible programs, to improve reliability by:
>
> - Adding generation capacity at the customer site for continuous power and backup supply
> - Adding system generation capacity
> - Freeing up additional system generation, transmission and distribution capacity
> - Relieve a transmission and distribution bottlenecks
> - Supporting power system maintenance or restoration operations with generation of temporary backup power. (*Reliability and Distributed Generation* at 16).

The reference to the DOE POST study in the preceding cite is the March 2000 report of the US DOE Power Outage Study Team (POST) entitled *Findings and Recommendations to Enhance Reliability from the Summer of 1999.* The third

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[7] Distributed generation facilities are small, modular electric generation facilities, constructed on an integrated or stand-alone basis near the point of consumption. There are many types of distributed generation technologies. N.T. 796.

recommendation of that report was to remove barriers to distributed generation. That POST report noted (SEF St. No. 1 at 17):

> During periods of peak demand, load reduction could improve reliability by reducing demand on stressed electric systems, The federal government should support state efforts to identify and address mismatches between traditional ratemaking approaches and public policies appropriate for reliability-enhancing distributed energy resources in a restructured electric industry. (p. 20).

A good example of SEF's smaller distributed generation projects is the Oregon Farm biomass digester and power generation project which is projected to both save system demand and put excess power on the grid of 960,000 Kwhs per year. SEF St. No. 1 at 17.

Third, the Commission has the ability to exercise flexibility in the ratemaking function. *See* Section C, *supra*. That flexibility has allowed it, in the past, to include economic policy objectives in the ratemaking function in the form of economic development riders. These riders, typically, increase demand and stress on the distribution company's distribution system. If the Commission has the flexibility to factor economic policy objectives into the ratemaking function, it certainly has the flexibility to factor a distribution tariff rider, such as the Sustainable Energy Fund Rider, that relieves stress on the distribution system into the ratemaking function. SEF St. No. 1 at 18; N.T. 810.

Fourth, the Systems Benefits Charges that finance the clean energy funds around the country are part of the distribution company's tariff. If Pennsylvania were to adopt Mr. Baron's reasoning and conclude that SEF funding should not be part of the distribution company tariff, it would stand alone. The benefits of SEF funded projects in the form of job creation, clean air, less emissions and more, flow to all PPL

ratepayers. It is appropriate that all ratepayers contribute to funding of these projects through the proposed Rider. SEF St. No. 1 at 18.

Finally, as explained in Section C, *supra*, the promotion of renewable energy technologies is occurring throughout the nation. Mr. Baron's testimony is inconsistent with the funding that is taking place in other states.

c. The Testimony of DOD Witness Prisco

DOD witness Thomas J. Prisco testified that the programs funded by SEF have not been shown to meet the criteria presented in Section 203 of Executive Order 13123. Executive Order 13123 is a Presidential Order titled "Greening The Government Through Efficient Energy Management." In its preamble, Section 101, the Order states that "the Federal Government, as The Nation's largest energy consumer, *shall* significantly improve its energy management in order to save taxpayer dollars and reduce omissions that contribute to air pollution and global climate change." Section 203 specifically addresses "Industrial and Laboratory Facilities." It states that through life cycle cost-effective measures each agency will reduce energy consumption in its industrial and laboratory facilities by 20 percent by 2005 and 25 percent by 2010. SEF St. No. 1 at 19. As explained below, SEF projects meet the criteria of Executive Order 13123.

Section 203 establishes energy efficiency goals. There is nothing inconsistent with the goals of the Executive Order and the SEF mission. Indeed, SEF could be viewed as a possible means for DOD to achieve the energy efficiency goals presented in Section 203. SEF exists to encourage the development of a sustainable energy infrastructure. This includes investing in companies whose products and services include energy efficiency. The federal facilities within the PPL service territory will

certainly benefit from such development of energy efficiency. SEF, moreover, is certainly available to consider grant or financing requests from the federal agencies or their vendors relative to their Section 203 "Industrial and Laboratory Facilities." SEF St. No. 1 at 19-20.

It should be noted, moreover, that Executive Order 13123 has seven separately identified goals of which Section 203 is only one. The other goals are:

Section 201 *Greenhouses Gases Reduction Goal*
Section 202 *Energy Efficiency Improvement Goals*
Section 204 *Renewable Energy*
Section 205 *Petroleum*
Section 206 *Source Energy*
Section 207 *Water Conservation*

SEF projects are wholly consistent with and supportive of these other goals as well as Section 203 as Dr. Tuffey explained. *See* SEF St. No. 1 at 20-21.

Mr. Prisco testified further that there appears to be adequate funding accrued by PPL available for the SEF to sustain its current rate of operation for several years. This in inaccurate. As of June 30, 2003, SEF had Current Assets on its audited year end financial statement of $2,606,347 in cash and cash equivalents and $8,355,053 in investments. Of these Current Assets, approximately $3.3 million was committed but not disbursed. SEF St. No. 1 at 21-22.

Because SEF funding could only be reasonably forecast to December 31, 2004, SEF, since inception, has always had a goal of maintaining two years of disbursements, approximately $6.5 Million budget as a reserve. Hence, as of June 30, 2003, SEF had available its forecast two year reserve and approximately one half year of funds to satisfy its current year disbursement plan, including expected volatility in requests. These are the appropriate reserves to support a constrained business plan but it will not

support the current rate of operations beyond 2 to 3 years or "for several years" as suggested by Mr. Prisco. SEF St. No. 1 at 22.

d. The Testimony of PennFuture Witness Hanger

PennFuture witness Hanger proposes a doubling of funding from $.01 cents (0.1 mill) per KWH to $.02 cents (0.2 mill) per KWH. SEF supports the Sustainable Energy Fund Rider as proposed by PPL, but, if the Commission were to increase the funding level as Mr. Hanger proposes, SEF would be able to put the additional funding to good use. With additional funding, SEF could fund more projects like those it has done to date as well as fund projects that its currently constrained business model does not allow. These might include (SEF St. No. 1 at 22-23):

- subsidy for fuel cells and the Hydrogen Economy
- subsidy to continue Wind Farm Development in Pennsylvania and PPL service territory
- subsidy for residential photovoltaic generation
- funding for Research and Development
- Consumer Education
- subsidy for Agriculture Biomass
- ability to provide long term loans

2. SEF Structure and Accountability

a. The Testimony of PLUG Witnesses Bradley, Link and Musser

PLUG witnesses Bradley, Link and Musser discussed PLUG's plans to explore the availability of funding from SEF. Mr. Bradley presented testimony concerning incentives to implement or assist Hampden Township in conversion to Light Emitting Diodes ("LED") and that SEF should make an effort to make the public aware of its existence and mission and commit to assuring governmental entities a share of funds, as long as projects advance SEF mission and goals. PLUG witness Link presented similar testimony and further stated that the Commission set standards for the

administration of SEF, reviewing and evaluating directors' compensation, as an example. PLUG witness Musser concurred in Mr. Link's testimony and stated that accountability and transparency are critically important any time public/ratepayer funds are involved. As set forth below, procedures and standards are already in place consistent with the testimony of Messrs. Bradley, Link and Musser and further action in regard to their recommendations is not necessary.

In respect to public awareness, in January 2004, SEF expanded its staff and undertook an expanded marketing effort. During the second quarter of 2004 (the SEF's fourth fiscal quarter of 2003/2004), SEF began sending all of its news releases to some 300 entities. In this same quarter, SEF made presentations to the regional economic development organizations in greater Harrisburg, Scranton, the Lehigh Valley and the 11 county region of SEDA Council of Governments in Lewisburg. Newspaper, radio and television, in addition, have covered dedications of completed fund projects. SEF Annual and Semi-Annual Reports are also available on the SEF website. These Reports are available to anyone who wishes to learn about SEF, the funding it receives and how it uses that funding. SEF St. No. 1 at 24-26. The Annual Report for 2002/2003 is included as Attachment A to SEF Statement No. 1.

Governmental entities, such as PLUG members, can certainly apply for SEF funds and have already done so. In fact, as mentioned *supra*, the City of Lancaster applied for funding and received a grant from SEF for an LED traffic lighting demonstration. That grant, in the amount of $21,000, supports a demonstration project for the use of LED technology for traffic lights within the City, with resultant energy savings of 90% and a 2-year payback time. One of the requirements of the grant is that the City conduct a workshop for other municipal officials in PPL's territory to encourage

the adoption of LED technology throughout central Pennsylvania. SEF St. No. 1 at 24-25 and Attachment A at 7 and 10.

LED traffic signals are an example of a sound technology, ready for widespread application and capable of 85%-90% energy savings. The technology, however, has been only slowly adopted in Central Pennsylvania and SEF would like to advance the rate of adoption. SEF recently had several meetings with Spring Township for that purpose and began a dialogue with the City of Bethlehem. SEF St. No. 1 at 24-25.

In regard to the recommendation of Mr. Link that the Commission review and evaluate directors' compensation, Dr. Tuffey explained that the Commission already has the opportunity to do so. A representative of the Commission monitors SEF Board and Committee meetings. Additionally, SEF By-Laws allow Directors to receive a stipend for their efforts. This By-Law was submitted to and approved by the Commission in 2000. Directors may also submit appropriate expenses for reimbursement. Related party transactions where a Director is involved in a contract or a grant to a related organization are disclosed in SEF's audited financial statements which are submitted annually to the Commission and the Joint Petitioners to the PPL Restructuring Proceeding. SEF St. No. 1 at 25.[8]

Finally, in regard to Mr. Musser's desire that SEF be both accountable and transparent, SEF submits that it is already both accountable and transparent. Grant and program related investments are posted on the SEF web site which is readily available to the public. SEF submits a Semi Annual Report and an Annual Report to the Commission and the Joint Petitioners to the PPL Restructuring Proceeding. The Annual

[8] SEF has a detailed, written conflict of interest policy that requires, *inter alia*, annual sign-offs and disclosures by the Directors. N.T. 832.

Report includes audited financial statements. The SEF Annual Meeting in October is open to the public and posted as such on the SEF website and by notice to the Joint Petitioners. A representative of the Commission monitors Board and Committee meetings. Directors are nominated by certain of the Joint Petitioners, and the Pennsylvania Statewide Sustainable Energy Board ("PASEB") has instituted quarterly data reporting of commitments made. In addition, anyone who visits the SEF public website can learn the process for applying for SEF funding and the criteria used by SEF to evaluate applications. SEF St. No. 1 at 25-26.

b. The Testimony of CEO Witnesses Brady and Howatt

CEO witnesses Brady and Howatt recommend that 36 percent of annual funding ($1.2 million) be set aside for residential photovoltaic ("PV") grants. Of this 36 percent, approximately $211,000 would be earmarked for low income residential customers. They also recommend that the SEF Board of Directors include a representative of the low income Community Action Network. CEO St. No. 1 at 9; CEO St. No. 2 at 15020; N.T. 874.[9] As set forth below, the recommendations of Messrs. Brady and Howatt should be rejected.

Photovoltaics are a very expensive form of renewable energy generation. While Mr. Howatt had not fully fleshed out the parameters of his proposed PV program (N.T. 870-874), he did acknowledge that residential PV units do not provide usage reduction payback. CEO St. No. 2-R at 3. PPL witness Dahl, who did not support the proposed residential PV program, explained that the payback period for residential PV grants is,

[9] CEO wholeheartedly supports the continuation of funding for SEF. Mr. Brady testified that research has shown that consumers want clean, environmentally benign energy, particularly solar. CEO St. No. 1 at 9.

at best, 30 years and that preliminary estimates for PPL's PV pilot participants suggest an average payback period exceeding 70 years. PPL St. No. 7-R at 43-44.

Dr. Tuffey explained that SEF gets much more bang for the buck with investments in other renewable resources. SEF has funded a limited number of PV demonstrations in the PPL service territory and will continue to do so. Given, however, the funding SEF now has and the funding proposed in this rate proceeding, the residential PV grants proposed by Messrs. Brady and Howatt is not the best use of SEF funds. SEF St. No. 1 at 29-30.

Mr. Howatt also recommends that the SEF Board of Directors include a representative of the low income Community Action network. CEO St. No. 2 at 16. The SEF Board already includes a representative of the low income Community Action network. The SEF current Board President, Mr. Gary Lamont, who is in his second term as a Director, was originally nominated for the Board by CEO witness Brady representing the Weatherization Task Force. In accordance with the SEF Board procedure for nominating Directors, upon expiration of Mr. Lamont's term, the entity that originally nominated him, presumably Mr. Brady, will be asked to nominate his replacement. Should that nominee be acceptable to the SEF Board, his or her name will be forwarded to the Commission as the SEF nominee and Commission approval requested. SEF St. No. 1 at 30-31.

c. The Testimony of OSBA Witness Schwarz

OSBA witness Schwarz proposed two accountability recommendations that he characterizes as recommendations for improving administration of the fund. He recommends, first, that better and more formal coordination be established between the "utility funds" including the SEF and the Commonwealth. He states that a "revitalized"

PEDA is the appropriate office to manage this coordination. His second recommendation concerns the establishment of best management practices. "To ensure that the PPL ratepayers and the general public are best served by the use of the monies distributed by the SEF," he recommends that management of the fund be turned over to PEDA with PEDA being given the responsibility for determining how it can best use the existing SEF management apparatus. Neither of Mr. Schwarz' recommendations is appropriate as set forth below.

In support of his first recommendation, Mr. Schwarz testified that "PEDA is charged with coordinating energy research and promotion activities across the state." OSBA St. No. 2 at 8. He did not, however, provide a citation for this "charge." Dr. Tuffey reviewed the enabling legislation for PEDA, Pennsylvania Statutes, Title 71, State Government, I, the Administrative Codes and Related Provisions, Chapter 2, the Administrative Code of 1929, Article XXVIII-C, Energy Development Authority and Emergency Powers, 71 P.S. §720.1, and found no authority for Mr. Schwarz' statement. Dr. Tuffey further testified that he participated in recent advisory meetings concerning PEDA at the invitation of DEP Secretary McGinty. He also attended the Governor's signing of the PEDA reauthorization as an invited guest. Until he read Mr. Schwarz' statement, he had never heard a state official or a private party represent PEDA's charge, scope or authority as Mr. Schwarz has. SEF submits that statewide coordination is neither the authority nor intention of PEDA. SEF St. No. 1 at 33-34.

