

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. REPORT DATE: November 6, 2003	2. BUREAU AGENDA NO. NOV-2003-L-0133*
3. BUREAU: Law	
4. SECTION(S):	5. PUBLIC MEETING DATE: December 4, 2003
6. APPROVED BY: Director: B. R. Pankiw 3-3222 Mgr/Spvr: R. Young 7-4945	DOCKETED FEB 09 2004
7. PERSONS IN CHARGE: K. Clark 7-3490	
8. DOCKET NO.: P-00021986	

DOCUMENT
FOLDER

9. (a) CAPTION (abbreviate if more than 4 lines)
 (b) Short summary of history & facts, documents & briefs
 (c) Recommendation

(a) Petition of PPL Electric Utilities Corporation for a Declaratory Order To Terminate Controversies Concerning PPL's Certificated Rights To Provide Service in the Borough of Olyphant and Related Transition Charges

(b) On October 17, 2002, PPL Electric Utilities Corporation ("PPL") filed a Petition for a Declaratory Order to Terminate Controversies Concerning PPL's Certificated Rights To Provide Service in the Borough of Olyphant and Related Transition Charges ("Petition"). By its Petition, PPL sought a declaratory order to terminate controversies and remove uncertainty concerning: 1) the attempt by the borough of Olyphant ("Olyphant") to force PPL to abandon certificated electric service within the Mid-Valley Industrial Park in Olyphant, and 2) the obligation of PPL retail customers in PPL's certificated territory within Olyphant to pay transition charges imposed by order of this Commission. On August 11, 2003 Olyphant filed a Motion by the Borough of Olyphant to Deny the Petition of PPL Electric Utilities Corporation for a Declaratory Order ("Motion to Deny PPL's Petition") and Petition to Intervene.

(c) The Law Bureau Recommends that the Commission adopt the proposed order which: 1) grants Olyphant's Petition to Intervene, 2) denies Olyphant's Motion to Deny PPL's Petition, and 3) grants PPL's Petition for a Declaratory Order.

10. MOTION BY: Commissioner Holland

Commissioner Bloom - Yes

Commissioner Thomas - Yes

SECONDED: Commissioner Chm. Fitzpatrick

Commissioner Pizzingrilli - Yes

CONTENT OF MOTION: Postponement to Public Meeting of December 18, 2003 for the Commission's further consideration.

PENNSYLVANIA PUBLIC UTILITY COMMISSION
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6. APPROVED BY: Director: B. R. Pankiw 3-3222 Mgr/Spvr: R. Young 7-4945	December 18, 2003 DOCKETED FEB 10 2004
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REPORT FOLDER

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 (b) Short summary of history & facts, documents & briefs
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10. **MOTION BY:** Commissioner Chm. Fitzpatrick Commissioner Thomas - Yes
 Commissioner Pizzingrilli - Yes
SECONDED: Commissioner Bloom Commissioner Holland - Yes

CONTENT OF MOTION: Staff recommendation adopted.

DOCUMENT
FOLDER



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

December 18, 2003

REFER TO OUR FILE

P-00021986

DAVID B MACGREGOR ESQUIRE
MORGAN LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA PA 19103-2921

DOCUMENT
FOLDER

Petition of PPL Electric Utilities Corporation for a Declaratory Order to Terminate Controversies Concerning PPL's Certified Rights to Provide Service in the Borough of Olyphant and Related Transition Charges.

DOCKETED
DEC 30 2003

To Whom It May Concern:

This is to advise you that an Order has been adopted by the Commission in Public Meeting on December 18, 2003 in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

James J. McNulty
Secretary

Enclosure
Certified Mail
JEH

KENNETH L MICKENS ESQUIRE
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PO BOX 3265
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**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held on December 18, 2003

Commissioners Present:

Terrance J. Fitzpatrick, Chairman
Robert K. Bloom, Vice Chairman
Glen R. Thomas
Kim Pizzingrilli
Wendell F. Holland

DOCKETED
DEC 30 2003

Petition of PPL Electric Utilities Corporation
for a Declaratory Order To Terminate
Controversies Concerning PPL's Certificated
Rights To Provide Service in the Borough of
Olyphant and Related Transition Charges

Docket No: P-00021986

OPINION AND ORDER

**DOCUMENT
FOLDER**

BY THE COMMISSION:

