

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	R-2016-2569975
	:	
PPL Electric Utilities Corporation	:	
	:	
National Railroad Passenger Corporation	:	
	:	C-2016-2580526
v.	:	
	:	
PPL Electric Utilities Corporation	:	

**ORDER GRANTING, IN PART, ON MOTION TO COMPEL**

On October 5, 2016, PPL Electric Utilities Corporation (PPL) filed Supplement No. 213 to Tariff Electric Pa. P.U.C. No. 201 (Supplement 213), to become effective January 1, 2017. Supplement 213 proposes an annual increase of approximately \$2.320 million in the distribution revenues received from rate schedule Power Service to Electric Propulsion (LPEP). PPL states that the National Passenger Railroad Corporation, (Amtrak) is its sole customer under rate schedule LPEP.

On December 19, 2016, Amtrak filed a complaint with new matter that the Commission docketed at Docket No. C-2016-2580526. The complaint alleges that if the Commission grants PPL's requested increase in distribution revenues, it would increase the LPEP monthly customer charge to \$319,671.00 in order to recover costs associated with upgrades to the Conestoga Substation. This is an increase from the current \$126,323.59 LPEP monthly customer charge placed in effect January 1, 2016, pursuant to the settlement in the case at R-2015-2469275.

The complaint further asserts that Amtrak will own or have supplied more than 70% of the transformer capacity for the Conestoga Substation. According to the complaint, Amtrak already owns 3 of the 7 transformers at the Conestoga Substation. Amtrak plans to

deliver 2 or more transformers to replace the older transformers owned by PPL. Therefore, the proposed rate increase is unjust and unreasonable.

The new matter asserts that, pursuant to the settlement in the case at R-2015-2469275, on September 1, 2017, the LPEP monthly customer charge reverted to the rate of \$37,100.00 per month in effect prior to January 1, 2016. Amtrak also states in new matter that it should receive a refund of the payments for the period from January 1, 2016 to August 31, 2016.

On December 22, 2016, the Commission suspended PPL's filings, pursuant to 66 Pa. C.S. §1308(b), from January 1, 2017 until June 1, 2017. Subsequently, the Commission issued an errata notice indicating that PPL's filings were suspended until July 1, 2017.

On December 22, 2016 PPL filed an answer and new matter to Amtrak's complaint. The answer admits that PPL's filing proposes to increase the LPEP monthly customer charge from the current \$126,323.59 to \$319,671.00.

The answer denies that Amtrak will own or has supplied more than 70% of the transformer capacity for the Conestoga Substation. The answer asserts that PPL owns four of the transformers as well as the control building, control equipment and circuit breakers at the Conestoga Substation. In addition, PPL owns all of the land for the Conestoga Substation.

The answer contends that Amtrak's new matter in its complaint is procedurally improper. The answer denies that on September 1, 2016, the LPEP monthly customer charge reverted to the rate of \$37,100.00 per month in effect prior to January 1, 2016. Rather, the answer contends the rate of \$126,323.59 per month was effective January 1, 2016 and remains in effect unless and until the Commission approves a new rate. The answer denies that Amtrak is entitled to receive a refund for payments for the period from January 1, 2016 to August 31, 2016.

The new matter states that Amtrak has agreed that upgrades to the Conestoga Substation are required to provide continuous reliable and safe service to Amtrak. Amtrak has also agreed that, as the only customer served by the Conestoga Substation, it is responsible for the reasonable and prudent costs to upgrade the Conestoga Substation.

The new matter contends that the \$126,323.59 per month customer charge was set forth in the settlement in the case at R-2015-2469275, that the PPL Industrial Customer Alliance

(PPLICA) joined the settlement on behalf of Amtrak, that the Commission approved the \$126,323.59 customer charge and that the charge is set forth in PPL's currently effective tariff. The new matter argues that Amtrak's request for a refund is barred as a matter of law.

The new matter alleges that the upgrades to the Conestoga Substation were due to be completed and in service by December 31, 2016. However, Amtrak and PPL agreed that PPL would temporarily discontinue work on the Conestoga Substation.