Mr. Schwarz' second recommendation that management of new funding monies be turned over to PEDA is based on a concern with the establishment of best management practices. *See* OSBA St. No. 2 at 8. By these practices, he apparently

means those that he lists at pages 5 and 6 of his testimony as follows (OSBA St. No. 2 at 5-6):

- The administrator should have renewable energy expertise.
- The administrator should be an able fund manager.
- Conflicts of interest should be minimized.
- Public accountability should be ensured and proper oversight provided. The administrator should have transparent processes, allowing for public oversight.
- Geographic scope should be as large as possible. The report notes that limiting the geographic scope of the funds to utility service territories can be "quite restrictive in a large state like Pennsylvania."

All of the above, with the exception of the last point, are appropriate management policies for SEF and already in place at SEF.[10] As to the last point, the four years of operating experience at SEF have demonstrated that a regional presence of SEF has benefitted PPL ratepayers more than would a state wide scope. The five regional funds certainly provide the potential for more intimate contact with the ratepayers then would a single state agency. To date, SEF has made close to 70 commitments intended to benefit the PPL ratepayers. SEF St. No. 1 at 32.

Mr. Schwarz acknowledges that PEDA is moribund and that Governor Rendell only recently issued an executive order transferring its responsibilities to DEP. OSBA St. No. 2 at 6. He also acknowledges that PEDA has yet to establish procedures for choosing projects to fund. OSBA St. No. 2 at 8. There are, consequently, no bases for considering PEDA for the expanded role proposed by Mr. Schwarz for it.

In addition and more importantly, whatever ultimately might occur in regard to it, PEDA would be an inadequate substitute for SEF. PEDA is a state agency under the

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[10] SEF, for example, has a detailed, written conflict of interest policy that requires, *inter alia*, annual sign-offs and disclosures by the Directors. N.T. 832. In addition, as addressed at length in Sections B and C.2.a and b, *supra*, public accountability is ensured and proper oversight provided. Processes are transparent allowing for public oversight.

management of DEP, a several thousand person regulatory agency. The skill sets, core capabilities and primary focus of DEP are quite different than SEF. SEF is an entrepreneurial entity that has a solid track record of accomplishment and has worked hard to establish its sustainability. SEF needs, however, the flexibility to identify projects and to move quickly and prudently when needed. Adding another layer of bureaucracy and control would not be desirable or improve means to effectively accomplish the SEF mission. SEF St. No. 1 at 33; *Also see* PPL St. No. 7-R at 40-41.

IV. CONCLUSION

Continued funding for SEF as proposed at Third Revised Page No. 19K of Supplement No. 38 is just and reasonable and consistent with the public interest. Third Revised Page No. 19K of Supplement No. 38 should be approved as filed.

Respectfully submitted,

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DATED: September 1, 2004
Main Brief.wpd

SCHEDULE OF SEF DOCUMENTS ADMITTED INTO THE RECORD

Document	Date Identified	Date Admitted
SEF Statement No. 1 Prepared Rebuttal Testimony of Thomas J. Tuffey, Ph.D., including Attachments A, B, and C	August 11, 2004	August 11, 2004

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Administrative Law Judges Presiding
Allison K. Turner
Susan D. Colwell
Ember S. Jandebeur

Pennsylvania Public Utility Commission	:	**Docket No. R-00049255**
	:	
v.	:	
	:	
PPL Electric Utilities Corporation	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this 1st day of September, 2004, served a true and correct copy of the Main Brief of the Sustainable Energy Fund of Central Eastern Pennsylvania, upon the persons and in the manner set forth below:

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IN REPLY PLEASE
REFER TO OUR FILE

September 2, 2004

ORIGINAL

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
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Re: Pennsylvania Public Utility Commission v.
PPL Electric Utilities Corporation
Docket No. R-00049255

DOCUMENT
FOLDER

Dear Secretary McNulty:

Enclosed please find for filing an original and nine copies of the Main Brief of the Office of Trial Staff in the above-captioned proceeding. Copies have been served according to the certificate of service.

Respectfully submitted,

Richard A. Kanaskie
Prosecutor

Enclosure
cc: Parties of Record

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-00049255
	:	
PPL Electric Utilities Corporation	:	

MAIN BRIEF
OF THE
OFFICE OF TRIAL STAFF

Johnnie E. Simms
Chief Prosecutor

Richard A. Kanaskie
Prosecutor

Office of Trial Staff
Pennsylvania Public
Utility Commission

P.O. Box 3265
Harrisburg, PA 17105-3265

Dated: September 2, 2004

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I. INTRODUCTION

A. History of the Proceeding

On March 29, 2004, PPL Electric Utilities Corporation ("PPL" or "Company") filed Supplement No. 38 to Tariff Electric-Pa. P.U.C. No. 201 ("Supplement No. 38") with the Pennsylvania Public Utility Commission ("Commission") proposing changes in its distribution rates, rules and regulations designed to increase retail distribution rates by $164.4 million annually. This request was based on the use of the future test year ending December 31, 2004.

Additionally, it must be noted, PPL informed the Commission that it would be raising transmission rates by approximately $57.2 million at the same time. The transmission charges arise under Federal Energy Regulatory Commission ("FERC") regulated PJM[1] Open Access Transmission Tariffs ("OATT"). The effect of the combined requested increase on PPL customers is $221.6 million annually. This requested increase represents an 8.1% addition to annual revenues.

The Company's filing was presented by its attorney, Paul E. Russell. Within the first two weeks of the proceeding, Formal Complaints were filed, and docketed accordingly, by the United States Department of Defense and Federal Executive Agencies ("DOD"), PPL Industrial Customer Alliance ("PPLICA"), the Office of Small Business Advocate ("OSBA"), the Office of Consumer Advocate ("OCA") and Eric Joseph Epstein ("Mr. Epstein").

[1] PJM is the power grid consisting of Pennsylvania, New Jersey and Maryland.

Later Formal Complaints were filed by Wal-Mart Stores East, LP ("Wal-Mart") the Pennsylvania Energy Consortium ("PEC") and the Pennsylvania Retailers Association ("PRA").

Also during this time period, Petitions to Intervene were filed by the International Brotherhood of Electrical Workers, Local 1600 ("IBEW"), the Commission on Economic Opportunity ("CEO") and the PECO Energy Company ("PECO").

Subsequent Petitions to Intervene have been filed by the Sustainable Energy Fund of Central Eastern Pennsylvania ("SEF"), the Mid Atlantic Power Supply Association ("MAPSA"), West Penn Power Company d/b/a Allegheny Power ("Allegheny"), UGI Utilities, Inc. ("UGI"), the Clean Air Council ("CAC"), Citizens for Pennsylvania's Future, Char Magaro and Edward M. McGovern ("Penn Future Parties"), PPL Public Lighting User Group ("PLUG") and Strategic Energy L.L.C. ("Strategic"). Strategic is also a member of MAPSA and therefore its intervention was limited to the extent that its interests were not duplicative in accordance with 52 Pa. Code §5.76.[2]

Petitions to Intervene were also filed by the Sustainable Development Fund ("SDF"), the Duquesne Light Company ("Duquesne") and the Metropolitan Edison, Pennsylvania Electric Company and American Transmission Systems, Inc. ("Met Ed and Penelec"). All of these Petitions were appropriately denied by

[2] 52 Pa. Code §5.76 provides for the limitation of participation in hearings.

the Administrative Law Judge ("ALJ") in her Prehearing Order dated June 21, 2004.

Rate protests have been filed by numerous individuals and have been placed in the Public Comment file associated with this proceeding.

PPL did not seek a waiver of the Commission Rules regarding Answers and Replies and appropriately and timely responded to all Petitions and Complaints.

On April 15, 2004, John H. Isom, Michael W. Gang and David MacGregor, Esquires, of Morgan Lewis and Bockius filed an Entry of Appearance on behalf of the Company. On April 22, 2004, the Office of Trial Staff filed its Notice of Appearance.

On May 7, 2004, the Commission stated that, pursuant to 66 Pa. C.S.A. §1308(d), the filing would be suspended by operation of law effective on June 1, 2004. The suspension is to remain in effect until January 1, 2005, unless otherwise directed by the Commission. PPL is currently operating under a transmission and distribution rate cap that prohibits raising its distribution rates before December 31, 2004. The Commission further ordered that an investigation be instituted to determine the lawfulness, justness and reasonableness of PPL's existing rates, rules and regulations as well as the changes proposed in Supplement No. 38. The case was then assigned to the Office of Administrative Law Judge ("OALJ") for the scheduling of hearings to culminate in the issuance of a Recommended Decision. The OALJ served notice of an Initial Prehearing Conference that was subsequently held in Harrisburg on May 19, 2004. The case

was assigned to Administrative Law Judge Allison K. Turner for preliminary rulings and decisions.

The Initial Prehearing Conference included participation by the following parties: PPL, OTS, OCA, OSBA, PPLICA, DOD, IBEW, Mr. Epstein, CEO, SEF, Penn Future Parties, MAPSA, CAC, PLUG, Allegheny, Duquesne, PECO, and UGI. The Initial Prehearing Conference resulted in the establishment of a procedural schedule as well as modifications to certain Commission rules and regulations.

A total of nine Public Input Hearings were held throughout PPL's service territory. These Hearings were held in Lancaster, Harrisburg, Bethlehem, Allentown, Scranton, Wilkes Barre, Williamsport and telephonically in Harrisburg.[3] Each Public Input Hearing was attended by a representative of the Company, OTS, OSBA and OCA. A transcript of each Public Input Hearing has been made part of the record. It is noted that the Northeast Delegation, chaired by the Honorable Representative Phyllis Mundy, had its statement read into the record by its executive director at the Wilkes Barre session. The relevant testimony begins on page 250 of the transcript.

Evidentiary hearings were held in Harrisburg the week of August 9, 2004 culminating with the final, aforementioned Public Input Hearing. During that time, testimony and exhibits of all the active parties were entered into the record.

[3] The second Public Input Hearing in Harrisburg was conducted telephonically on the last day of evidentiary hearings.

A total of 1135 pages of transcript were produced and the record closed on August 13, 2004 with all active parties signifying that a complete record had been developed.

B. Evidentiary Standard and Burden of Proof

The Company has the burden of proving the reasonableness of each and every element of its claim. Section 1301 of the Public Utility Code, states that "[e]very rate made, demanded, or received by any public utility . . . shall be just and reasonable, and in conformity with regulations or orders of the commission." 66 Pa. C.S.A §1301. The Public Utility Code ("Code") also provides that the burden of establishing the justness and reasonableness of rates is clearly on the public utility. 66 Pa. C.S.A. §315(a). The very purpose of this proceeding is to assure that just and reasonable rates are established for the customers of PPL.

The standard to be met by PPL is set forth at Section 315(a) of the Public Utility Code where it is established that:

> **[r]easonableness of rates.** In any proceeding upon the motion of the Commission, involving any proposed or existing rate of any public utility, or in any proceeding upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.

66 Pa. C.S. §315(a).

The relevant statutory provision of Section 315(a) of the Public Utility Code clearly shows that the legislature intended that the utility carry the

burden of proving the justness and reasonableness of its proposed and existing rates.

The Commonwealth Court in reviewing Section 315(a) interpreted the utility's burden of proof in rate proceedings as follows:

> [s]ection 315(a) of the Public Utility Code, 66 Pa. C.S. §315(a), places the burden of proving the justness and reasonableness of a proposed rate hike squarely on the public utility. It is well-established that the evidence adduced by a utility to meet this burden must be substantial.

Lower Frederick Twp. v. Pennsylvania Public Utility Commission, 48 Pa. Commw. 222, 226-227, 409 A.2d 505, 507 (1980). See also, Brockway Glass v. Pennsylvania Public Utility Commission, 63 Pa. Commw. 238, 437 A.2d 1067 (1981). The legislative intent regarding the extent of a utility's burden of proof is further supported by the pronouncements of the Pennsylvania Supreme Court in Burleson v. Pennsylvania Public Utility Commission, 501 Pa. 433, 461 A.2d 1234 (1983), which clearly defined the dimensions of this obligation.

While the Burleson case involved a billing dispute, obliging the customer complainant to carry the burden of proof, the same rationale applies to a utility's obligation in a proceeding arising out of its general rate filing.

Submission of the proposed tariff and supporting data may establish a prima facie case. However, data composing a prima facie case does not meet the utility's burden of proving the elements of its proposed tariff with substantial evidence. As noted by the Supreme Court in Burleson "there is clear distinction

between the weight of evidence required to support a prima facie case and the weight necessary to meet a complainant's burden of proof." The court in Burleson further opined that:

> ...the elements of that cause of action are proven with substantial evidence that enables the party asserting the cause of action to prevail, precluding all reasonable inferences to the contrary.

Id. at 437.

Substantial evidence has been defined as ". . . that quantum of evidence which a reasonable mind might accept as adequate to support a conclusion." Dutchland Tours, Inc. v. Pa. P.U.C., 19 Pa. Cmwlth. 1, 337 A.2d 922 (1975), as quoted in Norfolk & Western Railway Co. v. Pa. P.U.C., 489 Pa. 109, 128 (1980).

The Commission has continued to affirm the utilities' burden of proof in base rate proceedings. In Pennsylvania Public Utility Commission v. Breezewood Telephone Company, 74 Pa. PUC 431 (1991), the Commission made the following ruling:

> [t]hus, where a party has raised a question concerning an element at issue, the affirmative burden of proving justness and reasonableness of its claim is upon BTC.