Procedural Background

On October 17, 2002 PPL Electric Utilities Corporation ("PPL") filed the above-captioned petition for a declaratory order ("Petition") pursuant to Sections 331(f) and 2812(f)(2) of the Public Utility Code and 52 Pa. Code §5.42. PPL is seeking a declaratory order to terminate controversies concerning: 1) the Borough of Olyphant's ("Olyphant") attempt to force PPL to abandon certificated electric service within the Mid-Valley Industrial Park ("MVIP" or "Industrial Park") in Olyphant, Pennsylvania, and 2) the obligation of PPL retail electric customers in PPL's certificated territory within Olyphant to pay transition charges imposed by Commission order. *See* Petition, at p. 1.

In accordance with 52 Pa. Code §5.42, PPL served a copy of its Petition on the Office of Consumer Advocate, the Office of Trial Staff, the Office of Small Business

Advocate, the Borough of Olyphant and Counsel for MVIP Electric Consumers. On October 28, 2002, the Office of Trial Staff filed an Answer to PPL's Petition.

On October 28, 2002, the Borough of Olyphant filed an Unopposed Motion for Extension of Time to Answer Petition of PPL to November 12, 2002. Olyphant's Motion for Extension of Time to Answer was telephonically granted by the Commission with instructions to submit a letter to Commission Staff and Commission Secretary McNulty acknowledging the time extension granted until November 12, 2002.

On August 1, 2003, the Commission granted PPLICA's (the name of the group of MVIP electric consumers for purposes of the instant matter) Petition to Intervene which was filed on November 6, 2002. Accompanying PPLICA's Petition to Intervene was its Answer.

There was a delay in the matter before us caused by Olyphant's filing of A Notice of Removal of Petition Against Borough of Olyphant filed By PPL Electric Utilities Corporation in State Proceedings Case No. P-00021986 ("Notice of Removal" or "Removal Matter") on November 12, 2002 in the United States District Court for the Middle District of Pennsylvania ("Middle District"). That filing by Olyphant purported to remove PPL's Petition from the Commission to the Middle District. The Commission did not participate in the Removal Matter. However, upon receipt of the Notice of Removal, this Commission stayed all actions in the matter before it. The Commission did not proceed any further until June 27, 2003 when the Middle District granted PPL's Motion to Strike Notice of Removal and/or Remand to State Agency and jurisdiction over the Petition was returned back to the Commission. Olyphant did not appeal the Middle District decision.

On November 12, 2002, the last day of the extension of time granted to the Borough of Olyphant in which to file its answer, the Borough of Olyphant filed the

Notice of Removal of the Petition with the Middle District. As has been indicated, that action by Olyphant caused a stay in all Commission action in the instant matter. Since the Middle District remanded the Petition back to the Commission on June 27, 2003, the Borough of Olyphant has not filed an answer. Instead, on August 11, 2003 the Borough of Olyphant filed a Petition to Intervene and Motion by the Borough of Olyphant to Deny the Petition of PPL Electric Utilities Corporation for a Declaratory Order (“Motion to Deny the Petition”).¹ Although the Borough of Olyphant has not filed an answer, we shall nonetheless consider the Petition to Intervene and Motion to Deny the Petition as Olyphant’s Answer.²

Background of the Controversies

The facts as they pertain to the matter before us are uncontroverted. No one disputes the basic facts relevant to this matter. Although Olyphant states that they dispute the facts in the federal court litigation, *see* Motion to Deny the Petition, at p. 2, we do not

¹ The Commission notes that the Petition to Intervene does not conform to the express requirements of 52 Pa. Code §5.73. It fails to clearly and concisely set forth the basis of Olyphant’s request to intervene.

² There is an extensive procedural history between PPL and Olyphant in other forums. We take notice of these proceedings but find them to be of no direct relevance to the matter before us.

Federal Energy Regulatory Commission. Order, PPL Electric Utilities Corporation, 101 FERC ¶ 61,370 (December 26, 2002). In this matter before FERC, PPL filed a petition for a declaratory order regarding the scope of a FERC-approved settlement agreement between PPL and the Borough of Olyphant, FERC granted PPL’s petition, concluding that PPL’s entitlement to recover retail stranded costs approved by the Pennsylvania Public Utility Commission from retail customers is not addressed by the FERC-approved settlement agreement, nor contemplated by FERC policies regarding the recovery of stranded costs under FERC Order No. 888, and recognizing this Commission’s exclusive jurisdiction over such retail stranded costs. Olyphant sought rehearing of this decision, which was denied September 10, 2002, *PPL Electric Utilities Corporation*, FERC Docket No. ELO3-16-001, 104 FERC ¶ 61,259.

