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January 24, 2017

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

**RE: National Railroad Passenger Corporation v. PPL Electric Utilities Corporation;
Docket No. C-2016-2580526**


**PPL Electric Utilities Corporation Supplement No. 213 to Tariff Electric P.A. PUC No. 201
for Rate Schedule LPEP; Docket No. R-2016-2569975**

Dear Secretary Chiavetta:

Attached please find for filing with the Pennsylvania Public Utility Commission the Answer of the National Railroad Passenger Corporation ("Amtrak") to the Motion of PPL Electric Utilities Corporation to Compel Answers to Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation. As shown on the attached Certificate of Service, all parties to this proceeding are being duly served. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By 
Pamela C. Polacek

Counsel to National Railroad Passenger Corporation ("Amtrak")

Enclosures

c: Certificate of Service
Administrative Law Judge David A. Salapa (via Email and First Class Mail)

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Pamela C. Polacek

Counsel to National Railroad Passenger
Corporation

Dated this 24th day of January, 2017, at Harrisburg, Pennsylvania.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**NATIONAL RAILROAD PASSENGER
CORPORATION**

COMPLAINANT

v.

**PPL ELECTRIC UTILITIES CORPORATION,
RESPONDENT**

**PPL ELECTRIC UTILITIES CORPORATION
SUPPLEMENT NO. 213 TO TARIFF
ELECTRIC PA PUC NO. 201 FOR RATE
SCHEDULE LPEP**

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: **Docket No. C-2016-2580526**
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**ANSWER OF NATIONAL RAILROAD PASSENGER CORPORATION TO MOTION
TO COMPEL ANSWERS TO INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED BY PPL ELECTRIC UTILITIES
CORPORATION**

Pursuant to 52 Pa. Code § 5.342(g)(1) of the Pennsylvania Public Utility Commission's ("PUC" or "Commission") Regulations, National Railroad Passenger Corporation ("Amtrak") hereby submits this Answer to the Motion of PPL Electric Utilities Corporation ("PPL") to Dismiss Objections and Compel Responses to Discovery Propounded on National Railroad Passenger Corporation – Set I ("Motion") dated January 20, 2017. For the reasons set forth below, Amtrak respectfully requests that the Honorable Administrative Law Judge David A. Salapa ("ALJ") reject PPL's Motion. In support of this Answer, Amtrak avers as follows:¹

¹ Any of PPL's averments in support of its Motion that are not expressly addressed by Amtrak herein are denied.

I. INTRODUCTION

1. The Motion and this Answer arose from a discovery dispute between PPL and Amtrak regarding interrogatories propounded by PPL upon Amtrak on January 11, 2017 ("PPL to Amtrak Set I"). A copy of PPL to Amtrak Set I is attached to this Answer as Appendix A.

2. On January 13, 2017, counsel for Amtrak contacted counsel for PPL to orally object to the following interrogatories in PPL to Amtrak Set I: Instructions and Definitions Nos. 15 and 16, and Interrogatory Nos. 14, 19-26, and 29.

3. On January 17, 2017, Amtrak served written objections to the above-referenced portions of PPL to Amtrak Set I. A copy of Amtrak's written objections is attached to this Answer as Appendix B. Furthermore, Amtrak's written objections to PPL to Amtrak Set I are restated and discussed in Section II of this Answer.

4. On January 18, 2017, counsel for PPL and Amtrak attempted to informally resolve the objections. PPL agreed to withdraw PPL to Amtrak Set I, No. 14. The parties were unable to resolve Amtrak's objections with respect to PPL to Amtrak Set I, Instructions and Definitions Nos. 15 and 16, and Interrogatory Nos. 19-26 and 29.²

5. While Amtrak understands and acknowledges the general breadth and scope of the Commission's discovery regulations, their reach is not limitless. Discovery must be limited to matters that are relevant to the subject matter of the pending action and reasonably calculated to lead to the discovery of admissible evidence. See 52 Pa. Code § 5.321(c). Although the "claim or defense" of a party can be relevant, Amtrak has not raised its eminent domain authority as a defense

²Amtrak objected to items 15 and 16 in PPL to Amtrak Set I's Instructions and Definitions, yet PPL's Motion does not address that objection. Accordingly, Amtrak did not foresee the need to further discuss that objection in this Answer and respectfully submits that the ALJ should sustain that objection.

in this proceeding. Accordingly, for the reasons set forth below, Amtrak respectfully requests that PPL's Motion be denied with prejudice.

II. ARGUMENT

A. The ALJ Has Substantial Discretion in Ruling on Discovery Issues.

6. The scope of permissible discovery in PUC proceedings is governed by the Commission's Regulations at 52 Pa. Code § 5.321. Section 5.321(c) defines the scope of discovery as follows:

Subject to this subchapter, a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

52 Pa. Code § 5.321(c). Therefore, based upon the plain language of the PUC's discovery rules, PPL does not have unbridled discretion to conduct discovery and the ALJ has ample discretion – consistent with applicable law – to prohibit inquiry into the matters contained in the interrogatories because Amtrak's eminent domain authority is not relevant to this proceeding and is not being raised as a defense against PPL's proposed distribution rate for Rate Schedule LPEP.

B. Amtrak's Objections to PPL to Amtrak Set I, No. 19 are Valid.

7. PPL to Amtrak Set I, No. 19 provides:

See Complaint, ¶ 38. Please explain in detail whether Amtrak intends to acquire:

- (a) All of the equipment and facilities at the Conestoga Substation;

- (b) All of the land upon which the Conestoga Substation is situated;
- (c) The four PPL Electric-owned transmission lines between the Conestoga Substation and the Pennsylvania-Maryland border; and
- (d) All of the PPL Electric-owned transmission line right-of-way between the Conestoga Substation and the Pennsylvania-Maryland border.

8. Amtrak objected to PPL to Amtrak Set I, No. 19 as follows:

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). In addition, Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. At that time, PPL will be informed of the land and equipment that is being acquired through the federal court filings. Accordingly, this interrogatory seeks information on an issue that is beyond the scope of this proceeding and beyond the Commission's jurisdiction.

9. PPL filed the above-referenced Motion to force a response from Amtrak. PPL alleges "[b]y attempting to leverage its eminent domain authority to achieve a forced sale of the Conestoga Substation in this proceeding, Amtrak has opened the door to discovery on the issue of its plans to acquire the Conestoga Substation, and PPL Electric is entitled to discovery that is directly related to the relief requested by Amtrak." Motion, p. 6. PPL claims that the information in PPL to Amtrak, Set I No. 19 is "directly relevant to the outcome of this rate proceeding," that this interrogatory does not require an unreasonable investigation, and that a response to this

interrogatory would somehow lead to clarification on whether PUC approval is required under 66 Pa. C.S. § 1102(a)(3) before Amtrak may seize any portion of the substation, its associated facilities, or other property. Motion at pp. 6-7.

10. Initially, PPL's Motion for this interrogatory, and the others that it seeks to compel, misstates how Amtrak's eminent domain capabilities relate to its Complaint in this proceeding. This proceeding is about a rate for distribution service under Rate Schedule LPEP that PPL filed preemptively before the Company installs utility plant "in service" that PPL believes is needed to upgrade the Conestoga Substation. Amtrak's Complaint against that rate never indicated that the rate should be lower *because* Amtrak has eminent domain authority under 49 U.S.C. § 24311. Instead, Amtrak's Complaint indicated that the PUC should reject PPL's Supplement No. 213 as premature because the upgraded equipment at the Conestoga Substation is not used nor is it useful to PPL in delivering public utility service to the public, and suggested that the entire case may be moot if Amtrak elects to condemn the substation or acquires it by voluntary transaction. Complaint, p. 8. Amtrak also suggested that the schedule for adjudication of this proceeding should be extended to accommodate Amtrak's planned acquisition of the facility (whether by voluntary transaction or by eminent domain). Petition of the National Passenger Railroad Corporation for Amendment of December 22, 2016 Order to Suspend These Proceedings (Updated to Reflect PUC Order Errata), pp. 1-2. Amtrak's explanation of its intentions to acquire the substation was included to alert the Commission of a procedural and legal development that could result in the dedication of resources to issues in PPL's rate request that may render the proceeding unnecessary. Eminent domain is not a defense that Amtrak is asserting to reduce PPL's proposed rate; rather, Amtrak is providing full disclosure of a relevant procedural and legal activity that will occur in another legal forum and be subject to the jurisdiction of the Federal District Court under

49 U.S.C. § 24311 and Fed. R. Civ. P. 71.1 if it occurs. The claimed basis for all of PPL's interrogatories is false.

Furthermore, Amtrak is not seeking in this proceeding to "force" PPL to sell the substation. Amtrak has an obligation to offer to voluntarily purchase the substation from PPL prior to filing for eminent domain. It is PPL's option to sell the substation or not.

