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File #: 167272

September 6, 2017

***VIA ELECTRONIC FILING***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**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 Secretary Chiavetta:

Enclosed please find PPL Electric Utilities Corporation's Reply to Exceptions for filing in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'C. Wright', is written over a horizontal line.

Christopher T. Wright

CTW/jl  
Enclosure

cc: Honorable David A. Salapa  
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).

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Date: September 6, 2017

  
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Christopher T. Wright

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
v.	:	Docket No. R-2016-2569975
PPL Electric Utilities Corporation	:	
	:	
National Railroad Passenger Corporation	:	
v.	:	Docket No. C-2016-2580526
PPL Electric Utilities Corporation	:	

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**PPL ELECTRIC UTILITIES CORPORATION  
REPLY TO EXCEPTIONS**

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Dated: September 6, 2017

*Attorneys for PPL Electric Utilities Corporation*

## **I. INTRODUCTION**

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) herein submits this Reply to the “Notice in Lieu of Exceptions” filed by the National Railroad Passenger Corporation (“Amtrak”). In its Notice, Amtrak states that it is not filing exceptions to the Recommended Decision of Administrative Law Judge David A. Salapa (the “ALJ”) issued by Secretarial Letter dated August 23, 2017. Notwithstanding this statement, Amtrak’s Notice then proceeds to take exception to certain findings and conclusions reached by the Recommended Decision.

Amtrak first argues the Recommended Decision erred by omitting the fact that the September 16, 2015 Mutual Settlement Agreement (“Mutual Agreement”) provided that Amtrak reserved all rights to contest the tariff filing before the Pennsylvania Public Utility Commission. Although the Recommended Decision did not expressly note that Amtrak reserved the right to contest the PPL Electric’s proposed increase in Rate Schedule LPEP, this omission is immaterial because Amtrak did in fact have the opportunity to fully exercise this right during the course of this rate proceeding. Further, even if Amtrak’s exception is granted, it would have no impact the findings and conclusions reached by the Recommended Decision because no party, including Amtrak, submitted any evidence or briefs to refute or otherwise challenge the Company’s proposed increase in Rate Schedule LPEP.

Amtrak next argues the Recommended Decision erred by recommending that PPL Electric’s proposed increase in the Rate Schedule LPEP be approved without explaining how PPL Electric could make capital upgrades to the Conestoga Substation when PPL Electric does not own or control the Conestoga Substation, and which allegedly would violate a stipulation approved by the United States District Court for the Eastern District of Pennsylvania (“District

Court”).<sup>1</sup> Amtrak’s exception is premised on the disputed assumption that Amtrak will ultimately be able to condemn and take possession of PPL Electric’s Conestoga Substation. Amtrak also ignores that the federal stipulation only provides that PPL Electric will temporarily discontinue the upgrades needed at the Conestoga Substation and that PPL Electric is obligated to continue to perform normal operational and maintenance functions at the Conestoga Substation until further order of the Court. Further, Amtrak’s exception ignores that the proposed increase in Rate Schedule LPEP is designed to become effective on the date that the Conestoga Substation upgrade is completed and placed in service. Finally, Amtrak’s exception should be denied because no parties, including Amtrak, presented any evidence to oppose or otherwise challenge the need for the Conestoga Substation upgrades, proposed increase in the Rate Schedule LPEP monthly distribution charge, or the effective date of the proposed rate increase.

For these reasons, as more fully explained below and in PPL Electric’s Initial Brief, which is incorporated herein, the Commission should deny the exceptions raised in Amtrak’s “Notice in Lieu of Exceptions,” adopt the recommendation of the Recommended Decision, and approve the proposed increase in the Rate Schedule LPEP monthly distribution charge from the current \$126,323.59 per month to \$314,286.57 per month to become effective on the date that the Conestoga Substation upgrade is completed and placed in service.

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<sup>1</sup> Despite expressly agreeing to a tariff filing before the Commission in both the 2015 Rate Case Settlement and Mutual Agreement, Amtrak filed a Complaint for Condemnation and Declaration of Taking with the District Court on April 17, 2017, seeking approval to condemn PPL Electric’s Conestoga Substation pursuant Section 24311 of Title 49 of the United States Code, 49 U.S.C. § 24311.

