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July 13, 2018

***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: Application of PPL Electric Utilities Corporation for Approval of Intercompany  
Restructuring  
Docket No. A-2017-2629534**

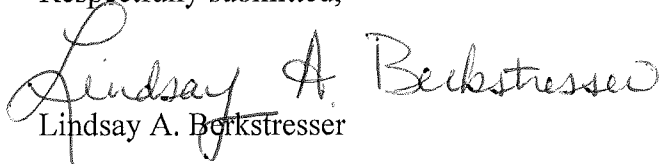
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Dear Secretary Chiavetta:

Enclosed please find the Reply Brief of PPL Electric Utilities Corporation in the above-referenced proceeding. PPL Electric respectfully requests Commission action on its Application by October 31, 2018 so that the Company has sufficient time to implement the Proposed Restructuring before the end of the calendar year.

Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

  
Lindsay A. Berkstresser

LAB/skr  
Enclosure

cc: Certificate of Service  
Honorable Joel H. Cheskis  
Honorable Benjamin J. Myers

## CERTIFICATE OF SERVICE

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 AND FIRST CLASS MAIL

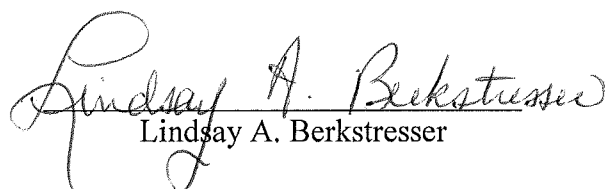
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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of PPL Electric Utilities :  
Corporation for Approval of Intercompany : Docket No. A-2017-2629534  
Restructuring :

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**REPLY BRIEF OF  
PPL ELECTRIC UTILITIES CORPORATION**

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**TO ADMINISTRATIVE LAW JUDGES JOEL H. CHESKIS AND BENJAMIN J. MYERS:**

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Date: July 13, 2018

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## I. INTRODUCTION

Pursuant to the procedural schedule adopted in this proceeding, PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) and the Office of Small Business Advocate (“OSBA”) filed Main Briefs on June 29, 2018. In its Main Brief, the OSBA recommended that PPL Electric’s Application for Approval of Intercompany Restructuring (“Proposed Restructuring”) be denied. The Office of Consumer Advocate and Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement did not file Main Briefs.

PPL Electric files this Reply Brief in response to the Main Brief of the OSBA. PPL Electric anticipated many of the issues that were raised in the OSBA’s Main Brief and previously addressed these issues in the Company’s Main Brief. Therefore, PPL Electric’s Reply Brief will be limited to responsive arguments that seek to avoid repetition of arguments addressed in its Main Brief. For the reasons explained herein, the OSBA’s arguments in opposition to PPL Electric’s Application should be rejected, and the Application should be approved.

## II. ARGUMENT

### A. **THE PROPOSED RESTRUCTURING DOES NOT RESULT IN A TRANSFER OF PROPERTY TO A NEW ULTIMATE OWNER; THEREFORE, THE *CITY OF YORK* SUBSTANTIAL PUBLIC BENEFIT STANDARD DOES NOT APPLY.**

PPL Electric has fully addressed in its Main Brief the appropriate standard that the Commission should apply for evaluating the Proposed Restructuring. However, in response to the OSBA, PPL Electric notes that Section 1102(a)(3) of the Public Utility Code, 66 Pa. C.S. § 1102(a)(3), applies to transfers of utility property to a new ultimate owner. The Commission’s Policy Statement on Section 1102(a)(3) defines when this type of transfer occurs, such as in the case of a merger or sale of utility stock, including by a parent or grandparent of a utility. *See*

*Policy Statement*, 1994 Pa. PUC LEXIS 56 at \*11. No transfer of property to a new ultimate owner would occur as a result of PPL Electric's proposed internal reorganization.

The OSBA argues that the substantial public benefit standard, as set forth in *City of York*, 295 A.2d 825 (1972), applies to the Proposed Restructuring. (OSBA Main Brief, p. 8) The OSBA's argument fails to recognize that the Proposed Restructuring is limited to an internal reorganization with no ultimate change in control of utility property. The *City of York* standard applies to transfers of ultimate ownership of utility property. The Commission should not apply the *City of York* substantial public benefit standard to an internal reorganization, such as the one proposed in PPL Electric's Application, simply because there is an insertion of new holdings companies between PPL Electric and PPL Corporation.