11. Because Amtrak is not raising eminent domain as a defense to PPL's proposed rate increase under Supplement No. 213, PPL cannot issue discovery on this issue. *See* 52 Pa. Code § 5.321(c). Amtrak's eminent domain capabilities are irrelevant to and beyond the scope of the above-docketed proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak elects to seize the Conestoga Substation in the future, then PPL will receive the filing explaining the scope of that proceeding and they can conduct their analysis of Amtrak's eminent domain filing at that time, including conducting any discovery regarding that filing under the Federal Rules of Civil Procedure and applicable precedent. Challenges to Amtrak's eminent domain action will be within the exclusive jurisdiction of the Federal District Court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. Moreover, the requested information will not lead to admissible evidence in this proceeding regarding PPL's proposed distribution rate for Rate Schedule LPEP as filed in Supplement No. 213. As such, the request is beyond the scope of permissible discovery in this proceeding and Amtrak's objection is valid.

C. Amtrak's Objections to PPL to Amtrak Set I, No. 20 are Valid.

12. PPL to Amtrak Set I, No. 20 provides:

See Complaint, p. 8, n. 2. Please provide the following with respect to Amtrak's eminent domain authority under 49 U.S.C.S. § 24311:

- (a) A copy of any orders approving or denying Amtrak's proposed condemnation of any property;

- (b) A copy of any pleadings filed by Amtrak seeking to condemn property, whether granted or not; and
- (c) An explanation of how each condemnation proposed by Amtrak, whether granted to not, meets the “necessary for intercity rail passenger transportation” standard in 49 U.S.C.S. § 24311.

13. Amtrak objected to PPL to Amtrak Set I, No. 20 as follows:

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness. 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. Amtrak's prior use of its eminent domain authority is not relevant to the issue in this proceeding, namely the appropriate distribution rate for PPL's service to Amtrak at Conestoga.

Furthermore, a party may not ask interrogatories that would cause unreasonable burden or expense or "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code §§ 5.361(a)(2), (4). Accordingly, Amtrak also objects to this interrogatory on the basis that it would require an investigation into the all of the condemnation orders and pleadings regarding Amtrak's prior proposed condemnations of property. Locating and providing such records covering such a broad period of time would unreasonably burden Amtrak, require Amtrak to incur unreasonable expenses, and constitute an unreasonable investigation. Furthermore, any reported decisions regarding Amtrak's federal condemnation authority are already in the public record and therefore are accessible to PPL.

14. PPL filed the above-referenced Motion to force a response from Amtrak. PPL alleges that the information sought in this interrogatory is "directly relevant to the outcome of this

proceeding" and is therefore "entitled to information concerning the basis for and extent of Amtrak's eminent domain authority." Motion, pp. 8-9. PPL claims that "[b]ecause Amtrak has introduced the issue of its federal eminent domain authority as a defense to the proposed distribution rate increase in this proceeding, PPL Electric is clearly entitled to discovery examining the validity, scope, and ability of Amtrak to exercise federal eminent domain authority over PPL Electric's property and facilit[ies]." *Id.* at p. 9. PPL also suggests a response to this interrogatory is required because there is question as to whether the PUC must approve transfer of the substation and its related facilities pursuant to 66 Pa. C.S. § 1102(a)(3). Motion at p. 9. Accordingly, PPL alleges that this interrogatory would not require an unreasonable investigation. *Id.*

15. PPL applies arguments in support of PPL to Set I, No. 20 which are similar to its arguments in support of PPL to Set I, No. 19. Accordingly, in support of its objections to these interrogatories, Amtrak hereby incorporates by reference its responses in Paragraphs 10-11 of this Answer. This proceeding will not be the proper forum for PPL to contest whether Amtrak properly exercises its eminent domain rights if a voluntary transaction does not occur; rather, that is within the exclusive jurisdiction of the Federal District Court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. Furthermore, PPL can conduct legal research into the decisions regarding Amtrak's use of eminent domain. Moreover, the requested information will not lead to admissible evidence in this proceeding regarding PPL's proposed distribution rate for Rate Schedule LPEP as filed in Supplement No. 213. As such, the request is beyond the scope of permissible discovery in this proceeding and Amtrak's objection is valid

D. Amtrak's Objections to PPL to Amtrak Set I, Nos. 21 and 22 are Valid

16. PPL to Amtrak Set I, No. 21 provides:

See Petition of the National Passenger Railroad Corporation for Amendment of the December 22, 2016 Order to Suspend these Proceedings, ¶ 19. Please provide following:

- (a) The name, address, and phone number of Amtrak's real property appraiser that visited the Conestoga Substation on December 30, 2016;
- (b) A copy of all documents, notes, photographs, and other materials used or relied upon by Amtrak's real property appraiser and its employees or agents during the visit to the Conestoga Substation on December 30, 2016; and
- (c) A copy of all analyses, recommendations, memoranda, studies, proposals, and other documents used or otherwise prepared by Amtrak's real property appraiser and its employees or agents regarding the Conestoga Substation.

17. Amtrak's objection to PPL to Amtrak Set I, No. 21 is as follows:

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). In addition, Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. At that time, PPL will be informed of the land and equipment that is being acquired through the federal court filings. If Amtrak exercises eminent domain, PPL's rights to the requested information, if any, will be covered by the Federal Rules of Civil Procedure and applicable precedent regarding the permissible scope of discovery. The requested information is not relevant to the proposed distribution rate in Supplement No. 213 to Tariff Electric Pa. P.U.C. No. 201 for Rate Schedule LPEP ("Supplement No. 213"). Accordingly, this interrogatory seeks information on an issue that is beyond the scope of this proceeding and beyond the Commission's jurisdiction.

18. PPL to Amtrak Set I, No. 22 provides:

See Petition of the National Passenger Railroad Corporation for Amendment of the December 22, 2016 Order to Suspend these Proceedings, ¶ 19. Please explain the following in detail:

- (a) The method used, or to be used, by Amtrak to determine the value of the facilities at the Conestoga Substation; and
- (b) The method used, or to be used, by Amtrak to determine the value of the land underlying the Conestoga Substation.

19. Amtrak's objection to PPL to Amtrak Set I, No. 22, is as follows:

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). In addition, Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. At that time, PPL will be informed of the land and equipment that is being acquired through the federal court filings. If Amtrak exercises eminent domain, PPL's rights to the requested information, if any, will be covered by the Federal Rules of Civil Procedure and applicable precedent regarding the permissible scope of discovery. The requested information is not relevant to the proposed distribution rate in Supplement No. 213. Accordingly, this interrogatory seeks information on an issue that is beyond the scope of this proceeding and beyond the Commission's jurisdiction.

