

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

Pennsylvania Public Utility Commission

v.

PPL Electric Utilities Corporation

Public Meeting held November 8, 2017

2569975-OSA

R-2016-2569975

National Railroad Passenger Corporation

Ronald J. Serafin

v.

PPL Electric Utilities Corporation

C-2016-2580526

C-2016-2611401

STATEMENT OF COMMISSIONER DAVID W. SWEET

Before us for consideration is the Recommended Decision (RD) of Administrative Law Judge David A. Salapa (ALJ) recommending approval of a tariff supplement filed by PPL Electric Utilities Corporation (PPL) seeking to increase the monthly distribution charge in its Rate Schedule LPEP, a class that applies to only one customer, the National Railroad Passenger Corporation (Amtrak).¹ The proposed increase is designed to pay for the necessary upgrades to the Conestoga Substation, and would raise the rate from the present \$126,323.59 to proposed \$319,671.00 per month,² which includes both money spent and that proposed for future upgrades as well as the cost of providing service. In addition, Amtrak has petitioned the Commission for interlocutory review of two material questions based upon its ongoing litigation in the Federal District Court, both of which are now moot with the conclusion of litigation before the PUC. I note that the establishment of rates fall exclusively within the jurisdiction of this agency, so there was no reason to stay this proceeding when Amtrak filed its eminent domain proceeding in the federal district court while PPL continues to provide service. Therefore, I agree that the Commission should decline to answer the questions.

As to PPL's tariff supplement, PPL presented evidence that it has already incurred costs of \$9,338,200 through December 31, 2016 for upgrades to the facilities, separate from the planned upgrades not yet performed which would cost an approximate \$14 million.

PPL provided substantial evidence to support its claims, and Amtrak failed to provide any evidence to counter PPL's evidence concerning the need for reconstruction of the Conestoga Substation, the method of reconstruction, the cost of the reconstruction, and the method of calculating the LPEP distribution rate. The RD accepted PPL's evidence and ruled in its favor.

I note here, however, that the RD provides that the requested rate take effect upon the completion of the upgrades to the Conestoga Substation. Since these upgrades are not permitted by the Federal Court Order without the express permission of Amtrak and will not occur unless

¹ Note that the complaint filed by individual Ronald J. Serafin was settled and a certificate of satisfaction filed July 5, 2017.

² This amount was reduced to \$314,286.57 during litigation.

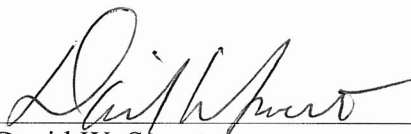
and until PPL is successful in contesting Amtrak's eminent domain efforts in the Federal Court, there is no legal bar to adopting the RD's determination. However, the eminent domain proceeding did change the nature of this Commission's investigation, and the RD, while recommending a possible future rate, does not recommend a rate that is appropriate for the present circumstances.

PPL's evidence included the actual ownership of the substation until April 18, 2017, and the ratemaking factors associated with ownership of the facility. While the future of the substation is uncertain, at present, title of the substation lies with Amtrak, which means that the evidence that PPL relied upon to support its claims is not accurate at this time.

Accordingly, to adjust the claimed rate to one that is more accurate considering the present change in circumstances, PPL should be directed to file a Revised Exhibit SRK-7 that reflects change in ownership of the substation, regarding the Plant in Service reduction and related adjustments and to file a compliance tariff that adjusts its rate to reflect the current cost of providing service to Amtrak. This directive should be made with the understanding that, if PPL is successful in contesting the condemnation of electric facilities and the return of title to PPL, it may file to restore the rates sought in this proceeding.

The bottom line is that PPL is presently providing service and for that service, it deserves a rate that accurately reflects its costs to provide that service. Outright dismissal of the tariff filing does not result in such a rate. Therefore, I respectfully dissent.

November 8, 2017
Date



David W. Sweet
Commissioner