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October 15, 2019

VIA ELECTRONIC FILING

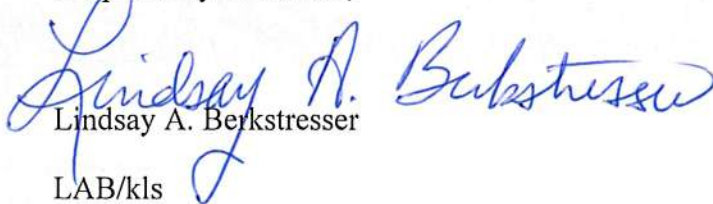
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

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 Answer to National Railroad Passenger Corporation's Motion to Compel 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	:	
	:	
Complainant	:	
	:	
v.	:	Docket No. C-2019-3010398
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent	:	

**ANSWER OF PPL ELECTRIC UTILITIES CORPORATION
TO THE MOTION TO COMPEL OF
THE NATIONAL RAILROAD PASSENGER CORPORATION**

PPL Electric Utilities Corporation (“PPL Electric”) hereby submits this Answer to the Motion to Compel of The National Railroad Passenger Corporation (“Amtrak”) Set I, Question 9, pursuant to 52 Pa. Code § 5.342(g)(1). As explained below, Amtrak’s Motion to Compel should be denied because Set I, Question 9 is overly broad, unduly burdensome, and unlikely to lead to the discovery of admissible evidence.

I. BACKGROUND

On September 18, 2019, Amtrak issued its Set I Interrogatories, Question Nos. 1-11, and its Set II Requests for Admission.

On September 30, 2019, PPL Electric served objections to Question Nos. 9 and 10 of the Set I Interrogatories. A true and correct copy of PPL Electric’s objections is attached hereto as Appendix A.

Counsel for PPL Electric and counsel for Amtrak were able to resolve PPL Electric’s objection to Question No. 10 by agreeing to limit the information requested in Question No. 10 to the time period of four years prior to the filing of Amtrak’s Complaint. Counsel for PPL

Electric and counsel for Amtrak also discussed PPL Electric's objection to Question No. 9 but were unable to resolve PPL Electric's objection with respect to Question No. 9.

On October 8, 2019, PPL Electric served its responses to the Set II Requests for Admission.

On October 9, 2019, PPL Electric served its responses to the Set I Interrogatories, noting its continuing objection to Question No. 9. PPL Electric responded to Question No. 10 with the limitation agreed to by PPL Electric and Amtrak.

On October 10, 2019, Amtrak filed a Motion to Compel PPL Electric's response to Question No. 9.

II. LEGAL STANDARD

Pursuant to Section 5.321(c), a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding and that is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). However, the Commission's regulations place limitations on the scope of discovery. Discovery that would cause unreasonable burden or expense or require an unreasonable investigation by a party is not permitted. 52 Pa. Code § 5.361(a)(2), (4). "The law is [] clear that the Commission has the right to limit discovery that would place an unreasonable burden upon a participant in litigation." *Application of Newtown Artesian Water Company and Indian Rock Water Company*, Docket No. A-212070, 1990 Pa. PUC LEXIS 83 (June 20, 1990) citing *City of Pittsburgh v. Pa. PUC*, 526 A.2d 1243, 1249-50 (Pa. Cmwlth. 1987).

III. AMTRAK'S MOTION TO COMPEL SHOULD BE DENIED.

Amtrak Set I, Question No. 9 provide as follows:

9. Provide all internal PPL correspondence and documents regarding the methodology that PPL uses to calculate transmission

obligation calculations generally and Amtrak transmission obligations specifically.

Questions No. 9 is overly broad, unduly burdensome, and requests information that is unlikely to lead to the discovery of admissible evidence. Specifically, Question No. 9 would require PPL Electric to undertake an unreasonably extensive and costly investigation because the request is broad in scope and pertains to an unlimited timeframe. As drafted, Question No. 9 seeks all internal PPL Electric correspondence regarding PPL Electric's transmission obligation calculation methodology for all customers generally and for Amtrak specifically. In other words, Amtrak is effectively seeking any and all correspondence and documents that reference PPL Electric's transmission rates and calculations since the Company's inception.¹ The amount of material that PPL Electric would have to search in order to respond to such a request is extremely voluminous.

It would be unreasonable to require PPL Electric personnel to search for the correspondence and documents requested without any limitation as to the period for which Amtrak seeks the requested material. Such a task would be extremely time-intensive and nearly impossible to complete as PPL Electric would have not be able to place time period-specific parameters on a search with effectively no end date. PPL Electric estimates that it would take multiple of its personnel several days dedicated solely to searching for information responsive to Question No. 9 if Amtrak's request is not limited.