20. PPL alleges that the information sought in PPL to Amtrak Set I, Nos. 21-22 is relevant because it assesses "Amtrak's defense to the proposed increase of Rate Schedule LPEP." Motion, p. 11. PPL believes that Amtrak's eminent domain plans "will have a direct impact on the distribution rate to be determined in this proceeding" and that information regarding the appraisal of the Conestoga Substation "and the underlying land is necessary to evaluate [sic] Amtrak's

defense to the proposed rate increase in this proceeding." *Id.* (emphasis in original). Again, PPL alleges that "there is a question of whether the Commission must approve any such sale or transfer under 66 Pa. C.S. § 1102(a)(3)" and suggests that this interrogatory would provide clarification. Motion at p. 12.

21. PPL raises the same arguments in support of PPL to Amtrak Set I, Nos. 21-22 as it has raised for PPL to Amtrak Set I, Nos. 19 and 20. Accordingly, Amtrak hereby incorporates by reference its response in Paragraphs 10-11 and 15 of this Answer. In addition, the requested information regarding the identity and valuation methods of Amtrak's appraisers will not lead to admissible evidence in this proceeding regarding PPL's proposed distribution rate for Rate Schedule LPEP as filed in Supplement No. 213. As such, the request is beyond the scope of permissible discovery in this proceeding and Amtrak's objection is valid.

E. Amtrak's Objections to PPL to Amtrak Set I, No. 23 are Valid

22. PPL to Amtrak Set I, No. 23 provides:

See Supplement No. 213, Statement of Reasons, p. 6 and Exhibit 2. In the event that Amtrak acquires the Conestoga Substation, either by sale or condemnation, please explain whether Amtrak intends to pay, reimburse, compensate, or otherwise include in the purchase price/condemnation value the actual project costs already incurred by PPL Electric. Explain your response and reasoning in detail.

23. Amtrak's objection to PPL to Amtrak Set I, No. 23 is as follows:

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). In addition, Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has

no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. At that time, PPL will be informed of the land and equipment that is being acquired through the federal court filings. The requested information is not relevant to the proposed distribution rate in Supplement No. 213. Accordingly, this interrogatory seeks information on an issue that is beyond the scope of this proceeding and beyond the Commission's jurisdiction.

24. PPL alleges that Amtrak should be required to answer PPL to Amtrak Set I, No. 23 because "Amtrak's ability to acquire the Conestoga Substation by eminent domain will immediately and directly affect PPL Electric's ability to recover the upgrade costs it has already incurred for the Conestoga Substation project," and further "[b]ecause Amtrak has proposed to acquire the Conestoga Substation as a defense to the proposed increase of Rate Schedule LPEP, PPL Electric is entitled to discovery concerning how Amtrak intends to handle the actual project costs that PPL Electric has already incurred in the event that Amtrak is successful in acquiring the Conestoga Substation." Motion, p. 13. In addition, PPL continues to allege that it is "entitled to examine the basis of Amtrak's defense to the proposed increase to Rate Schedule LPEP, which will have a direct impact on the rate determined in this proceeding." *Id.* (*emphasis in original*) Moreover, PPL again suggests that Amtrak should be required to respond to this discovery question because "there is a question of whether the Commission must approve any such sale or transfer under 66 Pa. C.S. § 1102(a)(3)." Motion at p. 13.³

³ PPL also raised allegations concerning Amtrak's challenge to the \$126,323.59 monthly customer charge that PPL is presently charging Amtrak under Rate Schedule LPEP. PPL alleged that "the information sought in PPL to Amtrak Set I, No. 23 is directly relevant to Amtrak's challenge to the existing rate under Rate Schedule LPEP." Motion, p. 14. On January 18, 2017, the Commission dismissed Amtrak's New Matter alleging that the tariffed rate of \$126,323.59 is unjust and unreasonable after September 1, 2016. Therefore, Amtrak sees no need to respond to PPL's allegations in Paragraph 23 of its Motion. To the extent a response is required, Amtrak denies the veracity of PPL's averments therein.

25. PPL's arguments in support of PPL to Amtrak Set I, No. 23 are similar to PPL's arguments in support of Amtrak Set I, Nos. 19-22. Accordingly, Amtrak hereby incorporates by reference its response in Paragraphs 10-11, 15, and 21 of this Answer. The appropriate treatment (if any) of the costs identified in this interrogatory will be within the jurisdiction of the Federal District Court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. Moreover, the requested information will not lead to admissible evidence in this proceeding regarding PPL's proposed distribution rate for Rate Schedule LPEP as filed in Supplement No. 213. As such, the request is beyond the scope of permissible discovery in this proceeding and Amtrak's objection is valid

F. Amtrak's Objections to PPL to Amtrak Set I, No. 24 are Valid.

26. PPL to Amtrak Set I, No. 24, provides:

In the event that Amtrak acquires the Conestoga Substation, please explain in detail whether Amtrak intends to:

- (a) Operate and maintain the Conestoga Substation;
- (b) Operate and maintain the four transmission lines between the Conestoga Substation and the Pennsylvania-Maryland border; and
- (c) Operate and maintain the transmission line right-of-way between the Conestoga Substation and the Pennsylvania-Maryland border.

27. In response, Amtrak objected as follows:

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). In addition, Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain

authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. At that time, PPL will be informed of the land and equipment that is being acquired through the federal court filings. The requested information is not relevant to the proposed distribution rate in Supplement No. 213. Accordingly, this interrogatory seeks information on an issue that is beyond the scope of this proceeding and beyond the Commission's jurisdiction.

28. In its Motion, PPL alleges that Amtrak's objections are without merit. Motion at pp. 14-16. PPL claims Amtrak cannot use its eminent domain authority as a defense in this proceeding and yet claim the defense is irrelevant. Further, PPL claims that information regarding Amtrak's "intent to operate and maintain the Conestoga Substation and related facilities may impact the rates to be determined in this proceeding." *Id.* at 15. PPL also presumes that if Amtrak acquires the Conestoga Substation, "the rates to be charged if PPL Electric is required to continue to operate and maintain the Conestoga Substation and related facilities is a matter clearly and exclusively within the Commission's jurisdiction." *Id.* Further, PPL avers that this interrogatory is appropriate because it addresses whether PUC approval is required under 66 Pa. C.S. § 1102(a)(3) before Amtrak may acquire all or a portion of the Conestoga Substation and its related land and facilities. *Id.* As a result, PPL believes that the information in PPL to Amtrak Set I, No. 24 is relevant to the rates to be determined in this proceeding. *Id.* at 14-16.

29. PPL raises arguments in support of PPL to Amtrak Set I, No. 24 which are similar to the arguments PPL raised in support of Amtrak Set I, Nos. 19-23. Accordingly, Amtrak hereby incorporates by reference its responses in Paragraphs 10-11, 15, 21, and 25 of this Answer. The Federal District Court will determine the timing and conditions of Amtrak's possession of the Conestoga Substation, including any operational control issues. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. Moreover, the requested information will not lead to admissible evidence in this

proceeding regarding PPL's proposed distribution rate for Rate Schedule LPEP as filed in Supplement No. 213. As such, the request is beyond the scope of permissible discovery in this proceeding and Amtrak's objection is valid.

G. Amtrak's Objections to PPL to Amtrak Set I, Nos. 25-26 are Valid.

30. PPL to Amtrak Set I, No. 25 provides:

Explain in detail whether Amtrak believes Commission approval is required under 66 Pa.C.S. § 1102 before the Conestoga Substation may be acquired by Amtrak.

31. In response, Amtrak served the following objection:

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). In addition, Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. At that time, PPL will be informed of the land and equipment that is being acquired through the federal court filings. If Amtrak exercises eminent domain, PPL's rights to the requested information, if any, will be covered by the Federal Rules of Civil Procedure and applicable precedent regarding the permissible scope of discovery. The requested information is not relevant to the proposed distribution rate in Supplement No. 213. Accordingly, this interrogatory seeks information on an issue that is beyond the scope of this proceeding and beyond the Commission's jurisdiction.

32. PPL to Amtrak Set I, No. 26 provides:

Explain in detail whether Amtrak believes Commission approval is required under 66 Pa.C.S. § 1102 before the transmission lines interconnected with the Conestoga Substation may be acquired by Amtrak.