Id. p. 442.

The Commission and the Courts have clearly held that the burden of proof does not shift to the party challenging a requested rate increase. While the burden of going forward may shift, the burden of finally and convincingly establishing the justness and reasonableness of every component of a requested rate increase

remains on the utility. The opposing parties have no such burden. As stated by the Pennsylvania Supreme Court in Berner v. Pa. P.U.C., 382 Pa. 622, 631, 116 A.2d 738, 744 (1955):

> [t]he appellants did not have the burden of proving that the plant additions were improper, unnecessary or too costly; on the contrary, that burden is, by statute, on the utility to demonstrate the reasonable necessity and cost of the installations . . . .

On this subject, the Commission has ruled as follows:

> [t]here is no presumption of reasonableness which attached to a utility's claim, at least none which survives the raising of credible issues regarding a utility's claims. A utility's burden is to affirmatively establish the reasonableness of its claim. It is not the burden of another party to disprove the reasonableness of a utility's claims.

Pa. P.U.C. v. Equitable Gas Co., 57 PA PUC 423, 444 (fn. 37) (1983).

In the proceeding before us, it is the obligation of the Company to affirmatively prove the reasonableness of each and every element of its claim. A review of the record will demonstrate that PPL has failed to do this. In a number of instances identified herein the Company has failed to prove the reasonableness of every element of its claims. As such, these claims should be rejected based primarily upon the Company's failure to sustain its burden of proof. As an alternative, OTS has recommended adjustments to the Company's original claim that, when adopted, will maintain that any new rates would satisfy the statutory provision requiring that they be "just and reasonable."

II. SUMMARY OF ARGUMENT

The Company has failed to prove that it requires the level of increase requested in this proceeding. The credible evidence in the record clearly demonstrates that PPL is entitled to an increase in distribution revenue of no more than $101,464,000. This recommendation is based on the adjustments offered by OTS and detailed in the body of this Main Brief.

It is necessary to adjust PPL's Cash Working Capital ("CWC") claim to correct miscalculations in its lead/lag study. The Company's claim should be adjusted to $22,787,000 to reflect a correction in the lag in the Company's Other Operating Expenses category. The OTS adjustment yields a reduction of $418,000 to the Company's claim. However, OTS accepts the Company's recognition of its error as stated in its Rebuttal testimony. Therefore, the necessary adjustment in this proceeding is $389,000 on a Pennsylvania jurisdictional basis.

The Company's rate base also needs to be adjusted to reflect the capitalized portion of its improper pension expense claim. The adjustment related to the Statement of Financial Accounting Standards No. 87 ("SFAS 87") results in a decrease of $613,000 to the Company's claimed rate base.

The Company's claim of $523,208,000 in total present rate distribution revenue is understated and must be adjusted to an appropriate value. The Company's error is in not properly weather normalizing load for residential heating customers. It did not rely on widely accepted official thirty-year National

Oceanic and Atmospheric Administration ("NOAA") data. OTS recommends an increase of $3,065,000 to present rate distribution revenue to correct this.

PPL has also understated its late payment revenue in this proceeding. Based on its request, it is necessary to include an additional $336,000 to the Company's stated revenue. Late payment revenue is a corollary to payment revenue and, as such, will be affected by the ultimate overall increase allowed in this proceeding.

PPL has overstated its level of Operation and Maintenance expenses associated with its operation reflected in the future test year. Specific adjustments are necessary to accurately reflect the anticipated level of expense likely to be incurred during the period rates will be in effect.

The Company's claimed pension expense should be rejected as it does not reflect the actual expense that will be incurred. The Company's continued use of accounting standards as justification for claiming an expense is contrary to sound ratemaking principles. PPL's claim of $1,396,796 for pension expenses must be rejected as no contributions to its Pension fund will be made.

PPL has included a claim for recovery of expenses associated with damage incurred by Hurricane Isabel. The Company has requested a five-year amortization of this regulatory asset of $15,012,000 resulting in an annual increase to distribution operating expenses of $3,002,000. OTS has testified that the total is overstated and the proposed recovery period is too short. An annual recovery of $1,138,067 for ten-years is more appropriate. This recommendation reflects a

decrease in the overall claim to $11,380,667 to reflect the elimination of regular time wages and benefits as well as an extension of the recovery period to a more acceptable ten years.

The Company's claim of $1,764,000 for Automated Meter Reading ("AMR") displacement costs is inappropriate and should be rejected. PPL has claimed an expense of $8,818,000 to be recovered over five years. Funds for these costs are contained in the assets of the pension trust. OTS recommends disallowance of this claim as ratepayers have already funded this cost in prior base rates. The Company seeks recovery of displacement costs from ratepayers even though this expense will be paid by the Pension fund and not by the Company. Ratepayer contributions to the pension fund have accrued for this expense.

PPL has improperly included a claim of $1,000,000 in base rates in support of its Community Betterment Initiative. There is no regulatory basis for funding social programs and the Company has not demonstrated any discernible benefit to ratepayers from this initiative. OTS has demonstrated that this claim is inappropriate and, therefore, should be denied.

The Company's Service Corporation charges are overstated and must be adjusted. PPL's original 2004 claim for External Affairs services was $1,200,000. Included in this total is $130,000 for rate case communication. The Company has included this expense in its rate case expense claim as well. Furthermore, the Company has acknowledged that its claim of $800,000 for Community Affairs services was misrepresented and should be reduced by $300,000. The

combination of these two reductions represents a decrease of $430,000 to the Company's claimed distribution operating expenses under the Service Corporation charges.

PPL's expense claims for its low income customer assistance programs, On-Track and WRAP, improperly includes an over-collection of ratepayer funds during the initial period. The Company proposes to over-collect $3,000,000 for its On-Track program and $900,000 for WRAP during the first three years of operation. OTS recommends that this expense be normalized to reflect an appropriate two-year level. Subsequent expenses can be appropriately dealt with in future rate cases. OTS's recommendation reduces the annual expense associated with these two programs by $1,950,000. This represents a reduction to On-Track of $1,500,000 and $450,000 to WRAP.

The Company's claim associated with FERC Account 588 and FERC Account 593 should be normalized. These expenses fluctuate widely from year to year and should be normalized to determine a reasonable level of expense to be included in the future test year. Normalization of these two FERC accounts over five years, as offered by the Company in its Rebuttal testimony, is acceptable to OTS and reduces the Company's distribution expense claim by $1,725,000.

PPL's Environmental Remediation claim of increased expenses is unsupported and should be adjusted. OTS agrees with the Company's reduction to its Environmental Remediation claim of $2,483,000 as offered in its Rebuttal testimony.

The Company's claim to shift funding for SEF to ratepayers violates sound ratemaking policy and should be rejected. Absent a discernible benefit to ratepayers, this expense claim has no merit. The Company is attempting to establish a mandatory contribution to this fund from its ratepayers. The claim for $3,689,000 should be removed.

PPL's amortization of its expense claim for its Power Management System Software must be removed as the current year represents the last year of the five-year amortization period. There is no ongoing claim for this expense; therefore, the $500,000 claim must be removed.

The Company has also overstated its claim for Community Affairs by $300,000. This error has been acknowledged by the Company and the revised calculation has been accepted by OTS.

As noted in its Surrebuttal Testimony, OTS withdraws its adjustments to the Company's claims for expense recovery associated with Uncollectibles and Other Post-Employment Benefits ("OPEB").

PPL has miscalculated its Pennsylvania Capital Stock Tax liability that will result in over-collecting funds from ratepayers. Changes in the rate to be utilized as well as the amount of book income to be used in the calculation results in an adjustment of $1,269,000. The Company's claim must be adjusted to reflect the proper liability.

A fair overall return for PPL is 7.63%. Included in this recommendation is an appropriate cost of common equity of 9.00%. This rate of return will allow the

Company to cover capital costs, provide an adequate benefit for investors and maintain just and reasonable rates for consumers. The Company's cost of common equity claim of 11.50% is excessive and will result in rates that favor investors at the expense of ratepayers.

The Company's request to establish a Distribution System Improvement Charge ("DSIC") is without merit and should be rejected. Not only is there no statutory authority permitting initiation of this mechanism, the concept violates Commission policy prohibiting single issue ratemaking.

PPL has also requested an unprecedented Transmission Service Charge ("TSC") in this proceeding. The Company's attempt to establish a reconcilable surcharge violates the fundamentals of the ratemaking process and must be denied. Transmission related costs are no different than Distribution costs and, therefore, should be treated the same.

The rate structure in this proceeding must avoid any unreasonable disparity in rates between different classes. OTS recommends eliminating the Company's proposed inclusion of 200 kilowatt hour ("kWh") in its customer charge and modifying its rate structure proposal to move classes toward cost of service rates. Specific recommendations are made in the OTS testimony with residual pricing to be spread across all rates schedules that have a proposed increase in the Company's filing.

III. RATE BASE

A. Cash Working Capital

The Company has erred in the calculation of its lead/lag study. As a result of this miscalculation it is necessary to adjust PPL's Cash Working Capital to reflect the impact of the error. OTS Witness Weakley has analyzed the Company's CWC allowance claim in detail on pages 45 through 51 of OTS Statement No. 2. OTS recommends a CWC allowance of $22,787,000 in this proceeding as opposed to the Company's claim of $23,205,000. This recommendation represents a reduction of $418,000 to the Company's erroneous claim. The summary of Mr. Weakley's proposed allowance is contained in OTS Exhibit No. 2, Schedule 9 and need not be repeated in the body of this Main Brief.

The Company recognizes the error in its lead/lag study in the Rebuttal Testimony of J. M. Kleha.[4] For the purposes of this proceeding, OTS accepts the reduction of $389,000 detailed in the Company's testimony and exhibits.

The proper ratemaking treatment of the correction to the Company's lead/lag calculations requires a reduction of the Company's CWC claim of $389,000.

B. Pension Costs

The Company's Rate Base is overstated due to the improper inclusion of the capitalized portion of its Pension Expense claim. The adjustment related to SFAS 87 is detailed later in this Main Brief in Section V (Expenses), subsection B

[4] PPL Statement No. 5-R, p. 11.

(Pension Expense). The appropriate ratemaking treatment of this adjustment requires that the Company's Rate Base be reduced by $613,000. Details of the analysis of this claim are contained in OTS Witness Weakley's Direct Testimony on pages 7 through 14.[5]

To correct the overstatement of Rate Base due to the inclusion of the capitalized portion of its Pension Expense claim, the Company's Rate Base claim should be reduced by $613,000.

[5] OTS Statement No. 2, pp. 7-14.

IV. REVENUES

A. Introduction

The Company's present rate revenues are understated and must be adjusted. Proper ratemaking requires an accurate statement of present revenues. Only when correct present rate revenues are established can an analysis of the justness and reasonableness of existing and proposed rates be undertaken. In the instant proceeding, PPL has understated its present rate revenue as a result of miscalculating its weather normalization adjustment as well as its late payment fee revenue. The OTS recommended adjustments to these categories requires that the Company's claimed revenue be increased by $4,305,000.

B. Weather Normalization

The Company's calculation of the weather normalized load for residential heating customers is improper, ultimately resulting in understated revenue. PPL's errors in weather normalization involve at least two data inputs necessary in the calculation of weather normalized sales. The errors include its determination of "normal" weather and its forecasted average use per customer. Correction of these inputs results in an adjustment of an additional $3,065,000 to the Company's claimed revenue.

The data needed to calculate weather normalized sales includes the number of customers by month for each month of the test year, the actual sales for these customers, the base load of these customers, the actual monthly heating degree

days for this time period and the normal heating degree days. OTS Statement No. 3, page 5.

In calculating "normal" weather, PPL mistakenly relied on data provided by a private firm that is not readily accessible to other parties when it calculated its input of heating degree days. The error was compounded by the Company's use of only 20 years of data in its calculation. The resulting calculation does not satisfy the widely accepted definition of "normal" as used in the context of heating degree days.

"Normal" in the context of heating degree days is defined by the National Oceanic and Atmospheric Administration in the following manner:

> [m]ethodology: [n]ormals have been defined as the arithmetic mean of a climatological element computed over a long time period. International Agreements eventually led to the decision that the appropriate time period would be three consecutive decades.

OTS Statement No. 3, page 4 (quoting Climatography of the United States No. 81, Pennsylvania, January 1992). The Company has not shown that a variation from widely accepted principles is appropriate in this proceeding. Its recommendations are based on its own forecasts, models and projections without the underlying data used in its methodology.

PPL continued its use of flawed data in calculating its forecasted average use per residential heating customer of 1450 kWh. The company's data and inputs understate the average usage per customer. The appropriate analysis as provided by OTS Witness Kubas using actual historic data and heating degree days as

provided by NOAA over a thirty-year period clearly demonstrates that residential heating customers use 1497 kWh per month. The Company has understated the average use per Residential Heating Customer by 47 kWh. OTS Schedule 8, Column C, Line 2 (as revised in August 2004).

The Company has not satisfied its burden of proof with substantial evidence to merit consideration of its proposed methodology and, as a result, its recommendation must be rejected. The OTS recommendation is appropriate as it is consistent with the NOAA definition of "normal" by utilizing thirty years of heating degree data in its recommendation. Not only because it satisfies the definition of "normal", thirty years of data is appropriate as it is a sufficient length of time to smooth out any short term aberrations in data. The OTS recommendation also relies on openly and readily available data published by NOAA. Weather normalization calculations are not used to predict the weather. The goal is to establish a normal level of degree days as a basis for any adjustment. Furthermore, the methodology employed by OTS Witness Kubas is consistent with accepted Commission practices. See, e.g., National Fuel Gas Distribution Corporation, Docket Number R-00942991.

The additional usage of 47 kWh per Residential Heating customer as derived by using the properly calculated inputs increases the Company's claimed present rate revenue by $3,065,000.