## **II. REPLY TO EXCEPTIONS**

As a preliminary matter, Amtrak's "Notice in Lieu of Exceptions" to the Recommended Decision should be summarily denied because it is procedurally improper and untimely.

In its "Notice in Lieu of Exceptions," Amtrak states that it is not filing exceptions to the Recommended Decision. However, the Notice then proceeds to argue the Recommended Decision erred in making certain findings and conclusions. Despite Amtrak's statement to the contrary, the Notice filed by Amtrak is truly an attempt to take exceptions to the Recommended Decision. However, Amtrak's exceptions are procedurally improper because they fail to comply with the requirements of 52 Pa. Code § 5.533. Further, nothing in the Commission's regulations permit exceptions to be taken by a "Notice in Lieu of Exceptions."

Moreover, Amtrak's attempt to raise these issues as exceptions is untimely. Although Amtrak filed a complaint, propounded discovery, and made numerous other filings in the above-captioned rate proceeding, Amtrak did not submit any evidence to refute or otherwise challenge the Company's proposed increase in Rate Schedule LPEP. Likewise, Amtrak did not file either an initial brief or reply brief in support of its position on the proposed increase in Rate Schedule LPEP. Throughout this proceeding, Amtrak had every opportunity to introduce evidence in support of and brief its arguments in opposition to the proposed increase in Rate Schedule LPEP. Amtrak, however, voluntarily declined to do so even though it has been a party to and has participated in this proceeding through numerous filings.

Notwithstanding, Amtrak now seeks to take exception with certain findings and conclusions reached by the Recommended Decision, which were based upon the unrefuted record evidence. The fundamental flaw with Amtrak's exceptions to the Recommended Decision is that they seek to advance arguments raised for the first time in the exceptions stage of the proceeding. It is well established that when parties have been ordered to file briefs and

fail to include all the issues they wish to have reviewed, the issues not briefed have been waived.<sup>2</sup> Further, the Commission has held that, consistent with due process requirements, it must refuse to consider issues raised for the first time in exceptions.<sup>3</sup>

Based on the foregoing, Amtrak's issues and concerns raised for the first time in its "Notice in Lieu of Exceptions" are procedurally improper and untimely. Accordingly, Amtrak's "Notice in Lieu of Exceptions" should be summarily denied. Notwithstanding the foregoing, and without waiver of any argument, right, or remedy, PPL Electric will separately respond to each of Amtrak's exceptions below.

**A. Reply to Amtrak Exception No. 1**

In its "Notice in Lieu of Exceptions," Amtrak argues that the Recommended Decision erred by omitting the fact that the September 16, 2015 Mutual Agreement between PPL Electric and Amtrak provided that Amtrak reserved all rights to contest the tariff filing before the Pennsylvania Public Utility Commission. (Amtrak Notice, p. 3) Amtrak's exception to the Recommended Decision is without merit and, even if granted, does not in any way alter the record or the conclusions reached by the Recommended Decision.

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<sup>2</sup> *Pa. PUC v. Metropolitan Edison Company*, Docket Nos. R-00061366 *et al.*, 2006 Pa. PUC LEXIS 116 (Order entered October 31, 2006) (citing *Jackson v. Kassab*, 2002 Pa. Super. 370, 812 A.2d 1233 (2002), *appeal denied*, 573 Pa. 698, 825 A.2d 1261 (2003), *Brown v. PA Dep't of Transportation*, 843 A.2d 429 (Pa. Cmwlth. 2004), *appeal denied*, 581 Pa. 681, 863 A.2d 1149 (2004)).