United States District Court in the Eastern District of Pennsylvania. The Borough of Olyphant, Pa. v. PP&L, Inc. et al., Civil Action No. 03-4023, and *Borough of Lansdale, Pa., et al. v. PP&L, Inc., et al.* Civil Action No. 02-8012 are two pending civil actions wherein the essence of Olyphant’s claim is that its payment of wholesale stranded costs to PPL for the purchase of PPL’s wholesale power, which in turn, Olyphant uses to serve its customers located in the Borough of Olyphant, is a violation of the Federal antitrust laws.

United States District Court in the Middle District of Pennsylvania. Borough of Olyphant v. Pennsylvania Power & Light. et al., No. 3:CV-01-2308 (M.D. Pa., filed December 5, 2001), is a pending civil action brought by the Borough of Olyphant claiming that PPL is violating Federal antitrust laws, as well as, engaging in anticompetitive price squeezing as they both relate to Olyphant’s purchase of wholesale electric power from PPL.

believe that those facts have any relevancy to the matter before us and our determinations herein. We are not making any credibility determinations in this Order. Rather, we are being asked to make legal conclusions based on uncontroverted facts. *See*, Certificate, Scranton, June 28, 1948; Resolution of Olyphant Borough Council, December 5, 1978 (“1978 Olyphant Resolution”); Resolution of Olyphant Borough Council, December 16, 1997 (“1997 Olyphant Resolution”); Letter from C.J. Mustacchio to WEA Manufacturing, dated March 26, 2001; Letter from Norbert R. Losciuk, Manager, the Borough, to F.A. Long, Executive Vice-President and C.O.O., PPL Corporation, April 25, 2001 (“Borough Manager Letter”), and Letter from Michael Wargo, Jr., Mayor, the Borough, to Business Owner in Mid-Valley Industrial Park, written and distributed around April 25, 2001 (“Borough Mayor Letter”).

PPL is a “public utility” and an “electric distribution company” as defined under the Public Utility Code (“Code”) serving customers within certificated territory approved by this Commission, and is subject to the Commission’s regulatory jurisdiction. *See* 66 Pa. C.S. §§ 102, 1101 and 2803, and Certificate, Scranton, June 28, 1948, which is a Certificate of Public Convenience for Scranton Electric Company, a predecessor of PPL (“Certificate”). The certificate of public convenience grants to PPL (as Scranton Electric Company’s successor) the power, right and privilege to provide electric service within Olyphant to consumers whose load exceeds 100 H.P. and, with the consent of Olyphant, to consumers whose load is less than 100 H.P. Pursuant to Section 2807(e) of the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. §2807(e), (“Competition Act”), PPL is also a “provider of last resort,” furnishing generation supply service to customers not purchasing generation supply from electric generation suppliers (“EGS”).

In 1978, Olyphant enacted a resolution authorizing PPL to provide electric power to all customers in the Mid-Valley Industrial Park within Olyphant’s borders. *See* 1978 Olyphant Resolution. Since the enactment of the Resolution, PPL has supplied power to

all customers in the Industrial Park and continues to do so pursuant to its Certificate issued by the Commission.

On or about December 16, 1997, the Olyphant Borough Council passed the 1997 Olyphant Resolution declaring that it is in Olyphant's interest "to be the exclusive electric supplier within the Borough Limits of the Borough of Olyphant" and resolving "to prohibit electrical generation suppliers from serving end-use customers within the Borough [l]imits." (emphasis added).

On March 15, 2001, Olyphant, through its solicitor, sent a letter to WEA Manufacturing, PPL's largest customer located within the Industrial Park. The letter to WEA Manufacturing cited the provisions of 66 Pa. C.S. §2805(b), which permit a borough to prohibit electric generation suppliers from serving end-use customers within borough limits, as support for Olyphant's exclusive right to serve customers within the borough. The letter further asserted that if an Industrial Park customer were to receive electric service from Olyphant it would not have to pay PPL imposed transition charges.

