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May 23, 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:

Please be advised that the National Railroad Passenger Corporation ("AMTRAK") will not be circulating prepared Rebuttal Testimony in the above-referenced proceeding.

As of May 11, 2017 when it filed the Motion to Dismiss, AMTRAK's participation in this proceeding is for the limited purpose of pursuing its Motion to Dismiss and preserving its federal court claims in *National Railroad Passenger Service Corporation (AMTRAK) v. 4.0446 Acres More or Less of Land and Fixtures & PPL Electric Utilities Corporation*, Civil Action-Law No. 17-CV-1752 (United States District Government for the Eastern District of Pennsylvania). AMTRAK expressly reserves its statutory right to adjudicate in federal court any issues related to the condemnation, the transfer of possession and the disposition of outstanding charges related to the Conestoga Substation. *See England v. La. State Bd. Of Med. Exam'rs*, 375 U.S. 411 (1964), *Instructional Sys., Inc. v. Computer Curriculum Corp.*, 35 F.3d 813, 820-21 (3d Cir. 1994), *Bradley v. Pittsburg Bd. of Educ.*, 913 F. 2d 1064, 1071 (3d Cir. 1990).

49 U.S.C. § 24311(b) vests jurisdiction exclusively in the district Court to determine issues regarding the disposition of any outstanding charges related to the Conestoga Substation. PPL's Direct Testimony, to which AMTRAK would be responding through Rebuttal Testimony, addresses a future distribution rate for Rate Schedule LPEP. AMTRAK wishes to preserve its right to have its claim adjudicated in federal court, and to avoid any jurisdictional disputes, conflicting fact records, or possible collateral estoppel or res judicata arguments regarding outstanding charges related to the Conestoga Substation.

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Moreover, as set forth in PPL Electric Utilities Corporation's ("PPL") May 17, 2017, letter regarding AMTRAK's Motion to Dismiss, "The outcome of the federal condemnation proceeding is entirely unknown and speculative at this time.... The resolution of AMTRAK's request to condemn the Conestoga Substation could result in protracted litigation that could lead to a significant delay in the final resolution of the authority, scope, and limits of AMTRAK's ability to condemn public utility facilities." Although AMTRAK does not agree with PPL's assessment of the merits of the federal court litigation, AMTRAK does agree that the litigation timeline is uncertain. It is equally uncertain that PPL will ever implement the proposed equipment upgrade to the Conestoga Substation that forms the basis for its Supplement No. 213. See attached Order issued by the District Court on May 23, 2017. Any testimony that AMTRAK would provide at this point on the proposed rate in Supplement No. 213 would be highly hypothetical, especially since, unless the federal court transfers title back to PPL, AMTRAK, not PPL, will perform any future upgrade. If, at the end of the federal court litigation, PPL regains ownership of the Conestoga Substation, the issue of the changes to Rate Schedule LPEP will be ripe for review, and new evidence (e.g., updated cost data) would be required at that time.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with a copy of this document. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By 
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

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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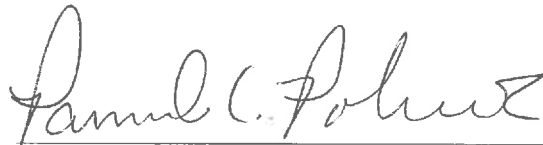
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Pamela C. Polacek

Counsel to National Railroad Passenger
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Dated this 23rd day of May, 2017, at Harrisburg, Pennsylvania.