In its Motion to Compel, Amtrak disagrees that the investigation required to respond to Question No. 9 would be unduly burdensome. Yet Amtrak also acknowledges that the request spans, at a minimum, over twenty years, which is five times as long as the time-period relevant to the Complaint, i.e. May 30, 2015 to May 30, 2019. (Amtrak Motion to Compel, p. 4) Amtrak

¹ Pennsylvania Power & Light, PPL Electric's predecessor company, was founded in 1920.

also implies that the required search would amount to a simple key word search. (Amtrak Motion to Compel, p. 6) This is not an accurate description of the investigation that would be required to respond to Amtrak's request. Amtrak's focus on the word "methodology" does not make the request any less burdensome. (Amtrak Motion to Compel, p. 5) Amtrak fails to acknowledge that, without any limitation as to the time period of the information requested, there would be no date-specific restrictions to place on the search. Thus, whether PPL Electric could limit the search using specific keywords does not cure the voluminous amount of material that must be searched to find responsive documents. Amtrak's request is anything but narrowly tailored.

In support of its argument, Amtrak also states that "PPL has not averred that its discussions of transmission obligation calculation methodology are frequent." (Motion to Compel, p. 6) Whether such discussions occur on a frequent basis, i.e. the actual amount of material responsive to the request, is irrelevant because PPL Electric would still have to conduct a search that spans, at a minimum, over twenty years of material. How much of that material is actually responsive does not mean that PPL Electric will have to invest any less time or expense in conducting its investigation to determine which material is responsive.

Amtrak's Complaint relates to the amounts it was charged for transmission service during the four-year period prior to the filing of Amtrak's Complaint, i.e. May 30, 2015 to May 30, 2019. Amtrak seeks a refund for charges paid during that time. Yet Amtrak requests material for approximately twenty years prior to the time period relevant to the Complaint. Amtrak's broad request and unwillingness to limit the scope of material requested certainly rises to the level of undue burden. The Presiding Officer has previously ruled in this proceeding that interrogatories that are not limited as to timeframe are not reasonable. Specifically, the Presiding

Officer rejected PPL Electric's request for five years' worth of information, concluding that "a four-year scope is appropriate in light of the request in Amtrak's complaint . . ." See August 22, 2019 Order Granting in Part and Denying in Part Motion to Compel, Docket No. C-2019-3010398, p. 6.

Amtrak's broad request is even more unreasonable when considering that it seeks information for all transmission users, not just Amtrak. Question No. 9 seeks information related to the transmission calculation methodology "generally" as well as specifically to Amtrak. (Amtrak Motion to Compel, p. 4) There are approximately 1.4 million users of the PPL Electric transmission system. Internal PPL Electric discussions pertaining to these customers and their use of the transmission system has nothing to do with Amtrak or Amtrak's use of the transmission system and is confidential customer-specific information. Moreover, to the extent that Amtrak is seeking information regarding how PJM calculates NITS charges, this information is described in Part III of the PJM Open Access Transmission Tariff and is publically available. See PJM OATT § 34.1. In addition, PPL Electric's methodology for calculating peak load contributions is also publically available on the "Peak Load Contribution Information" page of PPL Electric's website. *Peak Load Contribution Information*, PPL Electric Utilities Corporation, <https://www.pplelectric.com/utility/about-us/for-generation-suppliers/general-supplier-reference-information/peak-load-contribution-information.aspx>.

Question No. 9 is overly broad, would require an unreasonable search, and is not within the scope of permissible discovery pursuant to the Commission's regulations. Accordingly, Amtrak's Motion to Compel should be denied.

PPL Electric has stated that it is willing to provide the material requested in Question No. 9 for the four-year period prior to the filing of Amtrak's Complaint, which is consistent with the

Presiding Officer's prior discovery ruling in this proceeding. PPL Electric remains willing to respond to Question No. 9 with this limitation.

IV. CONCLUSION

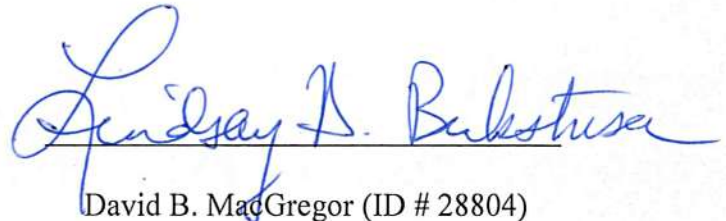
WHEREFORE, PPL Electric Utilities Corporation respectfully requests that The National Railroad Passenger Corporation's Motion to Compel be denied.

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Date: October 15, 2019



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Attorneys for PPL Electric Utilities Corporation

CERTIFICATE OF SERVICE

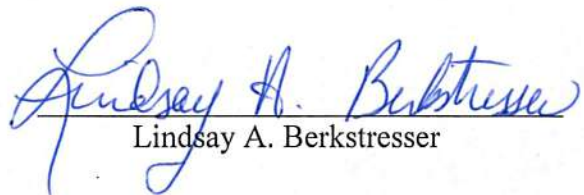
I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Date: October 15, 2019


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