<sup>3</sup> *Pa. PUC v. Columbia Gas of Pa.*, Docket No. R-2009-2093219, 2009 Pa. PUC LEXIS 1843 (Order entered September 24, 2009); *Manu, et. al. v. AT&T Communications of Pennsylvania, Inc.*, Docket Nos. F-09029141, *et al.*, 1994 Pa. PUC LEXIS 25 (May 4, 1994); *Pa. P.U.C. v. Duquesne Light Company*, Docket Nos. R-860378, *et al.*, 1987 Pa. PUC LEXIS 342; 63 Pa. PUC 337 (March 10, 1987); *Pa. PUC v. Pennsylvania Power and Light Company*, 57 Pa. P.U.C. 559, 596-597 (Order entered August 19, 1983). *See also Application of West Penn Power Company for Approval of Restructuring Plan Under Section 2806 of the Public Utility Code*, Docket No. R-00973981, 1998 Pa. PUC LEXIS 168 (Opinion and Order entered May 29, 1998) (the Commission must strike any arguments based on extra-record evidence raised for the first time in exceptions).

This proceeding was initiated as a result of a Commission-approved settlement in PPL Electric's 2015 base rate case at Docket No. R-2015-2469275. On March 31, 2015, PPL Electric filed its 2015 distribution base rate. As part of its general rate increase, PPL Electric proposed, among other things, to increase the monthly distribution charge for Rate Schedule LPEP from \$37,100.00 per month to \$252,647.17 per month. The PP&L Industrial Customer Alliance ("PPLICA") intervened in the 2015 base rate case on behalf of Amtrak, among others.

On September 3, 2015, a Joint Petition for Settlement was filed in PPL Electric's 2015 base rate case ("2015 Rate Case Settlement"). PPLICA joined the 2015 Rate Case Settlement on behalf of Amtrak. With respect to Rate Schedule LPEP, the 2015 Rate Case Settlement provided as follows:

29. PPL Electric and National Railroad Passenger Corporation ("Amtrak") agree that for purposes of settlement of this proceeding the customer charge for Rate Schedule LPEP will be reduced from the proposed \$252,647.17 per month to \$126,323.59 per month, effective January 1, 2016, subject to further resolution of the issues as described in Paragraphs 30 and 31 below.

30. PPL Electric and Amtrak agree to continue to work together to resolve all open issues regarding the upgrade of the Conestoga Substation, including possible alternative resolution regarding the final scope, timing, and costs of the upgrades needed for the Conestoga Substation. PPL Electric and Amtrak agree to make good faith efforts to conclude the negotiations and execute a final agreement by no later than September 1, 2016.

31. PPL Electric and Amtrak agree that PPL Electric will submit a further tariff filing for Rate Schedule LPEP to reflect (i) the negotiated agreement ultimately reached by PPL Electric and Amtrak or (ii) the fact PPL Electric and Amtrak were unable to reach an agreement by September 1, 2016.

(PPL Electric Exhibit SRK-3, 2015 Rate Case Settlement, ¶¶ 29-31) On November 19, 2015, the Commission approved the 2015 Rate Case Settlement and *pro forma* tariff pages attached

thereto. *See Pa. PUC v. PPL Electric Utilities Corporation*, Docket No. R-2015-2469275 (Order entered Nov. 19, 2015).

Pertinent to Amtrak's exception, PPL Electric and Amtrak also agreed to address the upgrades to the Conestoga Substation separately outside of Amtrak's interest as a member of PPLICA, and entered into a Mutual Agreement on September 16, 2015. Pursuant thereto, PPL Electric and Amtrak agreed as follows:

7. PPL Electric and Amtrak agree to continue to work together to resolve all open issues regarding the upgrade of the Conestoga Substation, including possible alternative resolution regarding the final scope, timing, and costs of the upgrades needed for the Conestoga Substation. Both parties agree to consider all potential solutions, including, but not limited to, direct funding by Amtrak, purchase of the Conestoga Substation by Amtrak, recovery of costs through base rates, and/or transfer of 2 existing Amtrak transformers from the Metuchen Station to the Conestoga Substation. PPL Electric and Amtrak agree to make good faith efforts to conclude the negotiations and execute a final agreement by no later than September 1, 2016.

8. PPL Electric and Amtrak agree that upon reaching an agreement regarding the Conestoga Substation, PPL Electric will submit a further tariff filing for Rate Schedule LPEP to reflect the negotiated agreement ultimately reached by PPL Electric and Amtrak.