33. In response, Amtrak served the following objection:

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). In addition, Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. At that time, PPL will be informed of the land and equipment that is being acquired through the federal court filings. If Amtrak exercises eminent domain, PPL's rights to the requested information, if any, will be covered by the Federal Rules of Civil Procedure and applicable precedent regarding the permissible scope of discovery. The requested information is not relevant to the proposed distribution rate in Supplement No. 213. Accordingly, this interrogatory seeks information on an issue that is beyond the scope of this proceeding and beyond the Commission's jurisdiction.

34. PPL alleges that Amtrak's objections should be dismissed because the "information sought in PPL to Amtrak Set I, Nos. 25 and 26 relates to an issue within the Commission's jurisdiction." Motion, p. 16. PPL further adds that such discovery would clarify "whether Commission approval is required under 66 Pa. C.S. § 1102(a)(3) before any portion of the substation, associated facilities, or land may be transferred . . . from PPL Electric to Amtrak." Motion at 17. PPL also claims that it should be permitted to test and evaluate Amtrak's intent to acquire the Conestoga Substation and adds that the information in PPL to Amtrak Set I, Nos. 25 and 26 are "reasonably calculated to lead to the discovery of evidence relevant to Amtrak's claims and defenses in this proceeding." *Id.*

35. PPL raises arguments in support of PPL to Amtrak Set I, Nos. 25-26 which are very similar to the arguments PPL uses to support Amtrak Set I, Nos. 19-24. Accordingly, Amtrak hereby incorporates by reference its responses in Paragraphs 10-11, 15, 21, 25, and 29 of this Answer. Most importantly, the Federal District Court would be the appropriate forum for PPL to raise any challenges to Amtrak's exercise of eminent domain, not the current proceeding to review PPL's proposed rate for Rate Schedule LPEP.

36. Finally, Amtrak responded to PPL to Amtrak Set I, No. 25 as follows:

Amtrak objected to this Interrogatory on January 17, 2017. Without waiver of this objection, Amtrak responds as follows:

The Pennsylvania Public Utility Commission has no authority over Amtrak's exercise of eminent domain or to regulate Amtrak facilities. *See*, 49 U.S.C. §§ 24301(g), 24301(l), 24311, and 24902(j), FRCP 71.1; *See also*, *National Railroad Passenger Corp. v. Boston and Maine Corp.*, 503 U.S. 407 (1992); *National Railroad Passenger Corp. v. Two Parcels of Land*, 822 F.2d 1261 (2nd Cir. 1987); *Union Center Redevelopment Corp. v. National Railroad Passenger Corp.*, 103 F.3d 62 (8th Cir. 1998); *UGI Utilities, Inc. v. National Railroad Passenger Corp.*, 2004 U.S. Dist. LEXIS 29305 (M.D. Pa. July 2, 2004); *National Railroad Passenger Corp. v. Colonial Pipeline*, No. 05-2267, 2006 WL 236788 (D. Md. Jan. 31, 2006); *National Railroad Passenger Corp. v. Pennsylvania Pub. Utility Commission*, 342 F.3d 242 (3rd Cir. 2003); *National Railroad Passenger Corp. v. Caln Township*, 2010 WL 92518 (E.D. Pa. Jan. 8, 2010).

H. Amtrak's Objections to PPL to Amtrak Set I, No. 29 are Valid.

37. PPL to Amtrak Set I, No. 29 provides:

In the event Amtrak acquires the Conestoga Substation, by sale or condemnation, please explain in detail:

- (a) How the acquisition costs will be financed;
- (b) How the acquisition costs will be recovered; and

- (c) Whether any other entities, persons, affiliates, rail systems, or other commuter railroads will directly or indirectly pay for the acquisition costs.

38. In response, Amtrak served the following objection:

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). In addition, Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. At that time, PPL will be informed of the land and equipment that is being acquired through the federal court filings. If Amtrak exercises eminent domain, PPL's rights to the requested information, if any, will be covered by the Federal Rules of Civil Procedure and applicable precedent regarding the permissible scope of discovery. The requested information is not relevant to the proposed distribution rate in Supplement No. 213. Accordingly, this interrogatory seeks information on an issue that is beyond the scope of this proceeding and beyond the Commission's jurisdiction.

39. PPL avers that Amtrak should be required to answer this interrogatory because "Amtrak has already acquiesced to the relevance of the information sought in PPL to Amtrak Set I, No. 29 . . . [I]n the 2015 base rate case . . . Amtrak raised the issue of its ability to request contributions from other commuter rail operators as a defense to the proposed increase to Rate Schedule LPEP . . . Amtrak also stated that it 'has access to lower cost funding compared to PPL's cost of capital.'" Motion, p. 18 (*citing* PPLICA Statement No. 1 at Docket No. R-2015-2469275, pp. 5-7). As such, PPL believes that "by its own admission, Amtrak believes the information sought in PPL to Amtrak Set I, No. 29 is relevant to the rate to be determined in this proceeding."

Id. PPL also adds that this discovery is important to determining whether PUC approval is required under 66 Pa. C.S. § 1102(a)(3) for a sale or transfer of any portion of the substation and its associated property. *Id.*

40. PPL raises arguments in support of PPL to Amtrak Set I, No. 29 which are very similar to the arguments PPL uses to support Amtrak Set I, Nos. 19-26. As such, Amtrak incorporates by reference its replies in Paragraphs 10-11, 15, 21, 25, 29, 35, and 36 of this Answer. By way of further response, PPL mischaracterizes how Amtrak's eminent domain capabilities relate to this proceeding. Amtrak never asserted its eminent domain authority as a defense against the rate increase. *See* Complaint, p. 8. Essentially, PPL believes that it is entitled to test Amtrak's eminent domain authority because Amtrak merely mentioned it possessed this capability in its Complaint. Furthermore, the PPLICA testimony cited by PPL addressed Contribution in Aid of Construction, not eminent domain. Accordingly, the "door" to discovery on Amtrak's eminent domain capabilities is not opened by the 2015 rate case or any of Amtrak's pleadings in this proceeding. Finally, the requested information will not lead to admissible evidence in this proceeding regarding PPL's proposed distribution rate for Rate Schedule LPEP as filed in Supplement No. 213. As such, the request is beyond the scope of permissible discovery in this proceeding and Amtrak's objection is valid.


IV. CONCLUSION

41. Amtrak should not be compelled to respond to PPL to Amtrak Set I, Nos. 19-26 and 29 for the reasons specified herein.

WHEREFORE, Amtrak requests that PPL's Motion be denied with prejudice and the Commission grant Amtrak such other relief as is just and reasonable under the circumstances.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 
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Adeolu A. Bakare (Pa I.D. No. 208541)
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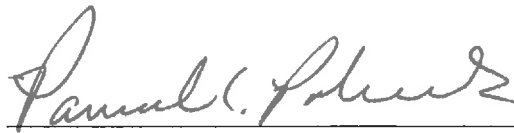
Counsel to National Railroad Passenger
Corporation

Dated: January 24, 2017

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA :
: SS:
COUNTY OF DAUPHIN :


Pamela C. Polacek, being duly sworn according to law, deposes and says that she is counsel to National Railroad Passenger Corporation, that in this capacity she is authorized to and does make this affidavit for them, and that the facts set forth in the foregoing Answer to the Motion of PPL Electric Utilities Corporation ("PPL") to Dismiss Objections and Compel Responses to Discovery Propounded on National Railroad Passenger Corporation – Set I ("Answer") filed by National Railroad Passenger Corporation are true and correct to the best of her knowledge, information, and belief.



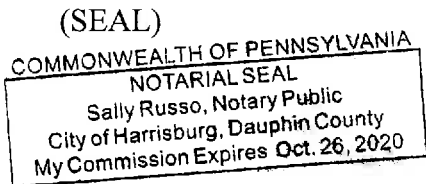
Pamela C. Polacek

Sworn to and Subscribed before me

this 24th day of January, 2017.



