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August 22, 2019

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**VIA HAND DELIVERY**

**RE: Prehearing Conference Memorandum – National Railroad Passenger Corporation v. PPL Electric Utilities Corporation; Docket No. C-2019-3010398**

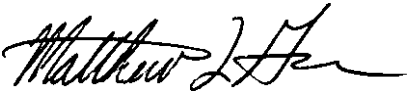
Dear Secretary Chiavetta:

Please find attached for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the Prehearing Conference Memorandum on behalf of the National Railroad Passenger Corporation (Amtrak), in the above-referenced proceeding.

If you have any questions regarding the attached document, please feel free to contact the undersigned. As shown by the attached Certificate of Service, the statutory parties are being duly served with a copy of this filing. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By   
Pamela C. Polacek  
Matthew L. Garber

Counsel to National Railroad Passenger Corporation

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2019 AUG 22 PM 3:45  
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Enclosures

cc: Deputy Chief Administrative Law Judge Joel H. Cheskis (via E-Mail and First Class Mail)  
Certificate of Service

RECEIVED

AUG 22 2019

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

National Railroad Passenger Corporation

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v.

C-2019-3010398

PPL Electric Utilities Corporation

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**PREHEARING CONFERENCE MEMORANDUM OF THE  
NATIONAL RAILROAD PASSENGER CORPORATION**

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Pursuant to the July 19, 2019, Prehearing Conference Order issued by Deputy Chief Administrative Law Judge ("ALJ") Joel H. Cheskis, the National Railroad Passenger Corporation ("Amtrak" or "Company") hereby submits this Prehearing Conference Memorandum in the above-captioned proceeding.

**I. HISTORY OF THE PROCEEDING**

On May 30, 2019, Amtrak filed with the Pennsylvania Public Utility Commission ("PUC" or "Commission") a Complaint against PPL Electric Utilities Corporation ("PPL"). Amtrak's Complaint challenges the manner in which PPL determines the Network Service Peak Load ("NSPL") transmission obligation applicable to Amtrak's account at the Conestoga Substation. A description of Amtrak is set forth in Paragraph 4 of its Complaint.

In response to Amtrak's Complaint, PPL submitted an Answer and New Matter on June 27, 2019, asserting that Amtrak's Complaint should be dismissed. On that same date, PPL also filed Preliminary Objections in response to Amtrak's Complaint. Amtrak submitted its Answers to PPL's Preliminary Objections and PPL's New Matter on July 8, 2019, and July 17, 2019, respectively.

On August 14, 2019, Deputy Chief ALJ Cheskis issued an Order denying PPL's Preliminary Objections and scheduling a Prehearing Conference for August 29, 2019.

## **II. SERVICE LIST**

For purposes of service in the above-captioned proceeding, please direct all communications to:

Robert A. Weishaar, Jr. (I.D. No. 74678)  
Pamela C. Polacek (I.D. No. 78276)  
Matthew L. Garber (I.D. No. 322855)  
McNEES WALLACE & NURICK LLC  
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ppolacek@mcneeslaw.com  
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## **III. ANTICIPATED ISSUES AND SUB-ISSUES**

Amtrak will address the manner in which PPL determines the NSPL transmission obligation that applies to Amtrak's account at the Conestoga Substation. Furthermore, Amtrak anticipates addressing the following additional issues:

1. Whether all PPL-related transmission charges to Amtrak at Conestoga are, and continue to be, unjust, unreasonable, and unduly discriminatory;
2. Whether PPL must calculate its transmission obligations for Amtrak based on a method that is publicly available and tariff-based;
3. Whether PPL unlawfully withheld from Amtrak the metering data, formulas, calculations, and other data used to calculate Amtrak's billing determinates;
4. Whether PPL should be required to provide Amtrak with a refund for all PPL-related transmission charges paid by Amtrak from the date that is four years prior to the date on which Amtrak's Complaint was filed, plus interest and applicable taxes; and
5. Whether PPL should be directed to calculate Amtrak's transmission obligation based solely on any inflows of power to Amtrak from the Manor Substation during the applicable zonal peaks, minus (a) any concurrent outflows from the Conestoga Substation through the four lines that transmit power to Perryville, MD; and minus (b) any concurrent power consumed by Safe Harbor.

Amtrak anticipates pursuing these issues during this proceeding and reserves the right to raise further issues and to respond to all matters raised by other parties.

#### **IV. PROPOSED WITNESSES**

Amtrak's witness list for this proceeding is as follows:

William G. Sfida  
Director, Utilities Management – Procurement & Logistics, Amtrak  
2955 Market Street, 5<sup>th</sup> Floor South, 5S-192  
Philadelphia, PA 19104  
(215) 349-1947  
sfidab@amtrak.com

Amtrak is also evaluating whether it will provide testimony from additional Amtrak representatives, including expert witness testimony. Amtrak will provide the Deputy Chief ALJ and PPL with timely updates to this list to reflect any additional witnesses that Amtrak deems necessary to fully address the issues in this proceeding. Amtrak also intends to participate in this proceeding through the submission of discovery, cross-examination of other parties' witnesses, and the submission of briefs, exceptions, and reply exceptions, if necessary.