The new matter states that nothing in the settlement in the case at R-2015-2469275 provides that the LPEP customer charge would revert back to \$37,100.00 if Amtrak and PPL were unable to resolve the issues surrounding the upgrade of the Conestoga Substation. The new matter contends that Amtrak's request for a refund is a violation of the settlement in the case at R-2015-2469275. The answer with new matter requests that the Commission deny Amtrak's complaint.

Also on December 22, 2016, PPL filed preliminary objections to Amtrak's complaint. The preliminary objections reiterate the assertions in PPL's answer with new matter.

The preliminary objections request that Amtrak's request for refunds be denied for failure to state a claim upon which relief may be granted because the request is barred as a matter of law, barred by the settlement in the case at R-2015-2469275 and barred by the express terms of the agreement between PPL and Amtrak.

The preliminary objections also contend that the new matter in Amtrak's complaint does not comply with the Commission's regulations. Nothing in the Commission's regulations authorize new matter to be included in a complaint. The preliminary objections request that the Commission dismiss Amtrak's request for a refund of the LPEP charges and/or strike the new matter.

On December 27, 2016, the Commission's Bureau of Investigation and Enforcement (I&E) filed a notice of appearance.

By notice dated December 28, 2016, the Commission scheduled a prehearing conference for this matter on January 6, 2017 at 10:00 a.m. in Hearing Room 2, Commonwealth Keystone Building in Harrisburg and assigned the matter to me. I issued a prehearing order,

dated December 29, 2016, addressing, inter alia, requests for continuance, subpoena procedures, attorney representation and the Commission's policy encouraging settlements.

On January 3, 2017, Amtrak filed an answer to PPL's preliminary objections. The answer reiterates the assertions in Amtrak's complaint with new matter. The answer denies that Amtrak's request for a refund is barred as a matter of law, barred by the settlement in the case at R-2015-2469275, barred by the express terms of the agreement between PPL and Amtrak or because the complaint fails to conform with the Commission's regulations. The answer requests that PPL's preliminary objections be denied.

Also on January 3, 2017 Amtrak filed a petition requesting that the Commission suspend PPL's filing indefinitely. In support of its petition Amtrak alleges that it plans to purchase the Conestoga Substation. If it cannot purchase the Conestoga Substation, Amtrak alleges it will take the Conestoga Substation through its eminent domain authority.

Once Amtrak acquires the Conestoga Substation, the petition asserts that PPL will not own any distribution service property serving Amtrak or provide distribution service to Amtrak. If PPL does not own any distribution service property serving Amtrak or provide distribution service to Amtrak, there is no basis to charge Amtrak for distribution services under the LPEP customer charge. Once it acquires the Conestoga Substation, Amtrak will no longer be a customer of PPL and PPL's filing will be moot.

The petition requests that the Commission suspend PPL's filing indefinitely. Alternatively, the petition requests that the Commission suspend PPL's proceedings for the full nine months authorized by 66 Pa.C.S. § 1308(b), until October 1, 2017.

On January 5, 2017, PPL filed an answer to Amtrak's petition. The answer opposes suspending PPL's filing indefinitely. However, the answer agrees that the Commission should suspend PPL's filing for nine months. The answer requests that the Commission deny the request to suspend PPL's filing indefinitely but grant the request to suspend the filing for nine months.

I conducted a prehearing conference in this case on January 6, 2017. Present were counsel for PPL, Amtrak and I&E. As a result of the prehearing conference, I issued Prehearing

Order #2, dated January 6, 2017, which established a litigation and briefing schedule based on the Commission's December 22, 2016 order and subsequent errata notice suspending PPL's filings until July 1, 2017.

In anticipation that the Commission would address Amtrak's petition at its January 19, 2017 public meeting, the parties requested a further prehearing conference. N.T. 6-7. By notice dated January 9, 2017, the Commission scheduled a further prehearing conference for this matter on January 20, 2017 at 10:00 a.m. in Hearing Room 2, Commonwealth Keystone Building in Harrisburg.

On January 11, 2017, Amtrak filed an answer to PPL's new matter. The answer generally denies the assertions in PPL's new matter.

On January 17, 2017, Amtrak filed objections to PPL's interrogatories. Generally, the objections contend that PPL's interrogatories request information that is irrelevant, beyond the scope of this proceeding and concern matters over which the Commission has no jurisdiction.