Notary Public



APPENDIX A



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Christopher T. Wright

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File #: 167272

January 11, 2017

VIA E-MAIL & REGULAR MAIL

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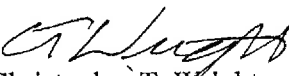
**Re: National Railroad Passenger Corporation v. PPL Electric Utilities Corporation
Docket No. C-2016-2580526**

**PPL Electric Utilities Corporation Supplement No. 213 to Tariff - Electric Pa.
P.U.C. No. 201 - Docket No. R-2016-2569975**

Dear Counsel:

Enclosed please find Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation on The National Railroad Passenger Corporation – Set I, in the above-referenced proceedings. Copies will be provided as indicated on the Certificate of Service.

Sincerely,


Christopher T. Wright

CTW/jl
Enclosures

cc: Rosemary Chiavetta, Secretary (*Letter & Certificate of Service Only*)
Certificate of Service

CERTIFICATE OF SERVICE

(Docket Nos. C-2016-2580526 & R-2016-2569975)

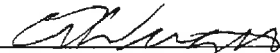
I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL & FIRST CLASS MAIL

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Bureau of Investigation & Enforcement
PA Public Utility Commission
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Harrisburg, PA 17105-3265

Date: January 11, 2017



Christopher T. Wright

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
v.	:	Docket No. R-2016-2569975
PPL Electric Utilities Corporation	:	
Supplement No. 213 to Tariff – Electric	:	
Pa. P.U.C. No. 201	:	
	:	
	:	
National Railroad Passenger Corporation	:	
v.	:	Docket No. C-2016-2580526
PPL Electric Utilities Corporation	:	

**INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED
BY PPL ELECTRIC UTILITIES CORPORATION
ON THE NATIONAL RAILROAD PASSENGER CORPORATION
SET I**

Pursuant to 66 Pa.C.S. § 333 and 52 Pa. Code §§ 5.341 *et seq.*, PPL Electric Utilities Corporation (“PPL Electric”) propounds the following Interrogatories and Requests for Production of Documents (hereinafter, “discovery requests”) on the National Railroad Passenger Corporation (“Atmrak”) – Set I.

INSTRUCTIONS AND DEFINITIONS

1. The “Responding Party,” “you,” or “your” means the party to which these discovery requests are propounded and/or all attorneys, agents, affiliates, subsidiaries, employees, consultants, members, constituents, and representatives acting on behalf of the Responding Party.

2. The “PUC” or “Commission” means the Pennsylvania Public Utility Commission.

3. To “identify” a natural person means to state that person’s full name, title or position, employer, last known address, and last known telephone number.

4. To “identify” a business entity means to state the full name of such business, the form of the business, and its location or address.

5. To “identify” a “document” means to provide all of the following information irrespective of whether the document is deemed privileged or subject to any claim of privilege:

- a. The title or other means of identification of each such document;
- b. The date of each such document;
- c. The author, preparer or signer of each such document; and
- d. A description of the subject matter of such document sufficient to permit an understanding of its contents and importance to the testimony or position being examined and the present or last known location of the document. The specific nature of the document should also be stated (*e.g.*, letter, business record, memorandum, computer print-out, etc.).

In lieu of “identifying” any document, it shall be deemed a sufficient compliance with these discovery requests to attach a copy of each such document to the answers hereto and reference said document in the particular interrogatory to which the document is responsive.

6. “Document” means the original and all drafts of all written and graphic matter, however produced or reproduced, of any kind or description, whether or not sent or received, and all copies thereof which are different in any way from the original (whether by interlineation, date-stamp, notarization, indication of copies sent or received, or otherwise), including without limitation, any paper, book, account, photograph, blueprint, drawing, sketch, schematic, agreement, contract, memorandum, press release, circular, advertising material, correspondence, letter, telegram, telex, object, report, opinion, investigation, record, transcript, hearing, meeting, study, notation, working paper, summary, intra-office communication, diary, chart, minutes, index sheet, computer software, computer-generated records or files, however

stored, check, check stub, delivery ticket, bill of lading, invoice, record or recording or summary of any telephone or other conversation, or of any interview or of any conference, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter of which the Responding Party has or has had possession, custody or control, or of which the Responding Party has knowledge.

7. "Communication" means any manner or form of information or message transmission, however produced or reproduced, whether as a document as herein defined, or orally or otherwise, which is made, distributed, or circulated between or among persons, or data storage or processing units.

8. "Date" means the exact day, month, and year, if ascertainable, or if not, the best approximation thereof.

9. Items referred to in the singular include those in the plural, and items referred to in the plural include those in the singular.

10. Items referred to in the masculine include those in the feminine, and items referred to in the feminine include those in the masculine.

11. The answers provided to these discovery requests should first restate the question asked and identify the person(s) supplying the information.

12. In answering these discovery requests, the Responding Party is requested to furnish all information that is available to the Responding Party, including information in the possession of the Responding Party's attorneys, agents, consultants, or investigators, and not merely such information of the Responding Party's own knowledge. If any of the discovery requests cannot be answered in full after exercising due diligence to secure the requested information, please so state and answer to the extent possible, specifying the Responding

Party's inability to answer the remainder, and stating whatever information the Responding Party has concerning the unanswered portions. If the Responding Party's answer is qualified in any particular, please set forth the details of such qualification.

13. If the Responding Party objects to providing any document requested on any ground, identify such document by describing it as set forth in Instruction 5 and state the basis of the objection.

14. If the Responding Party objects to part of a discovery request and refuses to answer that part, state the Responding Party's objection and answer the remaining portion of that discovery request. If the Responding Party objects to the scope or time period of a discovery request and refuses to answer for that scope or time period, state the Responding Party's objection and answer the discovery request for the scope or time period that the Responding Party believes is appropriate.

15. If, in connection with a discovery request, the Responding Party contends that any information, otherwise subject to discovery, is covered by either the attorney-client privilege, the so-called "attorneys' work product doctrine," or any other privilege or doctrine, then specify the general subject matter of the information and the basis to support each such objection.

16. If any information is withheld on grounds of privilege or other protection from disclosure, provide the following information: (a) every person to whom such information has been communicated and from whom such information was learned; (b) the nature and subject matter of the information; and (c) the basis on which the privilege or other protection from disclosure is claimed.

17. As set forth in 52 Pa. Code § 5.342(g), these discovery requests are continuing and the Responding Party is obliged to change, supplement, and correct all answers given to conform to new or changing information.

18. The “2015 Base Rate Case” means PPL Electric’s 2015 distribution base rate case at Docket No. R-2015-2469275.

19. The “2015 Settlement” means the Joint Petition for Settlement filed on September 3, 2015, in PPL Electric’s 2015 base rate case at Docket No. R-2015-2469275.

20. The “Mutual Settlement Agreement” means the September 16, 2015 agreement between PPL Electric and Amtrak that is attached as Exhibit B to Amtrak’s Complaint at Docket No. C-2016-2580526.

21. “PPLICA” means the PP&L Industrial Customer Alliance.

**INTERROGATORIES, REQUESTS FOR PRODUCTION OF
DOCUMENTS AND REQUESTS FOR ADMISSION
ON AMTRAK – SET I**

PPL to Amtrak-I-1

See Complaint, Exhibit B, ¶ 1. Does Amtrak agree that substantial upgrades to the Conestoga Substation are required to provide reasonably continuous, reliable, and safe service to Amtrak? If not, explain your response in detail.

PPL to Amtrak-I-2

Please explain in detail the impact that the loss of the Conestoga Substation would have on Amtrak's operations.

PPL to Amtrak-I-3

Please explain in detail whether Amtrak has any alternate sources of supply if an outage were to occur at the Conestoga Substation.

