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File #: 177551

August 22, 2019

VIA ELECTRONIC FILING

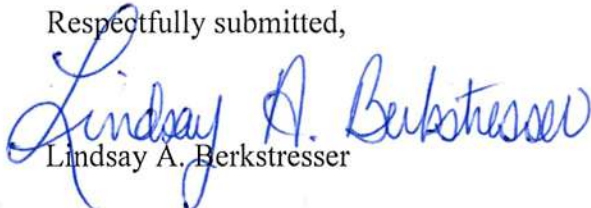
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: National Railroad Passenger Corporation v. PPL Electric Utilities Corporation
Docket No. C-2019-3010398

Dear Secretary Chiavetta:

Enclosed please find PPL Electric Utilities Corporation's Prehearing Conference Memorandum filing in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Lindsay A. Berkstresser

LAB/kl
Enclosures

cc: Honorable Joel H. Cheskis
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

National Railroad Passenger Corporation,	:	
	:	
v.	:	Docket No. C-2019-3010398
	:	
PPL Electric Utilities Corporation	:	

**PREHEARING CONFERENCE MEMORANDUM OF
PPL ELECTRIC UTILITIES CORPORATION**

TO ADMINISTRATIVE LAW JUDGE JOEL H. CHESKIS:

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”), pursuant to 52 Pa. Code § 5.222(d), and in compliance with the Prehearing Conference Order issued by Administrative Law Judge Joel H. Cheskis (“ALJ”) on July 19, 2019, PPL Electric hereby submits this Prehearing Memorandum in the above-captioned matter, and states as follows:

I. SERVICE OF DOCUMENTS

1. PPL Electric requests that all documents be served on:

Lindsay A. Berkstresser
Post & Schell, PC
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
lberkstresser@postschell.com

2. PPL Electric agrees to receive service of documents electronically in this proceeding. Further, to the extent that materials are available electronically, it is requested that copies be served upon Michael J. Shafer at mjshafer@pplweb.com, Kimberly A. Klock at kklock@pplweb.com, Ronald J. Reybitz at rreybitz@pplweb.com, and David B. MacGregor at dmacgregor@postschell.com.

3. PPL Electric's attorneys are authorized to accept service on behalf of the Company in this proceeding. PPL Electric requests that the Pennsylvania Public Utility Commission ("Commission") and all parties of record serve copies of all discovery requests and answers, correspondence, Commission Orders, and any other documents issued in this proceeding on its attorneys in Harrisburg, Pennsylvania.

II. SETTLEMENT

4. To date, no settlement discussions have been held. Moreover, as explained in more detail in Section VI. below, PPL Electric believes that any settlement of this proceeding would need to involve Constellation New Energy, Inc. ("CNE").

III. DISCOVERY

5. PPL Electric does not propose any modifications to the Commission's discovery regulations at this time.

6. This case presents complex issues regarding interstate transmission rates and service as evidenced by Amtrak's contemporaneous filing of a complaint at the Federal Energy Regulatory Commission ("FERC"). In addition, many of the facts alleged in Amtrak's Complaint are not within PPL Electric's possession or control and will require extensive factual discovery through subpoenas to third parties, including, but not limited to, CNE. For these reasons, PPL Electric requests that it be allowed sufficient time for initial discovery in this proceeding.

IV. LITIGATION SCHEDULE

7. PPL Electric will contact Amtrak in advance of the prehearing conference to discuss a litigation schedule. PPL Electric believes that the schedule should include sufficient time for discovery of Amtrak and third parties and an opportunity to file dispositive motions.

V. WITNESSES

8. At this time, PPL Electric is unable to determine what witnesses it will present in this proceeding. Full identification of witnesses cannot be provided until complainant's case in chief is filed. PPL Electric anticipates presenting at least the following witnesses:

<u>Witness</u>	<u>Topics</u>
Gary Hartman PPL Services Corporation Two North Ninth Street Allentown, PA 18106	Metering and PJM Settlement
Jim Rouland PPL Services Corporation Two North Ninth Street Allentown, PA 18106	NITS calculation and PJM Settlement
Jeff Byrnes PPL Electric Utilities Corporation Two North Ninth Street Allentown, PA 18106	Conestoga physical configuration

9. PPL Electric reserves the right to call additional witnesses and to address any issues that may arise during the course of the proceedings. Moreover, PPL Electric may file subpoenas for witnesses from third parties, including but not limited to, CNE.

VI. ISSUES

10. Amtrak's Complaint raises issues pertaining to Amtrak's charges for retail transmission service provided by Amtrak's electric generation supplier ("EGS"), CNE, and the

manner in which PPL Electric calculates CNE's network load for Network Integrated Transmission Service ("NITS"). Amtrak seeks a refund for transmission charges from PPL Electric. CNE provided retail transmission service to Amtrak and Amtrak paid CNE for retail transmission service during the period that is the subject of the Complaint. Amtrak is not entitled to any relief from the Commission because at all times relevant to the Complaint, PPL Electric complied with the Public Utility Code, the Commission's regulations, and PPL Electric's Commission-approved Electric Generation Supplier Coordination Tariff. In addition, it appears that several issues raised by Amtrak, particularly those issues involving interstate transmission rates are solely within the jurisdiction of the FERC.

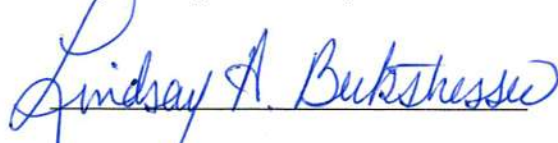
11. Moreover, based on the limited discovery responses to date it appears that Amtrak has failed to join indispensable parties to this case, including but not limited to CNE and its affiliates. PPL Electric acknowledges that the ALJ has denied PPL Electric's preliminary objection regarding joinder of indispensable parties. However, as the ALJ recognized, this ruling was based on the assumption that all facts pled in Amtrak's complaint are true and correct and also acknowledged that failure to join other parties may limit any relief available to Amtrak in this proceeding. PPL Electric intends to explore this issue further through discovery and may file a further motion on this issue once discovery is completed. However, PPL Electric believes that resolution of the indispensable party issue early in the proceeding is critical to the efficient litigation of this proceeding to avoid undue delay and waste of administrative and party resources. See, e.g., *J3 Energy Group, Inc. v. West Penn Power Company*, Docket No. C-2011-2219920 (Order entered October 31, 2013).¹

¹ In *J3 Energy Group*, the Commission vacated the ALJ's initial decision well over two years after the litigation was initiated based on the parties' failure to join an indispensable party to the proceeding. The Commission *sua sponte* joined the indispensable party whose contractual rights would be impacted by the outcome

12. Moreover, PPL Electric requests that Amtrak be required to notify CNE, Safe Harbor, and PJM Interconnection of this proceeding.

13. PPL Electric reserves the right to address additional issues that may arise during the course of this proceeding.

Respectfully submitted,



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Kimberly A. Klock (ID # 89716)
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Of Counsel:

Post & Schell, P.C.

Date: August 22, 2019

Attorneys for PPL Electric Utilities Corporation

of the litigation because, without out the indispensable party, the Commission lacked subject matter jurisdiction over the complaint.

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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Date: August 22, 2019



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