By order dated January 18, 2017, I sustained PPL's preliminary objections, in part. I struck the new matter portion of Amtrak's complaint without prejudice because the new matter was a complaint against PPL's existing LPEP rate, not its proposed LPEP rate.

By opinion and order dated January 19, 2017, the Commission modified its December 22, 2016 order and suspended PPL's filings until October 1, 2017. I conducted a further prehearing conference on January 20, 2017 in order to revise the litigation and briefing schedule in light of the Commission's January 19, 2017 opinion and order. As a result of the further prehearing conference, I issued Prehearing Order #3, dated January 23, 2017, which modified the litigation and briefing schedule.

On January 20, 2017, PPL filed a motion to compel responses to discovery propounded on Amtrak, pursuant to 52 Pa.Code §§ 5.342(g) and 5.350(e). According to the motion to compel, the Respondent served interrogatories and requests for documents on the Complainant on January 11, 2017. Attached to the motion to compel is a copy of the interrogatories and requests for documents, marked as Appendix A.

The motion to compel asserts that on January 17, 2017 Amtrak filed objections to interrogatories. Attached to the motion to compel is a copy of Amtrak's objections, marked as Appendix B.

The motion to compel asserts that counsel for PPL and Amtrak attempted to informally resolve the discovery dispute but were unable to resolve Amtrak's objections.

On January 24, 2017, Amtrak filed an answer to PPL's motion to compel. The answer contends that PPL's interrogatories request information that is irrelevant, beyond the scope of this proceeding and concern matters over which the Commission has no jurisdiction.

The motion is ready for disposition. For the reasons set forth below, I will grant the motion to compel in part.

The regulations at 52 Pa.Code §§ 5.321-5.373 contain the Commission's formal discovery rules. A party may use discovery to obtain information regarding any matter, not privileged, which is relevant to the subject matter of 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. It is not grounds for objection that the information sought will be inadmissible at a hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. 52 Pa.Code § 5.321(c).

Information is relevant if it tends to establish a material fact, tends to make a fact at issue more or less probable or supports a reasonable inference or presumption regarding a material fact. Smith v. Morrison, 47 A.3d 131 (Pa.Super. 2012), app. denied, 57 A.3d 71 (Pa. 2012). Relevancy in discovery is broader than the standard used for admission of evidence at a hearing. Com. v. TAP Pharmaceutical Products, Inc., 904 A.2d 986 (Pa.Cmwlt. 2006). The party objecting to discovery has the burden to establish that the requested information is not relevant or discoverable. Koken v. One Beacon Insurance Co., 911 A.2d 1021 (Pa.Cmwlt. 2006). Any doubts regarding relevancy should be resolved in favor of discovery.

Turning to PPL's motion to compel, the motion to compel requests that I grant the motion and direct Amtrak to answer PPL's Amtrak Set I, Nos. 19-26 and No. 29.

PPL to Amtrak Set I, No. 19 states:

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 contends that this information is relevant to the outcome of this proceeding. According to PPL, what facilities Amtrak plans to acquire at the Conestoga Substation will have an immediate and direct impact on the rate to be determined in this proceeding. Even if the Commission does not have jurisdiction over a proceeding involving Amtrak's eminent domain authority, PPL argues that it is still entitled to the information as it relates to this proceeding.

In response, Amtrak contends that the information sought is irrelevant and beyond the scope of this proceeding. Amtrak also asserts that the requested information concerns matters over which the Commission has no jurisdiction. Amtrak also contends that the requested information would require it to make unreasonable investigation.

The information sought by PPL is relevant or is reasonably calculated to lead to the discovery of admissible evidence. As set forth above, PPL is seeking an increase in annual distribution revenues of approximately \$2.320 million received from rate schedule LPEP. According to PPL, the requested increase in revenues is necessary in order to recover costs associated with upgrades to the Conestoga Substation.

To the extent that Amtrak intends to acquire portions of the Conestoga Substation, it will have an effect on the amount of revenues PPL will need to upgrade the Conestoga Substation. PPL is entitled to know how much of the Conestoga Substation Amtrak plans to acquire so that it may adjust the amount of its revenue request in the event that Amtrak acquires a portion of the Conestoga Substation. The request is not unduly burdensome since it is only requesting the extent of Amtrak's plans to acquire the Conestoga Substation.