Instead, the Commission should examine whether the Proposed Reorganization affects utility management or operations in accordance with the Order adopting the Policy Statement. See *Policy Statement*, 1994 Pa. PUC LEXIS 56. If the Commission determines that there is no such affect and that the Proposed Restructuring is "necessary or proper for the service, accommodation, convenience, or safety of the public," it should enter an order approving the Proposed Restructuring. See 66 Pa. C.S. § 1103. PPL Electric has explained in its Main Brief why the management and operations of PPL Electric will not change as a result of the Proposed Restructuring and why the Proposed Restructuring is "necessary or proper for the service, accommodation, convenience, or safety of the public." (PPL Electric M.B., pp. 3, 6)

The OSBA's position that transactions involving nonregulated businesses must provide substantial benefits to customers of the regulated utility is beyond the scope of section 1102(a)(3). Section 1102(a)(3) requires approval of new ultimate ownership of utility property, but it does not limit a utility parents' ability to reorganize its structure to acquire and manage its

regulated and nonregulated businesses. The Commission has separate authority to oversee utility contracts with nonregulated affiliated companies. *See* 66 Pa. C.S. § 2120. Section 1102(a)(3) should not be used to prevent internal reorganizations that would not have a negative impact on utility operations, such as the one proposed here.

OSBA's attempt to limit corporate reorganizations to those that produce substantial benefits for public utility customers goes beyond the scope of Section 1102(a)(3) and must be rejected as a matter of law. In addition, such action would be poor public policy. Utility customers should not be subsidized by affiliated non-regulated activities, just as utility customers should not be required to subsidize non-regulated activities. Requiring benefits to utility customers for the proposed restructuring would violate such principle. (PPL Electric, St. No. 1-R, p. 5)

**B. PPL CORPORATION'S MANAGEMENT OF TAX LIABILITIES, IMPROVED FINANCIAL STRENGTH, AND ENHANCED ABILITY TO PAY SHAREHOLDER DIVIDENDS WILL ULTIMATELY BENEFIT PPL ELECTRIC'S CUSTOMERS.**

The OSBA argues that the Proposed Restructuring would not benefit utility customers and may even result in some detriment in the form of reduced state tax revenues to the Commonwealth. (OSBA M.B., p. 12) The OSBA's assertion that the Proposed Reorganization may reduce current state taxes is erroneous. The amount of state taxes paid by nonregulated entities of the utility parent is in no way related to the day-to-day operations of PPL Electric. Even so, the Proposed Restructuring, if approved, would not result in a reduction of any existing taxes paid by PPL Electric or any affiliate of PPL Electric. As explained in Mr. Torok's rebuttal testimony, the reduction of potential future tax liabilities for non-regulated affiliates is simply an example of how financial and tax matters could be managed more effectively under the proposed corporate structure. (PPL Electric St. No. 1-R, pp. 5-6) Managing future tax liabilities of non-

regulated companies is not a detriment to utility customers; it is simply a prudent business practice.

The OSBA fails to recognize how enhancing PPL Corporation's ability to effectively manage tax liabilities would benefit PPL Electric's customers. The improved financial strength and efficiency of PPL Corporation, the parent of PPL Electric, does ultimately benefit PPL Electric's customers. PPL Electric explained in its Main Brief the many benefits associated with PPL Corporation's improved ability to manage tax payments, including improved ability to raise capital at reasonable rates. The Company emphasizes that its ability to raise capital is particularly important given that it is implementing a major infrastructure program and tax reform has increased requirements to raise capital in public markets. (PPL Electric M.B., pp. 5-6; PPL Electric St. No. 1-R, p. 6) These benefits further demonstrate that the Proposed Restructuring is necessary or proper for the service, accommodation, convenience, or safety of the public and should be approved. *See City of Erie v. Buffalo and Lake Erie Traction Co.*, 4 P.S.C. 628, 634 (1920) ("In no manner can the public interest be better served than by the adoption of a policy which will result in financially strong and efficiently constructed public utilities in order that they may render adequate service for a reasonable rate."); *Borough of Verona v. Suburban Water Co.*, 4 P.S.C. 748, 755 (1920) ("[The utility] should be so maintained that it can at all times meet its needs and that the finances required to make necessary improvements and extensions be forthcoming.")