#### **V. PROPOSED SCHEDULE AND DISCOVERY RULES**

As stated in Paragraph 19 of Amtrak's Complaint, because both the PUC and the Federal Energy Regulatory Commission ("FERC") are entitled to provide Amtrak relief on this matter, Amtrak filed a concurrent complaint at FERC seeking relief under Section 206 of the Federal Power Act, 16 U.S.C. § 824e ("FERC Complaint"), docketed at Docket No. EL19-78-000 ("FERC Proceeding"). Amtrak served its FERC Complaint on the PUC in the above-captioned proceeding on May 31, 2019. Amtrak is providing a compilation of the pleadings in the FERC Proceeding to update Deputy Chief ALJ Cheskis and the Commission of developments in the FERC Proceeding.

There is substantial overlap between the issues that Amtrak raises in this proceeding and the issues in Amtrak's FERC Complaint. For example, if the complaints are sustained, and Amtrak

is entitled to a refund for the transmission overcharges, then Amtrak would expect to recover only once and not twice. In addition, arguably only the FERC has jurisdiction to order changes to the PJM tariff if such changes are warranted to comply with cost-causation principles. Amtrak anticipates that FERC will issue an order in the FERC Proceeding within the next sixty to ninety days that likely will impact the issues being disputed at the PUC. Accordingly, to preserve administrative resources and to maintain maximum consistency between jurisdictions, Amtrak respectfully requests that the Deputy Chief ALJ delay establishing any procedural schedule at this time. Rather, Amtrak requests that the Deputy Chief ALJ reconvene a second prehearing conference after FERC issues such an order.

If the Deputy Chief ALJ determines that a procedural schedule must be established at this stage in the proceeding, Amtrak will cooperate with the Deputy Chief ALJ and the parties at the Prehearing Conference to develop an appropriate procedural schedule in accordance with the Commission's regulations and any directives from the Deputy Chief ALJ.

Additionally, discovery has commenced for this proceeding. Amtrak has responded to several PPL-issued data requests and is currently working to respond to additional requests. On August 7, 2019, PPL filed a Motion to Compel in this proceeding, which was answered by Amtrak on August 12, 2019. The Deputy Chief ALJ ruled on the Motion to Compel on August 22, 2019, granting the Motion in part and denying it in part.

As to discovery rules, Amtrak proposes that service via electronic mail with a hard copy to follow by First-Class Mail shall constitute sufficient service to satisfy any "in-hand" dates. In addition, any discovery served after 12:00 p.m. on Fridays or holidays should be considered to have been served on the following business day for purposes of calculating any responsive deadlines.


As part of discovery, PPL has requested certain documents and correspondence between Amtrak and third parties that the third parties deem to be confidential and highly confidential. Amtrak will work with PPL to submit a mutually-agreeable Protective Order to address this information. To date, the parties have been operating under a stipulated protective agreement.

**VIII. POSSIBILITY OF SETTLEMENT**

Amtrak is willing to pursue settlement discussions with the other parties to amicably resolve the issues in this proceeding, subject to the approval of the Commission.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

Robert A. Weishaar, Jr. (I.D. No. 74678)

Pamela C. Polacek (I.D. No. 78276)

Matthew L. Garber (I.D. No. 322855)

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[mgarber@mcneeslaw.com](mailto:mgarber@mcneeslaw.com)

Counsel to the National Railroad Passenger Corporation

Dated: August 22, 2019

**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

**VIA E-MAIL AND FIRST-CLASS MAIL**

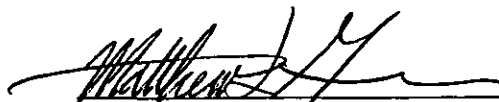
Lindsay A. Berkstresser, Esq.  
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(Exhibits via E-mail only)

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Matthew L. Garber

Counsel to the National Railroad Passenger  
Corporation

Dated this 22<sup>nd</sup> day of August, 2019, in Harrisburg, Pennsylvania.

**RECEIVED**

**AUG 22 2019**

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**NO SCANNED IMAGES ARE  
AVAILABLE**

**COMPLETE ATTACHMENTS  
AND/OR EXHIBIT(S)  
MAY BE VIEWED IN THE  
COMMISSION'S  
FILE ROOM**



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## First Class Mail

**VIA HAND DELIVERY**

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Pennsylvania Public Utility Commission  
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400 North Street, 2nd Floor  
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