9. If PPL Electric and Amtrak are unable to reach an agreement by September 1, 2016, PPL Electric will undertake all improvements needed for the Conestoga Substation that are in its opinion necessary or proper to provide safe and reliable service to Amtrak, and will make an appropriate tariff filing to fully recover those costs. PPL Electric agrees to serve Amtrak with an electronic copy of the tariff filing upon submission to the Pa. PUC. *Amtrak reserves all rights to contest the tariff filing before the Pa. PUC.*

(PPL Electric Exhibit SRK-4, Mutual Agreement ¶¶ 7-9 (emphasis added))

PPL Electric and Amtrak were unable to reach an agreement by September 1, 2016. In accordance with the express terms of the 2015 Rate Case Settlement and the Mutual Agreement, PPL Electric filed Supplement No. 213 on October 5, 2016. Supplement No. 213 proposes an

increase to the Rate Schedule LPEP monthly distribution charge to reflect the upgrades needed at the Conestoga Substation. On December 19, 2016, Amtrak filed a Complaint and New Matter with the Commission at Docket No. C-2016-2580526, opposing the proposed increase to the Rate Schedule LPEP monthly distribution charge.

The Recommended Decision summarized the Mutual Agreement between PPL Electric and Amtrak as follows:

In the Mutual Agreement between Amtrak and PPL, Amtrak has agreed that substantial upgrades to the Conestoga Substation are required to provide reasonably continuous, reliable, and safe service to Amtrak. PPL St. 1, p. 9, PPL Ex. SRK-4. Pursuant to the terms and conditions of the Commission-approved 2015 Settlement and the Mutual Agreement between PPL and Amtrak, PPL temporarily discontinued work on the Conestoga Substation while PPL and Amtrak attempted to resolve the open issues regarding the upgrade of the Conestoga Substation. PPL St. 1, p. 9.

PPL and Amtrak further agreed that, in the event PPL and Amtrak were able to reach a final agreement by September 1, 2016, "PPL Electric will submit a further tariff filing for Rate Schedule LPEP to reflect the negotiated agreement ultimately reached by PPL Electric and Amtrak." PPL St. 1, p. 9, PPL Exs. SRK-3 and SRK-4. However, if PPL and Amtrak were unable to reach an agreement by September 1, 2016, PPL and Amtrak agreed that PPL would (i) "undertake all improvements needed for the Conestoga Substation that are in its opinion necessary or proper to provide safe and reliable service to Amtrak," and (ii) "make an appropriate tariff filing to fully recover those costs." PPL St. 1, p. 9, PPL Exs. SRK-3 and SRK-4.

(Recommended Decision, p. 17) Amtrak takes exception to the Recommended Decision's description of the Mutual Agreement because it failed to also note that Amtrak reserved all rights to contest the tariff filing before the Commission. (Amtrak Notice, p. 3)

Although the Recommended Decision did not expressly note that Amtrak reserved the right to contest this tariff filing, this omission is immaterial because Amtrak did, in fact, have the opportunity to fully exercise this right during the course of this rate proceeding. Indeed, it

cannot be disputed that Amtrak filed a complaint and participated in this proceeding through numerous other filings. Thus, there was no need for the Recommended Decision to expressly note that Amtrak reserved the right to contest the tariff filing before the Commission and, even if there was, it was a harmless error because Amtrak clearly exercised that right.

The Recommended Decision's description of the Mutual Agreement in no way prevented or otherwise limited Amtrak's ability to introduce evidence in this rate proceeding or submit appropriate briefs to contest the tariff filing before the Commission. Rather, it was Amtrak that declined to submit any evidence or briefs to refute or otherwise challenge the Company's proposed increase in Rate Schedule LPEP. Therefore, even if Amtrak's exception to the Recommended Decision is granted, it would have no impact, material or otherwise, on the evidence of record or the findings and conclusions based thereon.<sup>4</sup>

Based on the foregoing, the Commission should deny the Amtrak's exception and adopt the Recommended Decision.

