

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

**PPL Electric Utilities
Corporation**

**Public Meeting April 25, 2019
2629534-OSA
Docket No. A-2017-2629534**

STATEMENT OF VICE CHAIRMAN DAVID W. SWEET

When I first saw the caption for this Application of PPL Electric Utilities Corporation (PPL) for Approval of Inter Company Restructuring (Restructuring Application), I thought it was a simple case. Based on my past legal work and understanding of corporate restructuring, I first assumed that the Restructuring Application could go forward without a new Certificate for Public Convenience. But sadly, such a routine approval is not compelled by the evidence submitted, or clearly permitted by the applicable provision of the Public Utility Code at Section 1102(a)(3), or the Commission's construction and administration of this provision as set forth in our policy statement at 52 Pa. Code § 69.901 and cases evolving therefrom. Even PPL appears to concede this point (see page 4 of the application).

To me, there is a two-pronged inquiry – first, does the approval of this Restructuring Application require a new CPC, and secondly, if so, does this application justify such an approval. The answer to the first question is yes based on the statute, the policy statement, the history of their application, and the applicant's failure to make a compelling argument to the contrary.

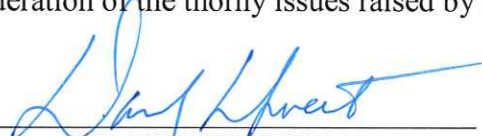
I have difficulty believing the General Assembly intended this interpretation of Section 1102, but for over 20 years that has been the case, although perhaps not to a set of facts exactly like those asserted in this case.

Since a CPC is required, has PPL met the "affirmative benefits" test as set forth by the Supreme Court in its *City of York* decision?¹ My answer is they have not met the standard. I searched the record in vain to find any concrete examples of benefit to the customers of PPL or other affected parties other than the PPL corporate family. Despite being asked several times for such examples, the only specific item put forward was the ability to avoid, through the creation of two Delaware corporate subsidiaries, certain Pennsylvania taxes, hardly my idea of an "affirmative public benefit" for Pennsylvania residents and taxpayers. Other than this example, we are left with a record that contains only generalizations on this subject. Vague and speculative assertions about improved cash management, greater flexibility in merger and acquisition situations, and more favorable treatment in the capital markets, are just not sufficient to meet the *City of York* standard.

I regretfully must vote to disapprove this application. I wish the statute was clearer, the policy statement more on point, the Commission's application of these legal guidelines more nuanced, and the evidence on affirmative public benefits more robust and compelling.

This outcome is troubling to me, but PPL is not left without options, be it through a new application, an appeal of our decision allowing for an appellate court consideration of the thorny issues raised by this, or clarification by the General Assembly.

Date: April 25, 2019



**DAVID W. SWEET
VICE CHAIRMAN**

¹ *City of York v. Pa. PUC*, 295 A.2d 825 (Pa. 1972)