PPL to Amtrak-I-4

Please describe any equipment failures of Amtrak equipment at Conestoga. In your description, please also include:

- (a) The reason the for the failure;
- (b) The date the of the failure;
- (c) The status of the failed equipment today; and
- (d) If and when the failed equipment will be returned to service.

PPL to Amtrak-I-5

Please describe the material condition of equipment in the Conestoga substation.

PPL to Amtrak-I-6

Please provide any analyses, studies, or reports describing safety concerns with degraded equipment at Conestoga.

PPL to Amtrak-I-7

See Complaint, Exhibit B, ¶ 2. Confirm whether Amtrak is the only customer served by the Conestoga Substation. If not, explain your response in detail.

PPL to Amtrak-I-8

Identify and describe in detail all locations that Amtrak receives service from the Conestoga Substation.

PPL to Amtrak-I-9

Explain in detail how Amtrak uses the power received from the Conestoga Substation.

PPL to Amtrak-I-10

Explain in detail whether the power received from the Conestoga Substation is, by any method or device whatsoever, used by any other entities, persons, affiliates, rail systems, or commuter railroads other than Amtrak. In responding to this interrogatory, please also provide the following:

- (a) Identify the entities, persons, affiliates, rail systems, or commuter railroads;
- (b) Explain how the power received from the Conestoga Substation is conveyed, transferred, sold, or otherwise provided to the entities, persons, affiliates, rail systems, or commuter railroads;
- (c) Explain in detail the fees, charges, rates, or other means paid by any other entities, persons, affiliates, rail systems, or commuter railroads other than Amtrak for the power received from the Conestoga Substation;
- (d) Explain in detail how Amtrak recovers the fees, charges, rates, or other means paid by any other entities, persons, affiliates, rail systems, or

commuter railroads other than Amtrak for the power received from the Conestoga Substation;

- (e) A copy of any agreements or contracts between Amtrak and any other entities, persons, affiliates, rail systems, or commuter railroads regarding the power received from the Conestoga Substation;
- (f) A copy of any agreements or contracts between Amtrak and any other entities, persons, affiliates, rail systems, or commuter railroads regarding 25 Hz power.

PPL to Amtrak-I-11

Explain in detail how much of the power received from the Conestoga Substation is directly used by Amtrak and how much is provided to or used by third-parties.

PPL to Amtrak-I-12

See Complaint, Exhibit B, ¶ 3. Does Amtrak agree it is responsible for the reasonable and prudent costs to upgrade the Conestoga Substation? If not, explain your response in detail.

PPL to Amtrak-I-13

Explain in detail how Amtrak recovers the costs incurred for power and electric service received from the Conestoga Substation.

PPL to Amtrak-I-14

Please explain in detail the terms, conditions, and rates for the electricity supplied to Amtrak from the Safe Harbor power plant.

PPL to Amtrak-I-15

Does Amtrak agree that PPL Electric proposed in the 2015 base rate case that the upgrades needed to Conestoga Substation be placed in-service on or before the end of the fully projected future test year for the 2015 base rate case, *i.e.*, on or before December 31, 2016? In not, explain your response in detail.

PPL to Amtrak-I-16

See Complaint, Exhibit B, ¶¶ 4, 7. Confirm whether Amtrak agreed that PPL Electric would temporarily discontinue work on the Conestoga Substation while PPL Electric and Amtrak attempted to resolve the open issues regarding the upgrade of the Conestoga Substation? If not, explain your response in detail.

PPL to Amtrak-I-17

See Complaint, Exhibit B, ¶¶ 4, 7. Does Amtrak agree that, but for the agreement that PPL Electric would temporarily discontinue work on the Conestoga Substation, PPL Electric would have continued to undertake the upgrades required at the Conestoga Substation? If not, explain your response in detail.

PPL to Amtrak-I-18

Explain in detail whether Amtrak is aware that PPL Electric incurred costs associated with the upgrades to the Conestoga Substation prior to Amtrak and PPL Electric entering into the Mutual Settlement Agreement on September 16, 2015.

PPL to Amtrak-I-19

See Complaint, ¶ 38. Please explain in detail whether Amtrak intends to acquire:

- (a) All of the equipment and facilities at the Conestoga Substation;
- (b) All of the land upon which the Conestoga Substation is situated;
- (c) The four PPL Electric-owned transmission lines between the Conestoga Substation and the Pennsylvania-Maryland border; and
- (d) All of the PPL Electric-owned transmission line right-of-way between the Conestoga Substation and the Pennsylvania-Maryland border.

PPL to Amtrak-I-20

See Complaint, p. 8, n. 2. Please provide the following with respect to Amtrak's eminent domain authority under 49 U.S.C.S. § 24311:

- (a) A copy of any orders approving or denying Amtrak's proposed condemnation of any property;
- (b) A copy of any pleadings filed by Amtrak seeking to condemn property, whether granted or not; and
- (c) An explanation of how each condemnation proposed by Amtrak, whether granted to not, meets the "necessary for intercity rail passenger transportation" standard in 49 U.S.C.S. § 24311.

PPL to Amtrak-I-21

See Petition of the National Passenger Railroad Corporation for Amendment of the December 22, 2016 Order to Suspend these Proceedings, ¶ 19. Please provide following:

- (a) The name, address, and phone number of Amtrak's real property appraiser that visited the Conestoga Substation on December 30, 2016;
- (b) A copy of all documents, notes, photographs, and other materials used or relied upon by Amtrak's real property appraiser and its employees or agents during the visit to the Conestoga Substation on December 30, 2016; and
- (c) A copy of all analyses, recommendations, memoranda, studies, proposals, and other documents used or otherwise prepared by Amtrak's real property appraiser and its employees or agents regarding the Conestoga Substation.

PPL to Amtrak-I-22

See Petition of the National Passenger Railroad Corporation for Amendment of the December 22, 2016 Order to Suspend these Proceedings, ¶ 19. Please explain the following in detail:

- (a) The method used, or to be used, by Amtrak to determine the value of the facilities at the Conestoga Substation; and

- (b) The method used, or to be used, by Amtrak to determine the value of the land underlying the Conestoga Substation.

PPL to Amtrak-I-23

See Supplement No. 213, Statement of Reasons, p. 6 and Exhibit 2. In the event that Amtrak acquires the Conestoga Substation, either by sale or condemnation, please explain whether Amtrak intends to pay, reimburse, compensate, or otherwise include in the purchase price/condemnation value the actual project costs already incurred by PPL Electric. Explain your response and reasoning in detail.

PPL to Amtrak-I-24

In the event that Amtrak acquires the Conestoga Substation, please explain in detail whether Amtrak intends to:

- (a) Operate and maintain the Conestoga Substation;
- (b) Operate and maintain the four transmission lines between the Conestoga Substation and the Pennsylvania-Maryland border; and
- (c) Operate and maintain the transmission line right-of-way between the Conestoga Substation and the Pennsylvania-Maryland border.

PPL to Amtrak-I-25

Explain in detail whether Amtrak believes Commission approval is required under 66 Pa.C.S. § 1102 before the Conestoga Substation may be acquired by Amtrak.

PPL to Amtrak-I-26

Explain in detail whether Amtrak believes Commission approval is required under 66 Pa.C.S. § 1102 before the transmission lines interconnected with the Conestoga Substation may be acquired by Amtrak.

PPL to Amtrak-I-27

Please explain in detail whether Amtrak is willing to accept an agreement that does not include a sale of the Conestoga Substation and allows PPL to receive a return on the investment to resolve the proposed Rate Schedule LPEP.

PPL to Amtrak-I-28

Please explain in detail whether Amtrak is willing to provide a partial contribution in aid of construction for the upgrades required at the Conestoga Substation to resolve the proposed Rate Schedule LPEP. Explain your response and reasoning in detail.