## **B. Reply to Amtrak Exception No. 2**

In its "Notice in Lieu of Exceptions," Amtrak argues that the Recommended Decision erred by recommending that PPL Electric's proposed increase in the Rate Schedule LPEP be approved without explaining how PPL Electric could make capital upgrades to the Conestoga

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<sup>4</sup> Amtrak's exception further demonstrates that it acted in bad faith and breached both the Commission-approved 2015 Rate Case Settlement and Mutual Agreement by filing a Condemnation Complaint with the District Court. Indeed, Amtrak's exception highlights the fact that it expressly agreed to a specific procedure regarding the recovery of the costs for the Conestoga Substation project -- a tariff filing with this Commission -- and agreed that its sole remedy for any disagreement was to "contest the tariff filing before the Pa. PUC." Despite these agreements, Amtrak filed its Condemnation Complaint with the District Court on April 17, 2017, seeking approval to condemn the Conestoga Substation. Amtrak's filing to condemn the Conestoga Substation is a material breach of both the Commission-approved 2015 Rate Case Settlement and the Mutual Agreement. Apparently, Amtrak believes that it is not required to honor these agreements because it can simply condemn the property if it later decides it does not like the deal reached at the time of the agreement.

Substation when PPL Electric does not own or control the Conestoga Substation, and which allegedly would violate a federal stipulation approved by the District Court. (Amtrak Notice, p. 3) Amtrak's exception is without merit for several reasons and is nothing more than another flawed attempt to argue that the Commission lacks jurisdiction over the pending rate case.

First, Amtrak's exception is premised on the disputed assumption that Amtrak will ultimately be able to condemn and take possession of PPL Electric's Conestoga Substation. PPL Electric is actively opposing Amtrak's authority to condemn public utility facilities and it is entirely unknown if Amtrak's request to condemn the Conestoga Substation will be approved. Further, although title to the Conestoga Substation passes to Amtrak upon filing its declaration of taking and required deposit,<sup>5</sup> Amtrak incorrectly implies that it is entitled to immediate possession of and operation of the equipment and facilities at the Conestoga Substation used to provide electric utility service to or for the public. Indeed, the law is clear that, if Amtrak's request to condemn property is approved, the federal court will determine "the time by which, and the terms under which, possession of the property is given to Amtrak." 49 U.S.C. §§ 24311(b)(2). Thus, unless and until the federal court (i) approves the condemnation and (ii) determines the time and terms under which possession of the Conestoga Substation will be given to Amtrak, if at all, PPL Electric will continue to be in possession of and operate the Conestoga Substation in accordance with its statutory obligation to provide safe and reliable utility service to the public.

Second, Amtrak's argument that PPL Electric has no interest in the Conestoga Substation is contradicted by Amtrak's own request in the federal condemnation proceeding. Indeed, on July 19, 2017, Amtrak filed a "Motion for Immediate Possession" in the federal condemnation

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<sup>5</sup> Under 49 U.S.C. §§ 24311(b)(2), title to the Conestoga Substation was transferred to Amtrak when it filed its declaration of taking and required deposit.

proceeding at Docket No. 17-CV-1752, requesting the District Court to direct PPL Electric to immediately deliver possession of the Conestoga Substation to Amtrak.<sup>6</sup> Amtrak’s “Motion for Immediate Possession” is an admission that PPL Electric, not Amtrak, is currently in possession of and operation of the equipment and facilities at the Conestoga Substation used to provide electric utility service to or for the public.

Third, Amtrak’s reliance on the federal stipulation is misplaced. On May 22, 2017, PPL Electric and Amtrak entered into a stipulation, which was approved by the District Court. As part of the federal stipulation, PPL Electric and Amtrak agreed that PPL Electric will not make any capital improvements, upgrades, or alternations at the Conestoga Substation until further order of the District Court. (PPL Electric Statement No. 3 (UPDATED), p. 16) Amtrak cites the federal stipulation for the proposition that PPL Electric is barred from making further capital improvements and upgrades to the Conestoga Substation. However, the federal stipulation only provides that PPL Electric will temporarily discontinue the upgrades needed at the Conestoga Substation “until further order of the Court.” The federal stipulation merely preserved the status quo while Amtrak’s request for approval to condemn the Conestoga Substation is pending before the District Court. Indeed, PPL Electric will clearly be permitted to complete the upgrades needed at the Conestoga Substation if (i) the District Court denies Amtrak’s request for approval to condemn the Conestoga Substation or (ii) the District Court issues a further order lifting the temporary stay of the capital improvements at the Conestoga Substation.