C. Late Payment Fees

The Company has understated its Late Payment Fees and an adjustment to revenue is necessary to reflect this. The Company claims late payment fees of $6,000,000 in its revenue claim. This projection is not even supported by the Company's own methodology, which indicates a late payment revenue of $6,336,000, and must be rejected. OTS Statement No. 5, page 17.[6] The Company's use of an average level of late payment fees gleaned from data from the last five years will understate the late payment revenue as it does not account for the likelihood that customers who are not paying their bills at existing rates will not pay them at the higher rates. Based on this simple premise, customers who do not pay will have higher bills that they are not paying. Therefore, the use of a simple average will understate the late payment revenue. OTS Statement No. 5, p. 18. At a minimum, the Company has failed to account for the effects associated with its requested increase in the overall level of revenue. Using the Company's logic, they are actually predicting that late payment revenue will decrease as a percentage to total revenue as rates increase.

As the Company's methodology is flawed and unreliable, it must be rejected. OTS Witness Gruber appropriately recommends using an historical average of the percentage of overall revenue represented by late payment revenue

[6] In response to OTS Interrogatory RE-30, the Company's calculated average is understated by $336,000. OTS Statement No. 5, p. 17. The Company has acknowledged this mistake and corrected in in PPL Statement No. 2-R, p. 16.

and applying it to the revenue figure allowed by the Commission at the conclusion of this proceeding. OTS Statement No. 5, pp. 18-19.

Mr. Gruber's determination is clearly explained in his Direct Testimony on pages 17 through 19 and in his accompanying exhibit.[7] By establishing a ratio based on the last three years data, OTS Witness Gruber's methodology more accurately presents the Company's anticipated late payment revenue. PPL's methodology should be rejected as it understates its present rate revenue by under-calculating late payment revenue. OTS offers its methodology that applies a ratio of .2818% to the revenue granted in this proceeding as an appropriate means of calculating late payment revenue. The OTS recommendation is based on its proposed total revenue allowance but acknowledges that this recommendation may change pending final Commission action. As stated the OTS adjustment requires $1,240,000 be added to the Company's revenue calculation presented in its filing.

Based on the OTS recommended adjustments to the Company's revenue calculations is it necessary to add at least $4,305,000 to the Company's claimed revenue.

[7] See OTS Statement No. 5 and OTS Exhibit No. 5 for a detailed explanation and basis of his calculation.

V. EXPENSES

A. Introduction

The Company's expense claim is overstated and must be adjusted to reflect the appropriate level of expense that will be incurred during the period rates will be in affect.

It is well established that a public utility is entitled to recover, through ratepayer funds, all reasonable and normal operation and maintenance expenses associated with the provision of the regulated service. Western Pa. Water Co. v. Pa. P.U.C., 54 Pa. Cmwlth, 187, 422 A2d 906 (1980). Recovery is limited to expenses demonstrated to be prudently incurred and necessary for the provision of safe and adequate service. Abnormal or extraordinary expenses merit special ratemaking consideration.

B. Pension Expense

PPL's request for recovery of claimed pension expenses attributed to contributions to the PPL Retirement Plan is based on a faulty premise and must be rejected. The Company's claim is based on a Statement of Financial Accounting Standards ("SFAS") 87 accrued expense. OTS St. No 2, p. 11. This statement, issued by the Financial Accounting Standards Board ("FASB") bears no relationship to the proper ratemaking treatment that must be applied to this expense. FASB is the entity responsible for the establishment of generally accepted accounting principles ("GAAP") used by businesses. It is not the controlling entity in determining that rates remain just and reasonable for

consumers. Recovery is limited to those known and measurable expenses that will be incurred by the Company. The Commission cannot entertain granting recovery of expenses that are not actually incurred. Barasch v. Pennsylvania Public Utility Commission, 493 A2d 653, 507 Pa. 561, Supp. (1985). In this instance, the Company is claiming an expense that it will not actually incur. As the Company has acknowledged during cross-examination, actual cash contributions to the pension fund are subject to the minimum requirements as established by the Employee Retirement Income Security Act ("ERISA") and maximum limitations as provided by the Internal Revenue Service Code ("IRS"). Transcript, pp. 443-445. It is not disputed that both the ERISA minimum and the IRS maximum are zero. As such, the Company will not make any cash contributions to its fund in accordance with the mandates of these entities. Forcing contributions from ratepayers to this fund will result in a windfall for the Company. In fact, the record evidence has demonstrated that PPL has been receiving $10,000,000 of ratepayer funds annually for a pension expense claim since its last rate case at Docket No. R-00943271. During this same period, PPL has made no contributions to the fund in accordance with ERISA and IRS guidelines. Transcript, pp. 445-446.

Allowing recovery of a claimed pension expense based on actual cash contributions is sound ratemaking that has been adopted by the Commission in recent proceedings. See, for example, Pa. P.U.C. v. Aqua Pa., Docket Number R-00038805, Pa. P.U.C. v. Pennsylvania-American Water Company, Docket

Number R-00038304. This type of recovery allowance ensures that only actual expenses are being recovered and ratepayers are protected.

Two separate adjustments are necessary to ensure that the effects of this inappropriate claim are removed. The Company's expense claim of $1,396,976 should be denied and the corresponding capitalized portion of the expense of $613,062 must be removed from rate base. The Company has not demonstrated, by substantial evidence, that this expense is warranted and does not violate sound ratemaking principles. Failing in this burden, the expense claim must be rejected.

C. Hurricane Isabel

The Company's claim for recovery of losses associated with the effects of this storm is overstated and must be adjusted. Furthermore, due to the extraordinary nature of this event, special ratemaking treatment is necessary to protect the interests of both ratepayers and the Company. The Commission issued an Order approving the Company's request to defer the accounting treatment of PPL's actual operating and maintenance costs associated with this event. The Company's claimed regulatory asset and proposed recovery period must be adjusted for ratemaking purposes.

The Company's claimed regulatory asset, as a result of an extraordinary event, of $15,012,000 is overstated and must be adjusted. Included in the Company's claim is a request for recovery of expenses classified as wages and benefits – regular time. Regular wages and benefits are recognized, ordinary expenses associated with providing service to ratepayers. The record evidence

does not indicate that this expense would not have occurred absent the storm. As a result, this claim must be removed from the regulatory asset and included in expenses associated with the year 2003. OTS St. No. 2, p. 17. The Company's claim that including wages and benefits – regular time in its regulatory asset as a proxy for the cost of unspecified delays in planned work is unsupported and must be rejected. The Company has not proven that planned work required contracting and overtime costs as a result of regular time employees being assigned to storm-related activities. General statements and vague assertions are not the type of substantial evidence necessary to support the Company's claim. As the claim is unsupported, it is improper and must be removed. This rejection of this portion of the claim reduces the regulatory asset by $3,631,282 to a more appropriate $11,380,667.

PPL's request to amortize this expense over five years is too short and unduly burdens ratepayers. Storm damage of the nature associated with Hurricane Isabel occurs very infrequently throughout the Company's service territory and the regulatory treatment of the claim must reflect this.

The Commission has recognized the effects of events of this nature and has permitted recovery over an extended period consistent with the concept of balancing the interests of both the Company and its ratepayers. See, Pa. P.U.C. v. Bell Telephone Company of Pennsylvania, Docket Number R-80061235 (10 year recovery for the effects of tropical storm Agnes). The OTS recommendation of recovery over ten years accomplishes this goal. The Company is guaranteed

dollar for dollar recovery of the previously incurred expense while ratepayers are shielded from the inordinate impact of funding this expense in a short period.

Adjusting the expense to remove regular time wages and benefits and extending the recovery period to ten years results in an adjustment to the Company's claimed expenses of $1,864,000. The Company's claimed annual expense for this issue is $3,002,000 based on a five year amortization of its claimed asset of $15,011,949. OTS recommends a reduction in the total asset to $11,380,667 with an amortization of ten years resulting in an allowable expense claim of $1,138,000. As mentioned earlier, this reduces the Company's claim of $3,002,000 by $1,864,000 annually, but permits total recovery of the allowable portion of the asset.

D. Automated Meter Reading Displacement Costs

The Company's expense claim of $8,818,000 amortized over five years is improper and must be rejected. Utility regulation permits recovery of expenses that are actually incurred. The expense will be paid by the PPL Retirement Plan pension trust, not the Company. These are two separate entities. OTS St. No 2, p. 20. As the Company testimony indicates "[t]he cost of displacing employees as a result of the AMR program was recorded as a special termination benefit charge for the benefits to be paid to separated employees, including enhanced early retirement benefits and one time special separation allowances that will be paid from the PPL Retirement Plan pension trust." PPL Statement No 2-R, p. 5. See Also, OTS Statement No. 2-SR, p. 4. The assets of the trust consist of Company

contributions supplied by ratepayer funds as well as earnings on the trust assets. Any expense related to the displacement of employees will be covered by the pension trust. As ratepayers have contributed to the assets of the trust through base rates established in prior proceedings, it is inappropriate to include this claim in the instant proceeding. The Company's AMR displacement costs should be rejected as unsupported by credible evidence on the record. OTS recommends that $1,764,000 be removed from the Company's distribution operating expenses claim.

E. Community Betterment Initiative

The Company's plan to fund its Community Betterment Initiative ("CBI") with ratepayer funds is inappropriate and should be rejected. OTS does not object to the Company supplied funds of $1,000,000 for this initiative. The objection relates to the mandated ratepayer contribution of $1,000,000. The Company is attempting to fund a social program through ratepayer funds. As no direct benefit to ratepayers has been established, this claim must be denied. This Commission has consistently found that a utility must identify a direct benefit to ratepayers in order to recover an expense for ratemaking purposes. This was correctly stated in the Company's last base rate case found at Docket No. R-00943271. See also, Pennsylvania Public Utility Commission v. Consumers Pennsylvania Water Company – Roaring Creek Division, 87 PA PUC 826, 841 (1997). The Company has stated that it will not contribute anything to this initiative unless the Commission requires ratepayers to contribute. PPL has sought to enhance its own

community image, but only if ratepayers are forced to contribute. The Company's lack of conviction and the absence of a benefit to ratepayers are sufficient reasons to reject this claim. Similar claims were rejected in the Company's last base rate case. The removal of this expense claim reduces the Company's operating expenses by $1,000,000.

F. Service Corporation Charges

The Company has overstated its PPL Service Corporation Charges in its request and a reduction is necessary to correct this. The total reduction necessary to this expense claim is $430,000 and is attributable to two specific items as explained below.

1. Community Affairs

PPL has overstated its claim for Community Affairs Services. In its original filing, the Company claimed an expense of $800,000. In response to OTS Interrogatory RE-86, the Company acknowledged that the claimed amount was an error and the proper amount should be $500,000. OTS Statement No. 2, p. 25. The distribution operating expenses of PPL should be reduced by $300,000 to recognize and correct this error.

2. Rate Case Communication

The Company's claim for External Affairs Services is overstated and must be reduced. Included in the Company's claim in this category is $130,000 for rate case communications. OTS Exhibit No. 2, Schedule 18. The Company's Rebuttal Testimony states that it anticipated $2,000,000 in rate case expense associated

with this case. "This $2,000,000 of anticipated expenses includes $1,000,000 of budgeted expenses by PPL Services (including $130,000 budgeted by External Affairs)..." PPL Statement No. 2-R, p. 9.

The Company agrees with OTS that it is a non-recurring expense but argues that it should be permitted recovery as a normal rate case expense. The Company's rationalization that because the annual amortization of $1,000,000 equals the budgeted rate case expenses of $1,000,000 for PPL Services no additional adjustment is necessary is baseless and irrelevant. The Company has attempted to support its rate case communication claim in its Rebuttal Testimony by proclaiming it a rate case expense, and, even though non-recurring, it should be recoverable. However, the filing does not indicate that the External Affairs claim was adjusted to reflect the characterization of this expense as being included in rate case expenses. In essence, the Company's Rebuttal explanation indicates that the expense has been entered under two separate categories. Therefore, the Company's claim of $130,000 must be removed.

G. On-Track Program

PPL's future test year claim for its On Track program[8] is overstated and must be reduced. The Company has inappropriately proposed to collect more in rates from its ratepayers than it will expend on the associated expense at the onset of the program. In other words, PPL wants to over-collect a total of $3,000,000 in

[8] On-Track is PPL's customer assistance program. This program offers a reduced payment plan and arrearage forgiveness to low-income customers.

the first three years of its customer assistance program. The Company will allegedly offset this over-collection by under-collecting a total of $3,000,000 in the years 2008, 2009 and 2010.

The Company's claim must be rejected as it requires ratepayers to advance funds before they are needed. This is contrary to sound ratemaking principles. The Company's filing suggests that it will file a rate case in two years, as evidenced by its proposed recovery of rate case expenses over this time period. Therefore, there is no need to advance funds beyond the period in which they will be expended. The basic theory of utility regulation is that a Company can file a rate case when it perceives that its return on investment is inadequate due to higher expenses, additional plant, etc. If expenses increase for On-Track, as the Company suggests, and the Company determines that this affects its ability to earn a proper return, then the appropriate solution is for the Company to file a Base Rate case. This basic, fundamental principle will match ratepayer contributions with the associated expense. There is no sound ratemaking basis for advancing funds to a utility in anticipation of higher expenditures.

OTS recommends that the Company's claim of $14,700,000 be adjusted to $13,200,000. This reduction of $1,500,000 allows the Company to adequately fund its On-Track program while protecting the interests of ratepayers. OTS Witness Weakley has calculated the expense for 2005 and 2006, the realistic time period that these rates will be in effect, and determined a level expense appropriate

for this proceeding.[9] The resulting reduction to annual operating expenses is $1,500,000. OTS Statement No. 2, p. 30.