The OSBA also contends that any tax savings that may result from the Proposed Restructuring could be used to pay shareholder dividends. In the OSBA's view, PPL Electric's ability to pay shareholder dividends does not constitute a benefit to utility customers. (OSBA M.B., p. 14) The OSBA's position on shareholder dividends is misplaced. The ability to pay

dividends is a critical function of a public utility corporation. *See Federal Power Com. v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944) (“The investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock.”); *Bluefield Water Works & Improvement Co. v. Public Serv. Comm’n*, 262 U.S. 679, 683 (1923) (“The [rate of] return should be reasonably sufficient to assure confidence in the financial soundness of the utility, and should be adequate, under efficient and economical management, to maintain its credit, and enable it to raise the money necessary for the proper discharge of its public duties.”). As the Pennsylvania Supreme Court stated in *Pennsylvania Railroad v. Philadelphia County*:

What is a fair profit is a complicated and difficult question, but there are certain elements that are plainly to be regarded to avoid injustice, such as the original investment, the risks assumed at that time, the returns as compared with other enterprises as nearly similar as may be, the cost of maintenance and improvement, the prospects of increase and the present value in view of the preceding elements. Injustice is done by anything that fails to consider these, and to deal equitably with the private as well as the public interests involved. It is not necessarily regulated by what others would now make the venture for, under the present circumstances and with present knowledge. The public having long reaped the incidental profits from the development of the country by the enterprise and venture of capital, in the increased value of land, the opening of new and wider markets for crops and manufactures and the facility of intercourse and exchange for persons and property, the courts should not now ignore this aspect of the subject in considering the question of injustice to the corporators.

220 Pa. 100, 115 (1908).

Clearly, it is unreasonable to suggest that paying dividends is not a legitimate public utility function that benefits customers. Without the ability to pay dividends, equity capital provided by utility shareholders would not exist, and utilities could not rely on equity capital as a source of funding for capital projects. *See, e.g., Reagan v. Farmers' Loan & Trust Co.*, 154 U.S.

362, 412, (1894) (“Justice demands that everyone should receive some compensation for the use of his money or property. . .”); *Knoxville v. Knoxville Water Co.*, 212 U.S. 1, 18 (1909) (“The slight gain to the consumer, which he would obtain from a reduction in the rates charged by public service corporations, is as nothing compared with his share in the ruin which would be brought about by denying to private property its just reward, thus unsettling values and destroying confidence.”). A utility’s inability to raise equity capital would severely impede its obligation to maintain and improve its infrastructure. The potential availability of additional resources to pay shareholder dividends supporting PPL Electric’s equity capital is just another example of how the Proposed Restructuring would benefit PPL Electric’s customers and why the Proposed Restructuring should be approved.

As a result, there is sufficient benefit to PPL Electric’s customers to justify approval of the Proposed Restructuring.

**C. OSBA’S ASSERTION THAT THE COMPANY DID NOT ADDRESS ALTERNATIVES TO THE PROPOSED RESTRUCTURING SHOULD NOT BE USED AS A BASIS TO DENY PPL ELECTRIC’S APPLICATION.**

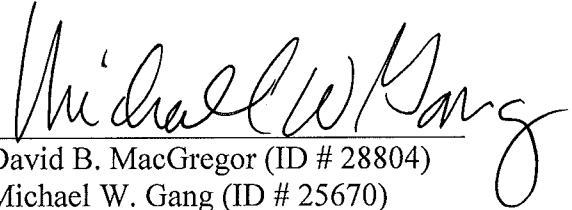
In its Main Brief, the OSBA asserts that it inquired as to whether the Proposed Restructuring was being proposed as an alternative to other possible tax management strategies, but the Company did not address the issue of alternative solutions in its testimony. (OSBA M.B., p. 12) PPL Electric is not obligated to analyze potential alternatives to its Proposed Restructuring. This is especially true given the fact that PPL Electric’s proposal will not harm utility customers and would provide several benefits to customers as described in the Company’s Main Brief and the Direct and Rebuttal Testimonies of Mr. Torok. The Company would have no basis upon which to evaluate alternatives to a proposal that will not result in harm to customers.

While PPL Electric has the burden to support the proposal presented in its Application, it is the OSBA's burden to present any alternatives that it believes may represent a better solution than what PPL Electric has proposed in its Application. *See* 66 Pa.C.S. § 332(a). The OSBA has presented no such proposal for the Company or the Commission to consider. PPL Electric has demonstrated the many benefits to customers as a result of the Proposed Restructuring, and the OSBA has offered not offered any alternative proposal in response. Therefore, the OSBA's argument that PPL Electric has not considered "alternatives" to its proposal provides no basis for denying the Application, and the Proposed Restructuring as presented in PPL Electric's Application should be approved.

### III. CONCLUSION

For the foregoing reasons, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission issue an order granting all necessary approvals for the Company's Application for Approval of Intercompany Restructuring. PPL Electric respectfully requests Commission action on its Application by October 31, 2018 so that the Company has sufficient time to implement the Proposed Restructuring before the end of the calendar year.

Respectfully submitted,



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