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 or not, meets the "necessary for intercity rail passenger transportation" standard in 49 U.S.C.S. § 24311.

PPL contends that this information is relevant to the outcome of this proceeding. According to PPL, its proposed rate schedule LPEP increase will be directly impacted by Amtrak's attempt to acquire the Conestoga Substation by eminent domain. PPL contends that it is entitled to discovery examining the validity, scope and ability of Amtrak to exercise federal eminent domain authority over PPL's property and facilities. PPL also contends that a transfer of the Conestoga Substation from PPL to Amtrak will require Commission approval. Even if the Commission does not have jurisdiction over a proceeding involving Amtrak's eminent domain authority, PPL argues that it is still entitled to the information as it relates to this proceeding.

In response, Amtrak contends that the information sought is irrelevant and beyond the scope of this proceeding. Amtrak also asserts that the requested information concerns matters over which the Commission has no jurisdiction. Amtrak contends that issues involving the validity, scope and ability of Amtrak to exercise eminent domain authority are within the jurisdiction of the federal courts, not the Commission. Amtrak argues that the discovery

requests will not lead to evidence concerning PPL's proposed LPEP revenue requirement and rate increase.

The information sought by PPL is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. PPL's argument that the information sought will lead to the discovery of admissible evidence is incorrect. PPL seeks information as to whether Amtrak is properly interpreting its power of eminent domain contained in 49 U.S.C.S. § 24311. Such information is irrelevant because it is well-settled that an expert is not permitted to give an opinion on a question of law.

An expert witness may not be offered to testify "as to the governing law" or "what the law required." United States v. Leo, 941 F.2d 181, 196-197 (3d Cir.1991); see also Browne v. Commonwealth, 843 A.2d 429, 433 (Pa.Cmwlth. 2004) (explaining that an expert's legal opinion testimony, such as whether a party has violated an ordinance, is not admissible); Kosey v. City of Washington Police Pension Bd., 459 A.2d 432, 434 (Pa.Cmwlth. 1983) (stating that an expert witness may not testify as to issues of law, which are for a court to decide). "The law is evidence of itself, and it is up to the courts, not a witness, to draw conclusions as to its meaning." Waters v. State Employment Retirement Bd., 955 A.2d 466, 471 n.7 (Pa.Cmwlth. 2008).

The Commission has wide discretion in determining whether expert testimony will be of help to it in any particular case. However, in light of the decisions cited above, that discretion does not permit the Commission to allow expert testimony on a question of law. Even if the Commission were to allow expert testimony on a question of law, the Commission could not base its ruling on that testimony. The Commission may not rely on an expert opinion to support its ruling on a question of law. 41 Valley Associates v. London Grove Twp., 882 A.2d 5, 19 n.12 (Pa.Cmwlth. 2005). Expert opinions or other testimony relating to the meaning of laws are not relevant evidence for the purpose of statutory interpretation. Newtown Square East, L.P. v. National Realty Corp. et al., 38 A.3d 1018 (Pa.Cmwlth. 2011).

However, "[a] witness may testify as to the action he or she took with regard to an ordinance, in order to develop a factual basis to assist the court or jury in determining whether an ordinance applies and whether a party complied with the terms of the ordinance, but the witness

may not ordinarily testify as to whether he or she believes a party's actions constitute a violation of the ordinance.” Browne v. Commonwealth, 843 A.2d 429, 433-434 (Pa.Cmwlth. 2004). Certainly, Amtrak’s witnesses may testify as to the steps it took concerning exercise of its eminent domain power to acquire the Conestoga Substation and PPL witnesses may testify as to the steps PPL took in response. However, neither Amtrak nor PPL may present witnesses to testify whether Amtrak properly exercised or interpreted its power of eminent domain contained in 49 U.S.C.S. § 24311.

Since such testimony is irrelevant, any discovery relating to whether Amtrak has properly exercised or interpreted its power of eminent domain contained in 49 U.S.C.S. § 24311 would not lead to discovery of information relevant to the subject matter of the pending action. PPL is therefore not entitled to the information it seeks in PPL to Amtrak Set I, No. 20.