H. WRAP

For the same reasons as stated for the Company's On-Track program, a similar adjustment is necessary to eliminate the error of over-collecting revenue from ratepayers in the early years of the Company's WRAP[10] program. OTS recommends an allowance of $6,250,000 for WRAP related expenses. As with the On-Track program, OTS recommends levelizing the 2005 and 2006 expense to arrive at an appropriate level of recovery. Future rate cases can address the needs of the program as they arise. Matching the expense allowance to the immediate projected expenditures reduces the Company's distribution operating expense claim by $450,000.

1. On-Track/WRAP

In the alternative, should the Commission find the advancement of ratepayer funds appropriate, the Company should be required to credit the ratepayers with an interest comparable to the rate of return granted in this proceeding. This will ensure that the excess ratepayer contributions are used solely for the benefit of ratepayers.

In addition, should these claimed expenses be considered appropriate, an obvious re-evaluation of the rate case expense claim is needed as a mis-match of

[9] Mr. Weakley added the projected expenses for 2005 and 2006 and averaged them to present his alternative. OTS Statement No. 2, p.30

[10] PPL's WRAP program provides free weatherization measures and energy conservation education to low-income customers.

time periods exists. The Company suggests two years to recover its rate case expense while discussing a five year plan with respect to these programs.

I. FERC Account 558 and 593

The expense claim associated with FERC accounts 588 and 593 should be normalized. As OTS Witness Weakley correctly explains in his testimony, expenses that fluctuate yearly must be normalized to determine a reasonable level of expense to be included in the future test year. OTS Statement No. 2, p. 36. Normalization specifically addresses recovery of ongoing, sporadic expenses. It does not deprive the Company of the appropriate recovery of its expenditure. Id. p. 33.

In this proceeding it is important to recognize that normalization requires the utilization of an appropriate time period so that all the expenses can be captured and accounted for. OTS recommends that these accounts be normalized and accepts the Company's testimony showing that a five-year period for recovery is warranted. The normalized expense over five years reduces the Company's annual distribution operating and maintenance expense claim by $1,725,000.

J. *Environmental Remediation*

The Company's original Environmental Remediation expense claim was unsupported and overstated. PPL's speculation as to its remediation needs for the future test year was the basis for its original claim of $3,556,000. OTS has recommended the entire amount be removed as it is unsupported. Based on Rebuttal Testimony, OTS agrees with the Company revision of this expense claim

to $1,073,000. This revision results in a decrease of $2,483,000 to the Company's claimed expenses.

K. Sustainable Energy Fund

The Company's proposal to continue funding of SEF by ratepayers through December 31, 2009 must be rejected or, at a minimum, amended. Not only does the Company propose extending the funding, it now maintains that all funding should be borne, involuntarily, by ratepayers.

SEF funding by PPL was established during the Company's Restructuring proceeding at Docket No. R-00973954. In the Commission Order associated with this docket it was made clear that "it is the Commission's intent that these funds themselves become sustainable through efficient management and the leveraging of monies received from other funding sources." OTS Statement No. 5-SR, p. 3 (quoting the Commission Order at Docket No. R-00973954). There can be no question as to what was intended in the Settlement Agreement as the Commission has made a clear determination of the expectations for this program in its Order. The Company is now proposing to extend the clearly established expiration date for the funding of this program through the end of 2009. This recommendation by the Company comes without any assurances that a similar request to extend financing would not occur at that point. Transcript, p. 744. There is a clearly established ending date as presented in the Settlement Agreement approved in the Commission's Order on this issue during the Restructuring Proceeding. The Company now proposes "to really end it...on December 31st, 2009." Id. As

presented by OTS Witness Gruber "[t]he Company was a party to the settlement and it should adhere to the terms of that settlement." OTS Statement No. 5, p. 5. Continually extending an agreed upon expiration date will lead to the charge permanently being embedded in rates.

In addition, the Company further argues that funding should now be the sole responsibility of ratepayers. Both propositions are flawed and must be rejected.

As has been established in a prior proceeding, "Commission-sanctioned funding is not appropriate when there is no demonstrable benefit to PP&L's customers." Pennsylvania Public Utility Commission v. Pennsylvania Power and Light Company, 1995 Pa. PUC LEXIS 189, 85 Pa. PUC 306 (1995). The SEF is a non-profit organization that provides no demonstrable benefit to the distribution system of PPL. OTS Statement No. 5-SR, p. 1. As the Sustainable Energy Fund has testified "SEF operates in an entrepreneurial, opportunistic fashion to provide loans and grants to clean energy projects within the PPL service territory." SEF Statement No. 1, p. 4. The Company has failed to establish that the fund provides a "demonstrable" benefit to its customers or its distribution system. Any benefit to the distribution system is "de minimus" and certainly does not satisfy the standard required when utilizing ratepayer funds.

The Company's five reasons for continuing funding through the end of 2009 are hardly the substantial evidence required in satisfying its burden of proof with respect to this matter. References to environmental initiatives and support of

public policy objectives speak more to the appropriate characterization of the SEF as a social program as opposed to an entity providing a distinctly discernible benefit to ratepayers.

We are reminded that the Company maintains the burden of proving each element of its claim with substantial evidence. Therefore, the Company must prove that ratepayer funding of this initiative best serves their interests by providing a benefit with respect to the distribution portion of their bills. In other words, the Company must specifically demonstrate that there is a direct and discernable benefit to the distribution system as to merit ratepayer contributions. The issue is not whether the Sustainable Energy Fund is a good idea. The issue is, that absent a direct benefit to the distribution system that will, in turn, serve to benefit ratepayers, the Commission cannot require involuntary funding of this project by PPL's customers.

As OTS Witness Gruber has correctly stated, the Company's proposal in this regard is tantamount to a hidden tax. OTS Statement No. 5, p. 5. Ironically, the Company states that "state government also plays a key role in supporting environmental initiatives. As evidenced by Governor Rendell's budget proposal, quality of life and environmental issues are significant components. In other words, it is likely that state government may provide funding or other incentives to address environmental issues." PPL Statement No. 7, p. 24. Furthermore, the Company offers as support for its proposal that it "is attempting to balance the needs of supporting important policy objectives (i.e., protecting and improving the

environment) while minimizing the costs impact on all customers." Id. pp. 24-25. As the state government is funded by taxpayers, the source of funding for the issues referenced above is the collection of taxes. The Company's statement supports OTS Witness Gruber's comment that the Company is requesting a double taxation of PPL customers. OTS Statement No. 5, p. 5. The "double taxation" would occur first, through the Governor's initiatives and, second, by the forced contributions required to fund this PPL expense claim associated with the SEF.

Interestingly, the Company does not believe that these are important enough initiatives for its shareholders as its proposal only mandates that ratepayers fund this claim. In fact, the interests of ratepayers did not enter into the Company's proposal to continue the funding at all. Transcript, p. 740. This recommendation comes despite the Company's failure to demonstrate, with substantial evidence, that shareholders have not been supplying the funding at the establishment of the fund. The Company continually points to its funding mechanism of a .01 cent per kWh surcharge as being indicative of ratepayers having been funding this initiative all along. However, it is undisputed that the funding for the Sustainable Energy Funding was established during the Company's Restructuring Proceeding. Rates during this proceeding were unbundled with no increase reflected in customers' bills. Furthermore, the Company has admitted that "the funding amount for SEF was not reflected as an expense item in the unbundling of the cost of providing service submitted by PPL Electric in its restructuring proceeding." PPLICA Cross-Exhibit No. 1. (quoting

PPL Witness J. M. Kleha's response to PPLICA Interrogatory). This indicates that the .01 cent per kWh was a mechanism to determine the amount of funding; it did not establish the source of the funding. Clearly, if ratepayers were not required to pay an additional amount in its charges after restructuring (and the introduction of SEF) and no expense item was identified reflecting SEF, funding did not come from ratepayers. Funding, obviously, was absorbed by the Company and, should the Commission determine that funding should continue past the agreed upon expiration date, then PPL should continue to absorb the costs.

As an alternative, ratepayers sharing the concerns purportedly addressed by the SEF should be given an opportunity to offer this support through voluntary contributions to the fund using their PPL bills as a mechanism to accomplish this.[11] Voluntary contributions to social issues are not a new proposition to citizens in the Commonwealth. OTS Statement No. 5-SR, pp. 2-3.

As PPL has not satisfied the burden of proof in proposing that this distribution expense claim be continued and funded solely by ratepayers it must be rejected. This adjustment reduces the Company's operating and maintenance expense claim in this proceeding by $3,689,000.

L. Power Management Software

The Company's claim for amortization of its Power Management System Software has no basis and, therefore, must be removed. This expense will have

[11] This proposal has also been offered in PPLICA Statement No. 1R, the Rebuttal Testimony and Exhibit of Stephen J. Baron. OTS agrees with this proposal and endorses it.

been fully amortized by the time any new rates go into effect so no further recovery is warranted. The Company has acknowledged this adjustment in its Rebuttal testimony. PPL Statement No. 2-R, p. 8.Removing this unsupported claim reduces the Company's claimed operating expenses by $500,883.

M. Other Post Employment Benefits

As attested to in OTS Statement No. 2-SR on page 2, no adjustment is necessary. OTS withdraws its original adjustment to this expense claim based on the updated information provided by the Company.

N. Uncollectibles

Based on Rebuttal Testimony, OTS agrees that a reduction to this expense claim is no longer warranted. OTS is satisfied with the legitimacy of the Company's claim and withdraws its adjustment with respect to the claimed uncollectibles account expense.

VI. TAXES

The Company claim for Capital Stock Tax is seriously flawed and must be rejected. The Company's errors include calculating its liability at the wrong rate, including the effects of generation income in calculating its liability and finally, its iteration of Capital Stock Tax under proposed rates.

The Commission has the authority to control the amount of tax expense it will allow a utility for ratemaking purposes, as it does for any other expense. Pittsburgh v. Pennsylvania Public Utility Commission, 187 Pa. Super. 341, 359, 144 A2d 648 (1958).

It is well established, and the Company has agreed, that the rates established as a result of this proceeding will go into effect January 1, 2005. However, the Company's proposal reflects the 2004 Capital Stock Tax Rate of 6.99 mills. Use of this rate will require the Company to make a state tax adjustment surcharge ("STAS") filing on the same day to appropriately reflect the lower Capital Stock Rate of 5.99 mills that has been established for 2005. It is senseless to use an improper rate in a rate case filing, only to immediately adjust it in a separate STAS filing. Prudent ratemaking requires that the Company's use of the 2004 millage be rejected and replaced with the established rate for 2005 of 5.99 mills. Correction of this error reduces the Company's distribution expense claim for Capital Stock Tax by $808,000. OTS Statement No. 2, p. 41. OTS Exhibit No. 2, Schedule 1.

PPL's estimated Capital Stock Tax liability is overstated and must be adjusted. The Company's proposal contains an anomaly that distorts the true liability to the detriment of the ratepayers. Part of the Company's determination includes book net income containing a generation aspect of the Company's operation. The income stated for the year 2000 includes generation income. OTS Statement No. 2, p. 42. Transcript, p. 420. Every other year represented contains income related to distribution only. To effectively remove all the remnants of generation income from the calculation of the Capital Stock Tax liability it is necessary to base the projected liability on 2005 rather than 2004. This will enable five years to be used in the calculation while, at the same time, remove any distortions created by the inclusion of generation income. Failure to do this is clearly a detriment to ratepayers and not sound ratemaking.

2005 book income to be used in the OTS proposal is estimated by adding the book income of $45,551,000 to the operating income of $90,162,000 reflected in the Company's exhibit. OTS Statement No. 2, p. 43. PPL Exhibit Future 1, D-13. This conservative estimate actually favors the Company as it is based on the Commission granting the full request. OTS Statement No. 2, p. 43.

Basing the liability in this manner will not affect the Company's ability to pay the tax as it is incurred and will protect ratepayers from contributing excess funds. This adjustment reduces the Company's distribution expense claim by $461,000.

The Company's proposal also includes an error in the increase column of its calculation. PPL has calculated an additional increase of $660,000 in Capital Stock Tax based on its requested increase of $90,162,000. This iteration of the Capital Stock Tax is improper and should be rejected. Capital Stock Tax is excluded from the iteration process because, unlike gross receipts tax and federal and state income taxes, Capital Stock Tax does not increase in direct proportion to an increase in revenues. Current regulatory practice is to not iterate the Capital Stock Tax because of the de minimus effect. OTS Statement No. 2, p. 45. To understand the impact, a quick review of the process is necessary. The effect of the increase that is ultimately granted in the resolution of this proceeding would result in an increase to book income in the current year. This increase would then be averaged with four other years. The resulting calculation is then averaged with the other side of the equation which is the calculation of 75% of net equity. As is readily demonstrated, the impact is minimal because of the lessened impact on the Capital Stock Tax valuation calculation. Id. In other words, the true tax effect of the increase is much less than that presented by the Company. OTS Statement No. 2-SR, p.14.

OTS is not aware of any other public utility regulated in Pennsylvania that iterates Capital Stock Tax in the increase column. As OTS Witness Weakley has testified, to iterate Capital Stock Tax in the increase column will overstate it because of the effects within the formula. Id. The Company's proposal to iterate

its Capital Stock Tax calculation in the increase violates sound ratemaking principles and should be rejected.

The Company's Capital Stock Tax proposal is flawed and must be rejected. Use of PPL's proposal will overstate the tax expense to the detriment of ratepayers. The recommended OTS adjustment of $1,269,000 to distribution operating expenses as shown on OTS Exhibit No. 2, Schedule 2 is necessary to correct this error.

VII. RATE OF RETURN

A. Introduction

The Company has not proven that an 8.53% overall rate of return with an 11.50% return on common equity is commensurate with the return on investments of enterprises having the same risks. Furthermore, the Company has not demonstrated that this return is no more than that which is required to cover capital costs and provide, but not necessarily guarantee, confidence in the financial integrity of the utility.