PPL to Amtrak-I-29

In the event Amtrak acquires the Conestoga Substation, by sale or condemnation, please explain in detail:

- (a) How the acquisition costs will be financed;
- (b) How the acquisition costs will be recovered; and
- (c) Whether any other entities, persons, affiliates, rail systems, or other commuter railroads will directly or indirectly pay for the acquisition costs.

APPENDIX B



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January 17, 2017

Honorable David A. Salapa
Administrative Law Judge
Pennsylvania Public Utility Commission
400 North Street, 2nd Floor West
Harrisburg, PA 17105-3265

VIA EMAIL AND FIRST CLASS MAIL

**RE: National Railroad Passenger Corporation v. PPL Electric Utilities Corporation;
Docket No. C-2016-2580526**

**PPL Electric Utilities Corporation Supplement No. 213 to Tariff Electric P.A. PUC No.
201 for Rate Schedule LPEP; Docket No. R-2016-2569975**

Dear Judge Salapa:

Enclosed please find the National Railroad Passenger Corporation's ("Amtrak") Objections to Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation ("PPL"), Set I. As shown on the attached Certificate of Service, all parties to this proceeding are being duly served. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read 'Pamela C. Polacek', written over a white background.

Pamela C. Polacek

Counsel to National Railroad Passenger Corporation ("Amtrak")

Enclosures

c: Rosemary Chiavetta, Secretary (Letter and Certificate of Service only – via electronic filing)
Certificate of Service

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

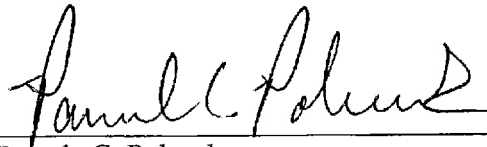
VIA E-MAIL AND FIRST CLASS MAIL

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Pamela C. Polacek

Counsel to National Railroad Passenger
Corporation

Dated this 17 day of January, 2017, at Harrisburg, Pennsylvania.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

NATIONAL RAILROAD PASSENGER CORPORATION	:	
	:	
COMPLAINANT	:	Docket No. C-2016-2580526
	:	
v.	:	
	:	
PPL ELECTRIC UTILITIES CORPORATION,	:	
	:	
RESPONDENT	:	
	:	
PPL ELECTRIC UTILITIES CORPORATION	:	
SUPPLEMENT NO. 213 TO TARIFF	:	Docket No. R-2016-2569975
ELECTRIC PA PUC NO. 201 FOR RATE	:	
SCHEDULE LPEP	:	

**NATIONAL RAILROAD PASSENGER CORPORATION OBJECTIONS TO
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS
PROPOUNDED BY PPL ELECTRIC UTILITIES CORPORATION – SET I**

Pursuant to 52 Pa. Code §§ 5.342(c) and (e), as modified by Prehearing Order #2 dated January 6, 2017, in the above-captioned docket, National Railroad Passenger Corporation ("Amtrak") hereby objects to portions of PPL Electric Utilities Corporation's ("PPL") "Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation on The National Railroad Passenger Corporation – Set I," served on January 11, 2017. Amtrak conveyed its oral objections on Friday, January 13, 2017.

**NATIONAL RAILROAD PASSENGER CORPORATION OBJECTIONS TO
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS
PROPOUNDED BY PPL ELECTRIC UTILITIES CORPORATION – SET I**

DOCKET NOS. R-2015-2569975 AND C-2016-2580526

PPL to Amtrak, Set I, Instructions and Definitions

15. If, in connection with a discovery request, the Responding Party contends that any information, otherwise subject to discovery, is covered by either the attorney-client privilege, the so-called “attorneys’ work product doctrine,” or any other privilege or doctrine, then specify the general subject matter of the information and the basis to support each such objection.

16. If any information is withheld on grounds of privilege or other protection from disclosure, provide the following information: (a) every person to whom such information has been communicated and from whom such information was learned; (b) the nature and subject matter of the information; and (c) the basis on which the privilege or other protection from disclosure is claimed.

Objection

A party may not ask interrogatories which “[r]elates to matter which is privileged.” 52 Pa. Code § 5.361(a)(3). Consistent with Section 5.361(a)(3), privileged information, or information related to privileged matters is not properly subject to discovery. *Id.* While PPL has acknowledged that privileged documents are not subject to discovery, the above instruction would require Amtrak to furnish information related to privileged matters, contrary to Section 5.361(a)(3) of the Commission's Regulations. *Id.*

**NATIONAL RAILROAD PASSENGER CORPORATION OBJECTIONS TO
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DOCKET NOS. R-2015-2569975 AND C-2016-2580526

PPL to Amtrak-I-14

Please explain in detail the terms, conditions, and rates for the electricity supplied to Amtrak from the Safe Harbor power plant.

Objection

The scope of discovery is limited to "any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party . . ." 52 Pa. Code § 5.321(c). The information sought must be "reasonably calculated to lead to the discovery of admissible evidence." *Id.* Amtrak objects to this interrogatory on the grounds that it is not relevant to this proceeding nor likely to lead to the discovery of admissible evidence. The details of Amtrak's power supply arrangements are not relevant to the issues in this proceeding, which address the proper distribution rates for PPL's service to Amtrak. Distribution and generation supply are unbundled services under the Public Utility Code and are provided by different entities. Accordingly, PPL to Amtrak-I-14 is beyond the scope of discovery under Section 5.321(c) of the Commission's Regulations. *Id.*

**NATIONAL RAILROAD PASSENGER CORPORATION OBJECTIONS TO
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DOCKET NOS. R-2015-2569975 AND C-2016-2580526

PPL to Amtrak-I-19

See Complaint, ¶ 38. Please explain in detail whether Amtrak intends to acquire:

- (a) All of the equipment and facilities at the Conestoga Substation;
- (b) All of the land upon which the Conestoga Substation is situated;
- (c) The four PPL Electric-owned transmission lines between the Conestoga Substation and the Pennsylvania-Maryland border; and
- (d) All of the PPL Electric-owned transmission line right-of-way between the Conestoga Substation and the Pennsylvania-Maryland border.

Objection

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). In addition, Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. At that time, PPL will be informed of the land and equipment that is being acquired through the federal court filings. Accordingly, this interrogatory seeks information on an issue that is beyond the scope of this proceeding and beyond the Commission's jurisdiction.

**NATIONAL RAILROAD PASSENGER CORPORATION OBJECTIONS TO
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS
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DOCKET NOS. R-2015-2569975 AND C-2016-2580526

PPL to Amtrak-I-20

See Complaint, p. 8, n. 2. Please provide the following with respect to Amtrak's eminent domain authority under 49 U.S.C.S. § 24311:

- (a) A copy of any orders approving or denying Amtrak's proposed condemnation of any property;
- (b) A copy of any pleadings filed by Amtrak seeking to condemn property, whether granted or not; and
- (c) An explanation of how each condemnation proposed by Amtrak, whether granted to not, meets the "necessary for intercity rail passenger transportation" standard in 49 U.S.C.S. § 24311.

Objection

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness. 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. Amtrak's prior use of its eminent domain authority is not relevant to the issue in this proceeding, namely the appropriate distribution rate for PPL's service to Amtrak at Conestoga.

Furthermore, a party may not ask interrogatories that would cause unreasonable burden or expense or "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code §§ 5.361(a)(2), (4). Accordingly, Amtrak also objects to this interrogatory on the basis that it would require an investigation into the all of the condemnation orders and pleadings regarding Amtrak's prior proposed condemnations of property. Locating and providing such records covering such a broad period of time would unreasonably burden Amtrak, require Amtrak to incur unreasonable expenses, and constitute an unreasonable investigation. Furthermore, any reported decisions regarding Amtrak's federal condemnation authority are already in the public record and therefore are accessible to PPL.