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.

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.

PPL contends that this information is relevant to the outcome of this proceeding. According to PPL, what facilities Amtrak plans to acquire at the Conestoga Substation will have an immediate and direct impact on the rate to be determined in this proceeding. Even if the Commission does not have jurisdiction over a proceeding involving Amtrak's eminent domain authority, PPL argues that it is still entitled to the information as it relates to this proceeding.

In response, Amtrak contends that the information sought is irrelevant and beyond the scope of this proceeding. Amtrak also asserts that the requested information concerns matters over which the Commission has no jurisdiction. Amtrak also contends that the requested information would require it to make unreasonable investigation.

The information sought by PPL is relevant or is reasonably calculated to lead to the discovery of admissible evidence. As set forth above, PPL is seeking an increase in annual distribution revenues of approximately \$2.320 million received from rate schedule LPEP. According to PPL, the requested increase in revenues is necessary in order to recover costs associated with upgrades to the Conestoga Substation.

To the extent that Amtrak intends to acquire portions of the Conestoga Substation, it will have an effect on the amount of revenues PPL will need to upgrade the Conestoga Substation. PPL is entitled to know the identity of Amtrak's appraiser and the methods used by the appraiser to arrive at a value of the assets of the Conestoga Substation Amtrak plans to acquire so that PPL may adjust the amount of its revenue request in the event that Amtrak acquires a portion of the Conestoga Substation.

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.

PPL contends that this information is relevant to the outcome of this proceeding. According to PPL, what facilities Amtrak plans to acquire at the Conestoga Substation will have an immediate and direct impact on the rate to be determined in this proceeding. Even if the Commission does not have jurisdiction over a proceeding involving Amtrak's eminent domain authority, PPL argues that it is still entitled to the information as it relates to this proceeding.

In response, Amtrak contends that the information sought is irrelevant and beyond the scope of this proceeding. Amtrak also asserts that the requested information concerns matters over which the Commission has no jurisdiction. Amtrak also contends that the requested information would require it to make unreasonable investigation.

The information sought by PPL is relevant or is reasonably calculated to lead to the discovery of admissible evidence. As set forth above, PPL is seeking an increase in annual distribution revenues of approximately \$2.320 million received from rate schedule LPEP. According to PPL, the requested increase in revenues is necessary in order to recover costs associated with upgrades to the Conestoga Substation.

To the extent that Amtrak intends to acquire portions of the Conestoga Substation, it will have an effect on the amount of revenues PPL will need to upgrade the Conestoga Substation. PPL is entitled to know whether Amtrak will include in its purchase price amounts that PPL has already expended on upgrading the Conestoga Substation so that it may adjust the amount of its revenue request if Amtrak acquires a portion of the Conestoga Substation.

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.

PPL contends that this information is relevant to the outcome of this proceeding. According to PPL, what facilities Amtrak plans to acquire at the Conestoga Substation will have an immediate and direct impact on the rate to be determined in this proceeding. Even if the Commission does not have jurisdiction over a proceeding involving Amtrak's eminent domain authority, PPL argues that it is still entitled to the information as it relates to this proceeding.

In response, Amtrak contends that the information sought is irrelevant and beyond the scope of this proceeding. Amtrak also asserts that the requested information concerns matters over which the Commission has no jurisdiction. Amtrak also contends that the requested information would require it to make unreasonable investigation.

The information sought by PPL is relevant or is reasonably calculated to lead to the discovery of admissible evidence. As set forth above, PPL is seeking an increase in annual distribution revenues of approximately \$2.320 million received from rate schedule LPEP. According to PPL, the requested increase in revenues is necessary in order to recover costs associated with upgrades to the Conestoga Substation.

To the extent that Amtrak intends to acquire portions of the Conestoga Substation, but have PPL continue to operate and maintain the Conestoga Substation and associated facilities, it will have an effect on the amount of revenues PPL will need to continue operating and maintaining those facilities. PPL is entitled to know whether Amtrak will operate and maintain the Conestoga Substation and associated facilities or continue to have PPL operate and maintain those facilities so that it may adjust the amount of its revenue request.

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.

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.