As has been previously established, "the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility." 66 Pa. C.S. §315(a). PPL has not adequately satisfied this burden in calculating its proposed rate of return requirement.

A fair overall rate of return for PPL is attained by a cost of capital of 7.63%. This recommendation is based on a cost of common equity of 9.00%. OTS recommends that the ALJ and the Commission disallow the 8.80% overall return and the 11.50% return on common equity requested by the Company as they are clearly excessive based on the record of credible evidence in this proceeding.

A public utility is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service. Pennsylvania Gas and Water Company v. Pennsylvania Public Utility Commission, 341 A.2d 239 (1975). In determining a fair rate of return the Commission must be guided by the criteria provided by the United States Supreme Court in the landmark cases of Bluefield

Water Works and Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923) and Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944). In Bluefield the Court stated:

> [a] public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.

Bluefield at 692-3.

B. Capital Structure

OTS accepts the capital structure claimed by the Company as reasonable. OTS St. No. 1, p. 8. A capital structure used for ratemaking purposes must balance the interests of both ratepayers and investors. PPL's estimated capital structure as of December 31, 2004, consisting of 51.30% long-term debt, 1.83% preferred stock and 46.87% common equity, is acceptable for ratemaking purposes as it adequately protects the interests of ratepayers and shareholders without unjustly enriching either party. Rather, OTS accepts this capital structure for the

purpose of establishing an appropriate return in this proceeding as it is similar to industry averages. OTS Exhibit No. 1, Sched. No. 2. However, this must not be interpreted as an endorsement of this capital structure as it does not mean that OTS agrees that it is the most efficient capital structure nor does OTS represent that this capital structure would warrant an "A" rating by Standard and Poors.

C. Cost of Debt

An appropriate cost of long term debt for this proceeding is 6.43% as presented by the Company and agreed to by OTS. OTS St. No. 1, p. 8. Long term debt is based on the company's contractual obligations. These obligations are consistent with the obligations of Company's of similar size and risk characteristics and, as such, are acceptable for this proceeding.

D. Return on Common Equity

A 9.00% return on common equity serves to best balance the interests of ratepayers and investors. The 11.50% return recommended by the company's witness is excessive and unsupported by the facts in evidence. An excessive return on common equity would result in rates that are neither just nor reasonable and should, therefore, be rejected.

The Supreme Court focused particularly on the equity return in Hope Natural Gas by stating:

> [i]t is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to the equity owner should be commensurate with returns

> on investments in other enterprises having corresponding risks. That return, however, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.

Hope Natural Gas Co. at 603. The Pennsylvania Supreme Court provided an additional interpretation of the Hope decision when it stated:

> [w]e do not believe, however, that the Hope decision stands for the proposition...that the end result of a ratemaking body's adjudication must be the setting of rates at a level that will, in any given case, guarantee the continued financial integrity of the utility concerned:
>
> Rather the Hope decision requires only that the regulatory authority balance consumer and investor interests to determine "just and reasonable" rates.

Pennsylvania Electric Co. v. Pa. P.U.C., 509 Pa. 324, 502 A.2d 130, 133 (1985); appeal dismissed, 476 U.S. 1137, 106 S.Ct. 2239, 90 L.Ed.2d 687 (1986).

1. Basis for Determination of Return on Common Equity

To arrive at an appropriate recommended return on common equity OTS Witness Kevan Deardorff employed the Discounted Cash Flow method ("DCF"), which has traditionally been endorsed by the Commission. To compute the components of the DCF method, OTS Witness Deardorff utilized current, historical and forecasted market data for a barometer group of six electric companies, the nine company electric barometer group used by the Company as well as PPL Corporation. Mr. Deardorff's barometer group includes all the companies in PPL's barometer group with the exception of those that did not offer two sources of analysts' forecasts of earnings growth. OTS St. No. 1, p.10.

2. Barometer Group

The barometer group identified by Mr. Deardorff in OTS Exhibit No. 1 represents similar risk enterprises that are necessary to establish a benchmark for comparison when establishing a return on common equity. The use of a barometer group is necessary to provide consistent data that will be minimally affected by short term aberrations in the marketplace. Single company analysis is less reliable as distortions in data will not be "smoothed out" by the inclusion of similarly situated companies. OTS St. No. 1, p. 10.

A representative barometer group consists of companies with characteristics that are closely identified with the subject utility. OTS Witness Deardorff's barometer group satisfies these criteria in that it consists of publicly traded electric companies that have at least two sources of analysts' forecasts of earnings growth.

3. Economic Factors

The data for the barometer groups utilized by the OTS Witness Deardorff is market based. Subsequently, the results have implicitly accounted for all aggregate risks that financial markets take into account when assessing investments. These risks are reflected in the price per share of the issued stock. OTS St. No. 1, p. 11. As such, no adjustments to the data are necessary in making calculations within established formulas.

a. Economic Variables

In his analysis, OTS Witness Deardorff made comparisons of important economic variables and examined their impact on electric utilities over the last twenty years. This historical perspective included the Moody's "Aaa" Corporate Bond Yield, the United States Treasury Bills rate ("T-Bills"), the Prime rate, and the percent change in the Consumers Price Index ("CPI") compared to the barometer group's average dividend yield for the same time period. OTS Witness Deardorff also examined a sample of economic experts' quarterly forecasts for 2004 and 2005 and yearly forecasts for 2005 to 2014. OTS St. No. 1, p. 12. See also, OTS Ex. No. 1, Sched. No. 3.

b. Relationship of Dividend Yields and Bond Yields

In his analysis, OTS Witness Mr. Deardorff noted a strong relationship between the dividend yields of electric companies and bond yields. This is evidenced by the correlation coefficient of the two arrays of .96. OTS St. No. 1, p. 12. This high correlation is not unexpected due to the extremely competitive nature of all capital costs.

The relationship of dividend yields and bond yields is important as one recommending a representative dividend yield for a prospective period must consider the potential impact to bond yields. OTS St. No. 1, p. 13. In this case, the trend in "Aaa" rated bonds and water utility dividends has been that of a steady decline over the last 23 years. "Aaa" rated corporate bond yields have dropped 850 basis points from 14.17% to 5.67% through the end of year 2003. Over the

same time period, the average dividend yield of OTS Witness Deardorff's six company barometer group has declined 862 basis points from 12.65% to 4.03%. OTS St. No. 1, p. 13.

c. Interest Rates and Inflation Rates

Forecasting professionals are expecting T-Bill yields to be in the range of 1.00% to 3.00% over the next two years. The forecasted inflation rate for the same time period ranges from 2.10% to 3.20%. As a result, the real rate of interest[12] is expected to be between -2.20% and 0.60% for this period. OTS St. No. 1, p. 13. See also OTS Ex. No. 1, Sched. No. 3.

Forecasting professionals also expect interest rates on long term "Aaa" rated corporate bonds to remain fairly stable with an increase from 6.00% in the second quarter of 2004 to 6.90% by the third quarter of 2005. Reflected in these forecasts is the belief that investors can expect an increase in economic activity with the real Gross Domestic Product ("GDP") growth increasing from 3.7% to 4.5% over the next two years. OTS St. No. 1, p. 14.

It is undisputed that Investors' expectations are influenced by Federal Reserve Policy and, as such, are continually changing. In recent years, the tight monetary policies of the Federal Reserve have served to greatly alleviate inflationary fears. The ongoing focus of the Federal Reserve is now on economic growth which is supported by Blue Chip Financial Forecasts analysis of the expected real GDP.

[12] The real rate of interest is determined by subtracting the inflation rate from the actual rate of interest.

4. Discounted Cash Flow Analysis

In response to the Company's claim that a reasonable cost of common equity is 11.50% OTS utilized Mr. Deardorff's analysis showing that this allegation would result in rates that are unjust and unreasonable. OTS Witness Deardorff's testimony indicates that a 9.00% return is justified based on the results calculated by the Discounted Cash Flow method. OTS St. 1-SR, p. 7. The Commission has relied primarily on the DCF and informed judgment in determining the cost of common equity for utilities. See, e.g., Pa. P.U.C. v. Consumers Pennsylvania Water Company - Roaring Creek Division, 87 PA PUC 826 (1997); Pa. P.U.C. v. Roaring Creek Water Company, 81 PA PUC 285, 323, 150 PUR 4th 449, 483-488 (1994); Pa. P.U.C. v. York Water Co., 75 PA PUC 134, 153-167 (1991); Pa. P.U.C. v. Equitable Gas Company, 73 PA PUC 345-346 (1990); Pa. P.U.C. v. Philadelphia Suburban Water Company, 71 PA PUC 593, 623-632 (1989).

OTS Witness Mr. Deardorff's analysis employed the standard discrete DCF model wherein $k = D1/P0 + g$. D1 is the dividend expected during the year, P0 is the current price of the stock and g is the expected growth rate of dividends. For purposes of calculating a dividend yield applicable to the formula, D0/P0 (the current dividend divided by the current price) must be adjusted by ½ the expected growth rate in order to account for changes in the dividend rate in period 1. The adjustment of ½ the growth rate must be used when the timing of the dividend cannot be ascertained. Due to the lack of certainty an assumption is made that the

increase will occur halfway through the prospective year. Therefore, an adjustment by ½ the expected growth rate is appropriate. OTS St. No. 1, p.15.

The DCF method advocates the use of the most current dividend yield. For ratemaking purposes it is necessary to determine a dividend yield that is representative of the prospective period when the requested new rates may be in effect. Ratemaking is essentially a forward looking, long-term process. Ratemaking analysis cannot be based solely on short-term spot market data. Investors are continually changing their opinions concerning the relative worth of debt and equity on a monthly, weekly or even daily basis in reaction to changes in the economy or financial position of the company.

a. Dividend Yield

In the DCF analysis, a representative dividend yield must be calculated over a time frame that avoids the problems of short-term aberrations and a "stale" data series. In calculating the dividend yield for this proceeding, OTS Witness Deardorff placed equal emphasis on the most recent spot and 52-week average dividend yields. The following table is a summary of the updated dividend yield computations for the six company barometer group, the nine company barometer group as well as PPL Corporation.

	Dividend Yields (Adjusted)		
	Spot 7/11/03 (%)	52-week Average (%)	Average (%)
Six Company Barometer Group	4.91	4.93	4.92
Nine Company Barometer Group	4.73	4.73	4.73
PPL Corporation	3.75	3.94	3.85

OTS Exh. No. 1-SR, Sched. No. 2, 4, pp. 1-3, column 1; See also, OTS St. No. 1, p. 17.

b. Growth Rate

To arrive at a representative dividend growth rate for the DCF analysis, Mr. Deardorff surveyed several series of projected growth rates. The growth rates projected by the Witness Deardorff are based on a survey of established forecasting entities including Value Line, Standard and Poors ("S&P"), Smart Money and Thomson First Call.

The bulk of the research evidence has indicated analysts' growth forecasts to be superior to historically oriented growth measures in forecasting growth. Forecasting professionals have already accounted for historical data in their estimates along with expectations of a wide array of economic variables. To give any significance to historical growth rates would result in a double count. OTS St. No. 1, p. 18.

Based upon his analysis of the revised growth rates, OTS Witness Deardorff has concluded that investors could reasonably expect to achieve a growth rate of 4.1% for the six company barometer group. This conclusion is further bolstered by evidence presented in OTS Exhibit No. 1-SR, Schedule. 2, page 4 of 4. This data indicates an average expected growth rate for the barometer group of 4.1%.

Based on the above mentioned dividend yields and the recommended growth rates, OTS Witness Deardorff calculated the DCF return for the six company barometer group, the nine company barometer group and PPL Corporation. The result of the calculations for the six company barometer group indicates a cost rate of common equity for the electric industry on average to be within the range of 9.00% to 9.25%. Transcript, p. 657.[13] OTS Witness Deardorff's recommendation of a 9.00% cost rate of common equity for PPL is based on the results obtained from the analyses of his six company barometer group as well as a comparison of the capital structures of the six company barometer group to that of the Company. Mr. Deardorff's recommendation accounts for the difference in perceived financial risk between the barometer group's actual common debt ratios and PPL's prospective capital structure. The six company barometer group consists of 58.25% debt while the debt ratio for PPL for the period ending December 31, 2004 is 51.30%. Mr. Deardorff's

[13] The DCF results for the nine company barometer group suggests that the range could be as low as 8.75%. TheDCF results for PPL Corp. indicate 9.00%.

recommendation of a 9.00% cost of common equity reflects the difference in financial risk indicated by the different capital structures. OTS St. No. 1, p. 21.

c. Market Pressure, Selling and Issuance Expense

Mr. Deardorff considered market pressure and selling and issuance expense in making his recommendation, but no specific adjustments were necessary to account for them. Market pressure and selling and issuance expenses are an additional cost of capital that are incurred at the time of stock issue. The current market price of common stock already reflects these factors as investors have already capitalized market pressure and issuance expenses in determining the value of the stock at the time of purchase. OTS St. No. 1, p. 22. Since OTS Witness Deardorff's analyses are market based, these items have already been accounted for. Therefore, no additional adjustment is required to account for market pressure and selling and issuance expense. Id.

d. Flaws of PPL's DCF Analysis

The DCF analysis offered by PPL is flawed, thereby eliminating the viability of the resulting computation. The company results are inflated due to an unwarranted ex-dividend adjustment to the dividend yield and an unnecessary upward adjustment to the overall DCF result to reflect differences in market value and book value. OTS St. No. 1, p. 25. Furthermore, the Company uses stale data in its analysis, relying only on the calculations in its initial filing. This is despite it having an opportunity to address this issue in subsequent testimony. The Company's refusal to update its own calculations is even more objectionable when

it is noted that PPL found it necessary to alter the methodology used in the OTS calculations in order to support its own premise. The Company maintains the burden of proof throughout this proceeding yet finds itself changing other party's testimony under the "guise" of an update. As noted in Mr. Deardorff's Surrebuttal Testimony, what makes the Company's exercise even more egregious is the fact that Mr. Deardorff never used the component that PPL "updated" in his calculation. The Company's proclamation of the mistake in the OTS calculation and its subsequent gratuitous correction are meaningless and should be ignored. What cannot be ignored is the Company's failure to reflect current, known data in its own calculations.