Fourth, Amtrak ignores the fact that the federal stipulation expressly provides that PPL Electric is obligated to continue to perform normal operational and maintenance functions at the Conestoga Substation. (PPL Electric Statement No. 3 (UPDATED), p. 16) Thus, PPL Electric

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<sup>6</sup> Amtrak’s “Motion for Immediate Possession” remains pending before the District Court.

will continue to be responsible for operating and maintaining the Conestoga Substation, pursuant to the District Court's order, pending the outcome of federal condemnation proceeding.

Fifth, Amtrak ignores that the proposed increase in Rate Schedule LPEP is designed to become effective on the date that the Conestoga Substation upgrade is completed and placed in service.<sup>7</sup> (PPL Electric Statement No. 1, p. 14) The Conestoga Substation was originally scheduled to be in-service by November 2018. (PPL Electric Statement No. 3 (UPDATED), p. 5) As a result of the federal stipulation, the in-service date for the Conestoga Substation project will depend upon a further order from the District Court. However, the need for the Conestoga Substation project is undisputed and, notwithstanding the federal stipulation, the proposed increase in the Rate Schedule LPEP monthly distribution charge will only become effective on the date the Conestoga Substation upgrade is completed and placed in service. (PPL Electric Statement No. 3 (UPDATED), p. 16)

Importantly, the effective date of the proposed increase to Rate Schedule LPEP will, by design, fully account for the outcome of Amtrak's request to condemn the Conestoga Substation currently pending before the District Court. For example, if the District Court approves Amtrak's request to condemn the Conestoga Substation, PPL Electric may not be permitted to complete the upgrades at the Conestoga Substation and the new rate will not become effective. Conversely, if the District Court denies Amtrak's request to condemn the Conestoga Substation, PPL Electric will complete the undisputed upgrades needed at the Conestoga Substation and the proposed rate increase will become effective once the upgrades are placed in service.

Finally, as further explained in PPL Electric's Initial Brief, it should be remembered that the need and costs for the Conestoga Substation are undisputed. It also is undisputed that the

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<sup>7</sup> No parties, including Amtrak, objected to the proposed Rate Schedule LPEP becoming effective on the date that the Conestoga Substation upgrade is completed and placed in service.

costs for the Conestoga Substation should be allocated to and recovered through the Rate Schedule LPEP monthly distribution charge. Additionally, PPL Electric's calculation of the proposed increase to Rate Schedule LPEP is reasonable, consistent with well-established ratemaking principles, and supported by the record. No parties, including Amtrak, presented any evidence to oppose or otherwise challenge the calculation of the proposed increase in the Rate Schedule LPEP monthly distribution charge, or its proposed effective date. Therefore, the proposed increase in the Rate Schedule LPEP monthly distribution charge should be approved as recommended by the ALJ's Recommended Decision.

Based on the foregoing, the Commission should deny Amtrak's exception and adopt the Recommended Decision.

### III. CONCLUSION

WHEREFORE, for all the foregoing reasons, as well as those more fully explained in its Initial Brief, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission deny the "Notice in Lieu of Exceptions" filed by the National Railroad Passenger Corporation and adopt the recommendation of Administrative Law Judge David A. Salapa to approve the proposed increase in the Rate Schedule LPEP monthly distribution charge from the current \$126,323.59 per month to \$314,286.57 per month to become effective on the date that the Conestoga Substation upgrade is completed and placed in service.

Respectfully submitted,

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Date: September 6, 2017

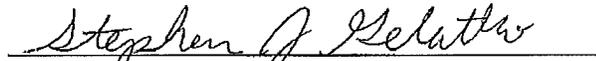
Counsel for PPL Electric Utilities Corporation

**VERIFICATION**

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF LEHIGH

I, Stephen J. Gelatko, Director- Distribution Asset Planning, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

  
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STEPHEN J. GELATKO