PPL contends that this information is relevant to an issue within the Commission's jurisdiction. PPL contends that this information is relevant to Amtrak's claim that it intends to acquire the Conestoga Substation.

In response, Amtrak contends that the information sought is irrelevant and beyond the scope of this proceeding. Amtrak also asserts that the requested information concerns matters over which the Commission has no jurisdiction. Amtrak contends that issues involving the validity, scope and ability of Amtrak to exercise eminent domain authority are within the jurisdiction of the federal courts, not the Commission. Amtrak argues that the discovery requests will not lead to evidence concerning PPL's proposed LPEP revenue requirement and rate increase.

The information sought by PPL is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. PPL's argument that the information sought will lead to the discovery of admissible evidence is incorrect. PPL seeks information as to whether Amtrak believes that Commission approval is required for Amtrak's proposed acquisition of the Conestoga Substation. Whether Commission approval of Amtrak's acquisition is necessary is beyond to scope of this proceeding and therefore irrelevant.

Furthermore, whether Commission approval of Amtrak's acquisition is necessary is irrelevant because as stated above at length, it is well-settled that an expert is not permitted to give an opinion on a question of law. PPL seeks information as to Amtrak's interpretation of 66 Pa.C.S. § 1102 concerning the necessity of Commission approval of Amtrak's proposed acquisition of the Conestoga Substation. Such information is irrelevant because an expert is not permitted to give an opinion on a question of law.

Since such testimony is irrelevant, any discovery relating to Amtrak's interpretation of 66 Pa.C.S. § 1102 would not lead to discovery of information relevant to the subject matter of the pending action. PPL is therefore not entitled to the information it seeks in PPL to Amtrak Set I, No. 25 and 26.

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.

PPL contends that this information is relevant to an issue within the Commission's jurisdiction. PPL contends that this information is relevant to Amtrak's claim that it intends to acquire the Conestoga Substation.

In response, Amtrak contends that the information sought is irrelevant and beyond the scope of this proceeding. Amtrak argues that how it intends to finance any acquisition of the Conestoga Substation is irrelevant to PPL's claim for additional revenues to upgrade, maintain and operate the Conestoga Substation. Amtrak argues that the discovery requests will not lead to evidence concerning PPL's proposed LPEP revenue requirement and rate increase.

The information sought by PPL is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. PPL's argument that the information sought will lead to the discovery of admissible evidence is incorrect. PPL seeks information as to how Amtrak will finance its proposed acquisition of the Conestoga Substation. How Amtrak finances such an acquisition will have no effect on PPL's claim for additional revenues to upgrade, maintain and operate the Conestoga Substation. Such information would not lead to discovery of information relevant to the subject matter of the pending action. PPL is therefore not entitled to the information it seeks in PPL to Amtrak Set I, No. 29.

PPL's PPL to Amtrak Set I, Nos. 20, 25, 26 and 29 do not seek relevant information or information reasonably calculated to lead to the discovery of admissible evidence. I

will not order Amtrak to answer those requests. I will order Amtrak to answer PPL to Amtrak Set I, Nos. 19,21, 22, 23 and 24.


ORDER

THEREFORE,

IT IS ORDERED:

1. That the motion to compel, filed January 20, 2017, by PPL Electric Utilities Corporation is granted in part, pursuant to 52 Pa.Code § 5.342(g).
2. That within three days of the date of this order, National Passenger Railroad Corporation shall provide full and complete responses to PPL Electric Utilities Corporation's interrogatories and document requests PPL to Amtrak Set I, Nos. 19,21, 22, 23 and 24.
3. That the motion to compel, filed January 20, 2017, by PPL Electric Utilities Corporation is denied in part, pursuant to 52 Pa.Code § 5.342(g), as to its interrogatories and document requests PPL to Amtrak Set I, Nos. 20, 25, 26 and 29.

Date: January 27, 2017

  
David A. Salapa  
Administrative Law Judge

R-2016-2569975 - PPL ELECTRIC FILED SUPP NO 213 TO PA PUC NO 201; EFF: 1/1/17, PROPOSING AN INCREASE TO RATE SCHEDULE LPEP.

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C-2016-2580526  
(For National Railroad Passenger Corporation)