The Company's ex-dividend adjustment is unwarranted and must be rejected. The record is void of any indication that this data provides any important input into investor's decision making process so as to be included in any of the mainstream financial publications. The company has incorporated a contrived formula into its analysis in order to make this adjustment. Its proposed support for this premise discusses the concept of ex-dividends but offers no discussion of the formula purportedly needed to adjust the calculation. The burden of substantial evidence requires a specific discussion of the formula developed and offered in this proceeding. Lacking credible support this adjustment is unwarranted and unsustainable.

Any adjustment for market to book ratios ("M/B") greater than 1.0 is unwarranted and should be rejected. The fact that water companies M/B's are in

excess of 1.0 is more indicative that they are earning in excess of the required rate of return, not, as the company suggests, under-earning. An investor earning exactly his rate of return would price the stock at book value. Only when earnings on book exceed the required rate of return will an investor bid the price of the stock above book value. Any basis points being added to the return investors currently require would give investors the incentive to bid prices even higher and cause the M/B ratio to rise above the current level. The problem then becomes that of circularity. Based on the company's position, they would have to claim an even higher adjustment in future rate cases for the ever-increasing M/B ratios.

The company's witness is aware of the impact on the M/B ratio of awarding a rate of return in excess of that required by investors. In previous Commission proceedings this same witness has advocated that a M/B adjustment is necessary when the M/B ratio is less than 1.0. The Company's witness now advocates that an adjustment is necessary when the M/B exceeds 1.0.

The M/B adjustment is also inconsistent with standard, accepted finance theory. The Company's testimony indicates that "the firm with a higher level of risk will have a lower share value, while the firm with a lower risk profile will have a higher share value." PPL Statement No. 8, page 14, footnote 1. The implication of this statement is that high risk firms will have a lower Market to Book ratio and low risk firms will have a higher Market to Book ratio. Applying the Company's application of the formula results in low risk firms being entitled to a higher Market to Book adjustment than high risk firms. Accepted finance

theory and simple economics suggest just the opposite. Higher risk requires higher rate of returns. OTS Statement No. 1, page 26. Under the guise of applying theories propounded by Modigliani and Miller, the Company has created the application of yet another formula to create additional basis points to a widely accepted mechanism. The Company's application of this formula is nothing more than a means of adding unwarranted basis points to a widely accepted DCF calculation.

There is no credible evidence in the record to support a 44 basis point adjustment. The foregoing flaws in the company's DCF analysis indicate that their findings are unreliable and should be dismissed.

5. PPL's Cost of Equity Study

The company's cost of equity study is improper; therefore, the results must be rejected for ratemaking purposes. The reliance on the Risk Premium ("RP") and Capital Asset Pricing Model ("CAPM") methods as well as the Comparable Earnings Model ("CEM") is not based on sound ratemaking principles and is contrary to Commission decisions. OTS Witness Deardorff characterizes how investors use the CAPM and RP methods in their decision making process while establishing the flaws of these methods in the regulatory environment. The CAPM and RP methods give results that indicate to an investor what the equity cost rate should be if current economic and regulatory conditions are the same as those present during the historical period the risk premiums were determined. By comparing CAPM and RP results with DCF results, an investor can make

informed buy and sell decisions. When expected DCF returns are higher than those indicated by the CAPM and RP historical norms, an investor would have an incentive to buy. The reverse would also be true. OTS St. No. 1, pp. 26-27.

The relevancy of these methods does not carry from the investment decision making process to the regulatory process because regulators can never be certain that economic and regulatory conditions underlying the historical period (during which the risk premiums were calculated) are the same today or in the future. Data relied upon by the company's witness dates back to 1928.

Since economic conditions today are different than those of the historical period, the risk premiums used by the company in their RP and CAPM methods are affected. Furthermore, the RP and CAPM methods do not measure the current rate of return on common equity directly as the DCF model does. These methods determine the rate of return on common equity by indirectly observing the current cost of debt. An implicit assumption when using these methods is that the variables determining the equity cost rate and debt cost rate are the same. This allows the analyst to apply a constant risk premium. OTS St. No. 1, pp. 29.

In actuality, the variables determining the cost rates in the two markets are different. Changing economic conditions cause these variables in the two markets to change which, over time, results in changing risk premiums. It follows that the use of a constant risk premium fails to capture the effect of changing economic conditions. OTS St. No. 1, p. 29.

In addition, a CAPM study conducted by professors Eugene F. Fama and Kenneth R. French found that the CAPM did not do well in predicting actual returns. This study, published in the New York Times on February 18, 1992, examined the importance of beta (CAPM's risk factor) in explaining returns on common stock. As a result of this information, Mr. Deardorff believes that rational investors will give less credibility to expected equity returns that are calculated using the simple CAPM method. OTS Ex. 1, Sched. No. 7, pp. 1-2, OTS St. No. 1, p. 30.

The Commission has also generally rejected the higher RP and CAPM results for determining costs of equity. See, e.g., Pa P.U.C. v. Pennsylvania American-Water Company, 68 PA PUC 343, 377-378 (1988); Pa. P.U.C. v. Consumers Water Company – Roaring Creek Division (Consumers Water Co.), 87 PA PUC 826, 848-849 (1997); Pa. P.U.C. v. City of Lancaster Water, 197 PUR 4th 156 (1999).

In the 1997 Consumers Water Co. case, supra, the Commission, in rejecting the RP and CAPM results, quoted from its previous decision in Pa. P.U.C. v. Pennsylvania Power Company, 67 PA PUC 91, 164 (1988), as follows:

> [f]irst, we cannot accept that historic experienced earnings reflect the cost of capital. We know of no reputable analyst who would seriously argue that experienced earnings represent the cost of capital, except by pure happenstance. But, such is the inherent assumption of each methodology [RP and CAPM]. Second, we cannot accept, even assuming that historic experience earnings represented the cost of capital that the average premium of an equity investment over a period as long as 50 years, represents the investor

required premium in today and tomorrow's market.

The RP and CAPM methods are not suited to ratemaking and should not be relied upon in this case.

The Comparable Earnings Method employed by the company should also be rejected as inappropriate for ratemaking purposes. The company's witness measured the historical earnings/book value ratios of unregulated, non-utility companies while offering no evidence that these accounting returns for non-utilities bear any relationship to a market based return for electric utilities. OTS St. No. 1, pp. 28-29. The Commission has commented on this principle when it stated:

> [t]he use of nonregulated companies as a comparable group for regulated firms under the comparable earnings method of computing a rate of return on common equity requires numerous unsupportable assumptions and results in a highly speculative finding.

Pennsylvania Public Utility Commission v. Philadelphia Electric Co., 33 PUR 4th 319, 341.

The CEM is further flawed in that the company's CEM barometer group is not comparable to electric distribution utilities in terms of their business/financial risk profile. By being monopolies with low business risks, electric distribution utilities are able to maintain higher financial risk profiles by employing more leverage. The company's CEM barometer group companies, being in an unregulated competitive environment with much higher business risk, must maintain lower financial risk profiles by employing minimal leverage. The

Company's CEM barometer group has an average debt ratio of only 27.50% compared to its nine company barometer group's debt ratio of 53.01%. It is also significantly different than Mr. Deardorff's six company barometer group debt ratio of 59.32% OTS St. No. 1, p. 30.

The company's cost of equity study should be dismissed as it detrimentally relies on the RP, CAPM and CEM methods in determining its results. Mr. Deardorff's DCF analysis provides the most reliable information for determining a proper cost of common equity and should be the sole method utilized.

E. Overall Weighted Cost of Capital

The appropriate weighted cost of capital in the case before us is 7.63%. This result is based on Mr. Deardorff's 9.00% cost rate of common equity. OTS Ex. No. 1, Sched. 1.

F. Conclusion

For all of these reasons presented above, the company's requested rate of return is not supported by the record and should not be granted. The company has not borne the burden of proving this element of their case and, as such, their results carry no weight. An appropriate overall rate of return that will result in just and reasonable rates is 7.63% as presented by OTS Witness Deardorff. Included in this recommendation is a 9.00% cost of common equity.

VIII. MISCELLANEOUS ISSUES

A. Distribution System Improvement Charge

PPL's proposal to institute a surcharge to its base rates that provides for the collection of ratepayer funds outside the context of a rate case is illegal and must be rejected. The Company's proposal lacks statutory authority and also violates the accepted regulatory principle barring single-issue ratemaking.

Section 1307 of the Public Utility Code any sliding scale of rates and adjustments. 66 Pa. C.S.A. §1307. There is no statutory provision allowing electric distribution companies to establish the type of surcharge the Company is requesting. Any argument offering subsection (a) as authority for implementation of this charge requires that the fact-finder completely ignore the provisions of 66 Pa. C.S.A. §1307(g). Section (a) states the general rule in the establishment of a sliding scale of rates. Section (g) specifically deals with distribution system improvement charges. If, as the Company suggests, §1307(a) is the controlling provision with respect to establishing a DSIC, then there would be no reason for the Legislature to enact §1307(g). A careful reading of the two provisions of the Code will reveal the error in the Company's premise and demonstrate that the Legislature did not intend for §1307(a) to be all-inclusive as the Company suggests. The appropriate section of the Code controlling the implementation of a DSIC is §1307(g) as provided in its language:

> **(g) Recovery of costs related to distribution system improvement projects designed to enhance water quality, fire protection reliability and long-term system viability.-** Water utilities may file tariffs establishing a sliding scale of rates or other method for the automatic adjustment of the rates of the water utility as shall provide for recovery of the fixed costs (depreciation and pretax return) of certain distribution system improvement projects, as approved by the commission, that are completed and placed in service between base rate proceedings. The commission, by regulation or order, shall prescribe the specific procedures to be followed in establishing the sliding scale or other automatic adjustment method.

66 Pa. C.S.A. §1307(g).

Obviously, if the Legislature intended to give the Commission the authority to grant a DSIC to electric distribution utilities it would have specifically identified the industry in this section or, alternatively, created an additional section specifying the applicability of this section to the electric industry. DSIC surcharges were clearly intended to pertain only to the water industry. This is further supported by the testimony offered on behalf of the Chair of the Northeast Delegation, the Honorable Phyllis Mundy. Also sponsoring this testimony are delegation members the Honorable Kevin Blaum, the Honorable Todd Eachus, the Honorable Jim Wansacz, the Honorable Tom Tigue and the Honorable Bob Belfanti. The testimony reads, in part:

> ...[a]s State Legislators, stress that it was not the intent of the Legislature in 1996 to give broad authority to the PUC to authorize a DSIC for all utilities but rather limit the DSIC to water companies.

> Consistent with this is the fact that the House of Representatives has twice rejected the legislation that would impose a DSIC for gas companies. Not only do we believe that a DSIC approved only by the PUC is unlawful, we think it is bad public policy.

Transcript, p.254.

This testimony indicates the position of the above mentioned representatives and is bolstered by the fact that the full House of Representatives has refused, on two occasions, to extend the DSIC to gas utilities. This clearly demonstrates that if the legislature intended for the DSIC provision to extend beyond water utilities, it would have stated so.

Furthermore, the proposal offered by the Company constitutes single-issue ratemaking as it would allow PPL to increase rates up to 5% based on a single isolated aspect of its operation. As OTS Witness Gruber has correctly identified, any proceeding that only investigates a single change is one-sided. All proceedings that affect rates should include an examination of all factors included in the utility's revenues and expenses. Any variation from this standard would alter the fundamental intent of rate base rate of return regulation. OTS Statement No. 5-SR, p. 6.

As the Company's proposal lacks statutory authority and violates the regulatory principle prohibiting single-issue ratemaking, it is unlawful and, therefore, must be rejected.

B. Transmission Surcharge

In this proceeding, PPL has proposed to recover its transmission-related costs of providing service by way of a reconcilable Transmission Service Charge ("TSC"). As propounded, this charge is to be based on projected costs that PPL will incur, on a calendar year basis, to provide transmission service to its Basic Utility Supply Service ("BUSS") customers and would be established on an annual basis by inputting the then current level of transmission charges against a forecast of upcoming Provider of Last Resort ("POLR") sales. PPL Statement No. 4, page 34. These estimated costs would then be recovered from all BUSS customers on a levelized kWh basis throughout the year. At the end of the 12 month billing period, PPL proposes to reconcile any over-collections or under-collections in the application of the TSC and include those results, with interest, in the calculation of the subsequent year's TSC. OTS Statement number 5, pages 12-13.

At a minimum, implementation of this proposal is fraught with peril simply because it allows the Company broad discretion in passing through what is traditionally considered an integral cost of doing business in the electric industry. This proposal is further flawed in that it doesn't even permit the Commission the benefit of an annual prudency review. PPL's proposal does not include any recommendation of Commission review, nor has it offered that the traditional factors typically reviewed in setting rates (e.g. revenue, rate base, number of customers, etc.) would be considered.

Comparatively speaking, the proposal to establish a TSC mechanism for the recovery of FERC approved transmission rates is similar to that of a Purchased Gas Cost ("PGC") mechanism for the recovery of FERC approved gas costs as allowed under Section 1307(f) of the Public Utility Code. 66 Pa. C.S.A. §1307. Yet aside from the obvious difference in that the PGC mechanism is statutorily permitted while a proposal such as the TSC is not, 1307(f) proceedings are subject to Commission review to ensure that those costs were incurred in a prudent and reasonable manner consistent with this Commission rules and regulations. This review is permitted despite the fact that this commodity is based on FERC approved rates. OTS Statement No. 5, page 15.