**NATIONAL RAILROAD PASSENGER CORPORATION OBJECTIONS TO
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DOCKET NOS. R-2015-2569975 AND C-2016-2580526

PPL to Amtrak-I-21

See Petition of the National Passenger Railroad Corporation for Amendment of the December 22, 2016 Order to Suspend these Proceedings, ¶ 19. Please provide following:

- (a) The name, address, and phone number of Amtrak's real property appraiser that visited the Conestoga Substation on December 30, 2016;
- (b) A copy of all documents, notes, photographs, and other materials used or relied upon by Amtrak's real property appraiser and its employees or agents during the visit to the Conestoga Substation on December 30, 2016; and
- (c) A copy of all analyses, recommendations, memoranda, studies, proposals, and other documents used or otherwise prepared by Amtrak's real property appraiser and its employees or agents regarding the Conestoga Substation.

Objection

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). In addition, Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. At that time, PPL will be informed of the land and equipment that is being acquired through the federal court filings. If Amtrak exercises eminent domain, PPL's rights to the requested information, if any, will be covered by the Federal Rules of Civil Procedure and applicable precedent regarding the permissible scope of discovery. The requested information is not relevant to the proposed distribution rate in Supplement No. 213 to Tariff Electric Pa. P.U.C. No. 201 for Rate Schedule LPEP ("Supplement No. 213"). Accordingly, this interrogatory seeks information on an issue that is beyond the scope of this proceeding and beyond the Commission's jurisdiction.

**NATIONAL RAILROAD PASSENGER CORPORATION OBJECTIONS TO
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS
PROPOUNDED BY PPL ELECTRIC UTILITIES CORPORATION – SET I**

DOCKET NOS. R-2015-2569975 AND C-2016-2580526

PPL to Amtrak-I-22

See Petition of the National Passenger Railroad Corporation for Amendment of the December 22, 2016 Order to Suspend these Proceedings, ¶ 19. Please explain the following in detail:

- (a) The method used, or to be used, by Amtrak to determine the value of the facilities at the Conestoga Substation; and
- (b) The method used, or to be used, by Amtrak to determine the value of the land underlying the Conestoga Substation.

Objection

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). In addition, Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. At that time, PPL will be informed of the land and equipment that is being acquired through the federal court filings. If Amtrak exercises eminent domain, PPL's rights to the requested information, if any, will be covered by the Federal Rules of Civil Procedure and applicable precedent regarding the permissible scope of discovery. The requested information is not relevant to the proposed distribution rate in Supplement No. 213. Accordingly, this interrogatory seeks information on an issue that is beyond the scope of this proceeding and beyond the Commission's jurisdiction.

**NATIONAL RAILROAD PASSENGER CORPORATION OBJECTIONS TO
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DOCKET NOS. R-2015-2569975 AND C-2016-2580526

PPL to Amtrak-I-23

See Supplement No. 213, Statement of Reasons, p. 6 and Exhibit 2. In the event that Amtrak acquires the Conestoga Substation, either by sale or condemnation, please explain whether Amtrak intends to pay, reimburse, compensate, or otherwise include in the purchase price/condemnation value the actual project costs already incurred by PPL Electric. Explain your response and reasoning in detail.

Objection

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). In addition, Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. At that time, PPL will be informed of the land and equipment that is being acquired through the federal court filings. The requested information is not relevant to the proposed distribution rate in Supplement No. 213. Accordingly, this interrogatory seeks information on an issue that is beyond the scope of this proceeding and beyond the Commission's jurisdiction.

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DOCKET NOS. R-2015-2569975 AND C-2016-2580526

PPL to Amtrak-I-24

In the event that Amtrak acquires the Conestoga Substation, please explain in detail whether Amtrak intends to:

- (a) Operate and maintain the Conestoga Substation;
- (b) Operate and maintain the four transmission lines between the Conestoga Substation and the Pennsylvania-Maryland border; and
- (c) Operate and maintain the transmission line right-of-way between the Conestoga Substation and the Pennsylvania-Maryland border.

Objection

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). In addition, Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. At that time, PPL will be informed of the land and equipment that is being acquired through the federal court filings. The requested information is not relevant to the proposed distribution rate in Supplement No. 213. Accordingly, this interrogatory seeks information on an issue that is beyond the scope of this proceeding and beyond the Commission's jurisdiction.

**NATIONAL RAILROAD PASSENGER CORPORATION OBJECTIONS TO
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS
PROPOUNDED BY PPL ELECTRIC UTILITIES CORPORATION – SET I**

DOCKET NOS. R-2015-2569975 AND C-2016-2580526

PPL to Amtrak-I-25

Explain in detail whether Amtrak believes Commission approval is required under 66 Pa.C.S. § 1102 before the Conestoga Substation may be acquired by Amtrak.

Objection

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). In addition, Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. At that time, PPL will be informed of the land and equipment that is being acquired through the federal court filings. If Amtrak exercises eminent domain, PPL's rights to the requested information, if any, will be covered by the Federal Rules of Civil Procedure and applicable precedent regarding the permissible scope of discovery. The requested information is not relevant to the proposed distribution rate in Supplement No. 213. Accordingly, this interrogatory seeks information on an issue that is beyond the scope of this proceeding and beyond the Commission's jurisdiction.

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DOCKET NOS. R-2015-2569975 AND C-2016-2580526

PPL to Amtrak-I-26

Explain in detail whether Amtrak believes Commission approval is required under 66 Pa.C.S. § 1102 before the transmission lines interconnected with the Conestoga Substation may be acquired by Amtrak.

Objection

Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). In addition, Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. At that time, PPL will be informed of the land and equipment that is being acquired through the federal court filings. If Amtrak exercises eminent domain, PPL's rights to the requested information, if any, will be covered by the Federal Rules of Civil Procedure and applicable precedent regarding the permissible scope of discovery. The requested information is not relevant to the proposed distribution rate in Supplement No. 213. Accordingly, this interrogatory seeks information on an issue that is beyond the scope of this proceeding and beyond the Commission's jurisdiction.

**NATIONAL RAILROAD PASSENGER CORPORATION OBJECTIONS TO
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DOCKET NOS. R-2015-2569975 AND C-2016-2580526

PPL to Amtrak-I-29

In the event Amtrak acquires the Conestoga Substation, by sale or condemnation, please explain in detail:

- (a) How the acquisition costs will be financed;
- (b) How the acquisition costs will be recovered; and
- (c) Whether any other entities, persons, affiliates, rail systems, or other commuter railroads will directly or indirectly pay for the acquisition costs.

Objection

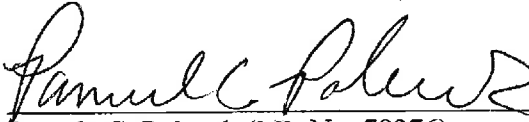
Section 5.321(c) of the Commission's Regulations indicates that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." 52 Pa Code § 5.321(c). In addition, Section 5.361(a)(4) of the Commission's Regulations indicates that discovery is not permitted if it "[w]ould require the making of an unreasonable investigation by the deponent, a party or witness." 52 Pa. Code. § 5.361(a)(4). Amtrak objects to this interrogatory on the grounds that it requests irrelevant information that is beyond the scope of the instant proceeding and concerns matters over which the Commission has no jurisdiction. If Amtrak opts to utilize its federal eminent domain authority under Section 24311 of the United States Code, that procedure would be subject to review in federal court. 49 U.S.C. § 24311; Fed. R. Civ. P. 71.1. At that time, PPL will be informed of the land and equipment that is being acquired through the federal court filings. If Amtrak exercises eminent domain, PPL's rights to the requested information, if any, will be covered by the Federal Rules of Civil Procedure and applicable precedent regarding the permissible scope of discovery. The requested information is not relevant to the proposed distribution rate in Supplement No. 213. Accordingly, this interrogatory seeks information on an issue that is beyond the scope of this proceeding and beyond the Commission's jurisdiction.

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DOCKET NOS. R-2015-2569975 AND C-2016-2580526

Respectfully submitted,

MCNEES WALLACE & NURICK, LLC

By 

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Counsel to National Railroad Passenger
Corporation

Dated: January 17, 2017