Moreover, PPL has failed to recognize that transmission related costs are an integral part of the business of supplying electricity service to BUSS customers and that, as such, they are no different, from a regulatory point of view, than distribution related costs. Consequently, there certainly is no justification for treating transmission costs any differently than normal operating costs and they should only be reviewed in the context of the entire cost of doing business. To do otherwise would allow PPL the discretion to vary a substantial portion of its annual revenue without the benefit of an annual prudency review.[14]

Furthermore, while the Company maintains that it is entitled to automatically pass these costs through to its POLR customers, this assessment is entirely wrong. PPL's current tariff is devoid of any basis upon which it could

[14] Nearly 7% of its annual revenues are made up of transmission rates.

justify an automatic pass through of the FERC approved Open Access Transmission Tariff ("OATT") charges. Even looking beyond the tariff, there is no such provision contained in the final settlement document of PPL's restructuring case that indicates that it should be allowed to pass through costs for transmission services to its POLR customers. OTS Statement No. 5, pp. 15-16. See also, Application of Pennsylvania Power and Light Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code, Pa. PUC LEXIS 173 (August 13, 1998). In fact, PPL relinquished a similar "ECR" mechanism in that very proceeding.

The Company's proposal should be rejected and PPL should continue to collect all transmission related charges through an unbundled, non-reconcilable transmission rate. The proposed transmission charge in this filing should be an unbundled rate based on the final transmission related costs and kWh sales figures determined at the conclusion of this proceeding.[15]

[15] As a point of clarification, it should be noted that during cross-examination, OTS Witness Gruber indicated that he was not opposed to a transmission service charge as long as it was not reconcilable. Transcript, pp. 529-530. At first glance this statement would appear to be at odds with the position of OTS to deny the TSC proposal; however, OTS submits that the statement of Witness Gruber and its position in this Brief represents a distinction without a difference. A non-reconcilable surcharge is the functional equivalent of requiring the company to roll those costs into its base rates.

IX. RATE STRUCTURE

A. Introduction

Rate Structure involves the allocation of the Commission's allotted revenue to the various rate classes contained in the utility's tariff. Rate Design focuses on how the revenue allotted will be generated. A properly designed rate structure will not unduly burden one class of ratepayers to the benefit of another. The Public Utility Code maintains that rates "shall be just and reasonable and in conformity with regulations or orders of the commission." 66 Pa. C.S.A. §1301. The Code further dictates that "[n]o public utility shall...make or grant any unreasonable preference to any person, corporation....No public utility shall establish or maintain any unreasonable difference as to rates, either as between localities or as between classes of service." 66 Pa. C.S.A. §1304. Proper interpretation of this statute does not require each class to be charged the same rate. The Court has upheld differences in rates charged to different classes to the extent there was a reasonable basis for the discrepancy. Peoples Natural Gas Company v. Pa. P.U.C., 47 Pa. Cmwlth 512, 409 A2d 446 (1979).

Succinctly stated in Pa. P.U.C. v. West Penn Power:

> [p]ublic utility rates should enable the utility to recover its cost of providing service and should allocate this cost among the utility's customers in a just, reasonable and nondiscriminatory manner.

73 Pa. P.U.C. 454, 510, 199 PUR 4th 110 (1990).

Cost based allocation based on cost-of-service studies must be done with caution as the basis for the determinations may not be exact.

> While the commission recognizes that cost-of-service is always an important and normally the primary basis of pricing, it is not the only consideration. In the first place, even though the cost-of-service studies may be done in a craftsmanlike manner, this does not mean that they can be blindly relied upon. Judgment and some assumptions must be made in cost-of-service studies; cost-of-service studies are not perfect or precise.

Pa. P.U.C. v. Philadelphia Electric Company, 31 PUR 4th 15, 84 (1978).

In the instant proceeding, cost-of-service determinations are being based on only the distribution portion of a ratepayer's service. This limited analysis requires the Commission use of judgment in establishing the proper rate structure. Setting rates is within the expertise of the Commission and will not be overturned as long as the determination is based on the presentation of substantial evidence. City of Pittsburgh v. Pa. P.U.C., 106 Pa. Cmwlth 437, 526 A2d 1243 (1987).

B. Rate Structure

PPL's rate structure proposal is flawed and must be rejected. Recognizing that the Company's goal was to design a structure that would limit the increase to the residential class to ten percent, this approach does not adequately address the need to move rate classes toward the system average rate of return. In other words, the Company did not adequately address proper alleviation of the inter-class subsidies that exist. The Company's proposal assigns an approximate 49.21% increase to rate class RS based on its initial request of $164,436,766.

Although improving its relative position to the system average rate of return, a more aggressive adjustment is necessary. OTS Witness Yarolin recommends that 60% of any additional annual revenue granted as a result of this proceeding should be assigned to rate schedule RS. Under the OTS revenue proposal of $101,464,000 rate schedule RS should receive $60,878,400. This adjustment addresses the need to move this class schedule toward the system average rate of return while respecting the principles of gradualism and rate shock. The principle of gradualism recognizes that the rates of a particular class are insufficient relative to the system average rate of return but avoids a dramatic increase that may result in rate shock by pursuing the goal of moving the class to a more appropriate rate over a period of years. OTS Witness Yarolin's proposal protects this concept while moving to alleviate the class inequities present in the Company's filing.

Rate Schedule RTS must be addresses in a similar manner. Because this class of service is dramatically below the system average rate of return, an allocation of increased revenue greater than that proposed by the Company is necessary. The Company's proposal does little to nothing to address the current negative rate of return enjoyed by this class. OTS Witness Yarolin's proposal can be found in detail in OTS Statement No. 4, pages 12 through 14. The OTS proposal requires that, at a minimum, this class must receive an increase that will eliminate its negative rate of return.

For the rate schedules not addressed previously, OTS Witness Yarolin recommends that they be residually priced based in order to maintain the same

relationship between the rate schedules as proposed by the Company. OTS Statement No. 4, pp. 16-17.

In the event that an increase in excess of the $101,464,000 recommended by OTS is granted in this proceeding, the excess should be applied across the board to all the rate schedules proposed by the Company in this filing. By applying the excess in this manner, movement toward the system average rate of return can be accomplished while mitigating possible rate shock. OTS Statement No. 4, p. 17.

C. Rate Design

PPL's proposed customer charge for rate schedule RS is inappropriate and must be rejected. Not only has the Company failed to justify the level of increase requested, it has inappropriately included 200 kWh of usage in this charge. A properly designed customer charge will recover customer related costs such as meter reading, metering equipment, service connections, billing, accounting and collections. These charges occur independently of the quantity of energy used. OTS Statement No. 4, p. 7.

The Company's proposal attempts to increase the customer charge for rate schedule RS by approximately 86% and then clouds the issue by including 200 kWh of distribution usage. This is contrary to sound ratemaking principles as it attempts to broaden the definition of a customer charge. OTS maintains that the factor presented in Witness Yarolin's testimony will yield an appropriate charge and in no circumstances should this charge exceed the $8.25 recommendation.

Recent Commission activities have eliminated inclusion of usage in the customer charge and the Company has not presented compelling evidence to change this trend. Customer charges should focus only on customer related charges and not involve usage in any respect. As the Company's proposal attempts to do this it must be rejected.

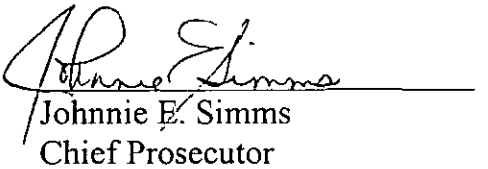
The residential monthly charge proposed by the Company for rate schedule RTS is appropriate and should be adopted, however, a reduction to the distribution charge for on-peak kW in excess of 2kW is not warranted. As this rate class that currently shows a negative rate of return, this reduction in rates is not warranted. Increasing the monthly customer charge and then decreasing a corresponding charge does nothing to address the inequity of this rate class. As OTS Witness Yarolin has testified, not only should a decrease be rejected, this charge should be increased in order to, at a minimum, bring this rate class from a negative rate of return to at least a zero rate of return. OTS Statement No. 4, page 14.

X. CONCLUSION

The PPL Electric Utilities has not borne its burden of proof with respect to each and every element of its proposal. Failing in this burden, the Company's proposal must be amended to reflect the appropriate and necessary adjustments.

For the reasons stated herein, the Office of Trial Staff respectfully requests that the Administrative Law Judge and The Commission adopt its recommendations in this proceeding.

Respectfully submitted,



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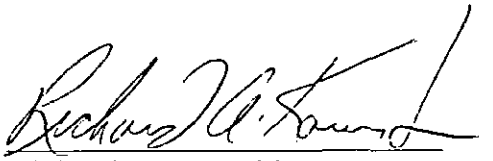

Richard A. Kanaskie
Prosecutor

Office of Trial Staff
Pennsylvania Public Utility Commission

Dated: September 2, 2004

APPENDIX A

PPL Electric
R-00049255
9/1/04

TABLE I
INCOME SUMMARY

	12/31/04 Proforma Present Rates	OFFICE OF TRIAL STAFF			
		Adjustments	Present Rates	Allowances	Proposed
	$	$	$	$	$
Operating Revenue	523,208	4,305	527,513	101,464	628,977
Deductions:					
O&M Expenses	309,837	-16,803	293,034	0	293,034
Depreciation	93,906	0	93,906		93,906
Taxes, Other	44,588	-998	43,590	6,373	49,963
Income Taxes:					
Current State	-170	2,219	2,049	9,500	11,549
Current Federal	-25,502	6,996	-18,506	29,957	11,451
Deferred Taxes	30,464	0	30,464		30,464
ITC	-1,913	0	-1,913		-1,913
Total Deductions	451,210	-8,586	442,624	45,830	488,454
Income Available	71,998	12,891	84,889	55,634	140,523
Measure of Value	1,842,744	-1,031	1,841,713	0	1,841,713
Rate of Return	3.91%		4.61%		7.63%

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Table II - Summary Of OTS Adjustments

Issues		Rate Base	Revenues	Expenses	Depr.	Taxes Other	Current FIT	Current PACNI	Combined Deferred Inc Taxes	ITC
MEASURE OF VALUE:										
CWC (AUTO) 1/8		0								
Pension FAS 87		-613								
OPEB FAS 106		0								
CWC		-418								
	0	0								
	0	0								
	0	0								
CWC(INT OFFSET) - AUTO		0								
Revenues:										
Avg use per customer - RS -Heat			3,065	0		193	905	287		
Late Payment			1,240	0		78	366	116		
	0		0	0		0	0	0		
	0		0	0		0	0	0		
	0		0	0		0	0	0		
Expenses:										
Uncoll.Accts.Exp. (AUTO)				0			0	0		
Substainable Energy Fund				-3,689			1,162	369		
Pension FAS 87				-1,397			440	140		
Hurricane Isabel				-1,864			587	186		
ARM Displacement Costs				-1,764			556	176		
Community Betterment Initiative				-1,000			315	100		
Amortization - Software				-501			158	50		
PPL Service Corp				-430			135	43		
Remediation Expenses				-2,483			782	248		
On Track Program				-1,500			473	150		
Wrap Program				-450			142	45		
FERC Nomalizations				-1,725			544	172		
Depreciation:										
	0				0		0	0		
	0				0		0	0		
	0				0		0	0		
	0				0		0	0		
	0				0		0	0		
Taxes Other:										
Regulatory Assessments						0	0	0		
Capital Stock						-808	254	81		
Capital Stock						-461	145	46		
	0					0	0	0		
	0					0	0	0		
Income Taxes:										
State							0	0		
Federal							0	0		
	0						0	0		
Consol. Tax Savings							0			
Deferred Taxes										
	0								0	
	0								0	
ITC										0
Interest Synchronization							32	10		
Total Additions / Deductions		-1,031	4,305	-16,803	0	-998	6,996	2,219	0	0
Company Measure of Value		1,842,744								
OTS Measure of Value		1,841,713								

Table III
Rate of Return

Per Company

	Structure	Cost	Weighted Cost
Total Debt	51.30	0.0643	3.3000
Long Term Debt	51.30	0.0644	3.3000
Short Term Debt	0.00	0.0000	0.0000
Preferred Stock	1.83	0.0619	0.1100
Common Equity	46.87	0.1150	5.3900
TOTAL	100.00		8.80

Per Staff

	Structure	Cost	Weighted Cost
Total Debt	51.30	0.0643	3.3000
Long Term Debt	51.30	0.0643	3.3000
Short Term Debt	0.00	0.0000	0.0000
Preferred Stock	1.83	0.0619	0.1100
Common Equity	46.87	0.0900	4.2200
TOTAL	100.00		7.6300

PPL Electric
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APPENDIX B

OTS TESTIMONY AND EXHIBITS

Date entered	Evidence	Witness
08/10/04	OTS Statement Number 1 OTS Exhibit Number 1 OTS Statement Number 1-SR OTS Exhibit Number 1-SR	Deardorff
08/09/04	OTS Statement Number 2 OTS Exhibit Number 2 OTS Statement Number 2-SR	Weakley
08/10/04	OTS Statement Number 3 OTS Exhibit Number 3 OTS Statement Number 3-SR OTS Exhibit Number 3-SR	Kubas
08/12/04	OTS Statement Number 4 OTS Exhibit Number 4 (Attached to Direct) OTS Statement Number 4-SR	Yarolin
08/09/04	OTS Statement Number 5 OTS Exhibit Number 5 OTS Statement Number 5-SR	Gruber
08/12/04	OTS Statement Number 6-R OTS Exhibit Number 6-R (Attached to Direct)	Yocca

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-00049255
	:	
PPL Electric Utilities Corporation	:	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Main Brief** of the Office of Trial Staff, dated September 2, 2004, either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below:

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Office of Trial Staff

Dated: September 2, 2004
Docket No. R-00049255