On or about April 25, 2001, the Olyphant Borough Manager sent a letter to PPL stating Olyphant's intention to become the exclusive provider of power and distribution service within its borders. The letter stated in pertinent part:

This to advise you that the Borough of Olyphant is undertaking steps to provide electric power from its municipal electric system to users in the Mid-Valley Industrial Park located within the Borough. This action has been authorized by the Pennsylvania Legislature, §2805(b)(1)(i) of the 'Electricity Generation Customer Choice and Competition Act', 66 Pa. C.S.A. Section 2802 [sic], which authorizes a Borough to prohibit electric generation suppliers from serving such customers within its borough limits."....The Borough "has exclusive rights to serve PP&L's customers within the Borough....

Borough Manager Letter, at 1.

At approximately the same time, on or about April 25, 2001, the Borough Mayor sent similar letters to PPL's Industrial Park customers, *see* Borough Mayor Letter. That letter states in pertinent part:

This is to advise you that the Borough of Olyphant is undertaking steps to provide electric power...to users in the Mid-Valley Industrial Park located within the Borough. This action has been authorized by [66 Pa. C.S. §2805(b)(1)(i), which] authorizes a [b]orough which is engaged in distributing electricity to end-use customers within the [b]orough to prohibit electric generation suppliers from serving such customers within its [b]orough limits....

Borough Mayor Letter, at 1.

Analysis and Disposition

PPL seeks a declaratory order from this Commission that: 1) the Industrial Park located in Olyphant is within PPL's certificated territory; 2) only this Commission, not any action of Olyphant, can require PPL to abandon certificated service to PPL's customers in the Industrial Park; 3) any retail customer of PPL in Olyphant must continue to pay intangible transition charges ("ITCs") previously imposed by this Commission, during the period in which transition charges are being collected, even if such customer were, in the future, to receive electric service from Olyphant instead of PPL, and 4) any retail customer of PPL in Olyphant has a similar obligation to pay competitive transition charges, even if such customer were to receive electric service from Olyphant.

We find that we have jurisdiction over this Petition in accordance with 66 Pa. C.S. §331(f) which provides that the Commission "may issue a declaratory order to terminate a controversy or remove uncertainty." Here, PPL seeks a Commission ruling that will remove the uncertainty regarding the issues as stated in PPL's Petition. We further find that only issues of state law as provided for in the Public Utility Code are being raised by PPL's Petition that is before us; there are not any questions of federal law. Consequently, this matter is squarely before us as being within our exclusive jurisdiction.

In further support of its Petition, PPL states that its Petition is both timely and necessary to eliminate uncertainty and confusion now being created by Olyphant. We agree and find that there currently exists uncertainties surrounding the issues that PPL seeks to have addressed in its Petition as explained in the Background of the Controversies segment of this Order. These issues are now ripe for Commission determination.

PPL Certificated Territory

66 Pa. C.S. §1101 empowers the Commission to authorize public utilities to serve customers in defined territories through the issuance of certificates of public convenience. Regarding the question of whether or not the Industrial Park is within PPL's certificated territory, we find that as PPL has a certificate of public convenience issued by this Commission pursuant to §1101 of the Code to serve consumers in Olyphant whose load requirements exceed 100 H.P., and smaller consumers with consent of the Borough, that the customers within the Industrial Park in Olyphant are properly within PPL's certificated territory. Moreover, not only are those customers properly being provided electric service by PPL within its certificated territory, but PPL also has the legal obligation to provide those customers with electric service.

Abandonment of Certificated Service

Regarding the question before us of whether or not only the Commission, and not Olyphant, can require PPL to abandon certificated service to PPL's customers, we agree with PPL. Once a public utility, such as PPL, has obtained a certificate of public convenience to provide service to a certificated area, the only way such a utility can abandon service to a customer, absent customer request or nonpayment, is by obtaining a Commission Certificate of Public Convenience authorizing abandonment of such service pursuant to section 1102(a)(2) of the Public Utility Code, 66 Pa. C. S. §1102(a)(2).

Even in the situation where, as here, the utility's certificate encompasses territory within a borough's limits, the borough cannot, on its authority alone or through resolution or otherwise, force a certificated utility to abandon its certificated obligation to provide service to customers located within the borough limits in the absence of Commission authorization in accordance with section 1102(a)(2) of the Code.

This situation is similar to that presented in the *Borough of Grove City v. Pennsylvania Public Utility Commission*, 505 A.2d 346 (Pa. Cmwlth. 1986), appeal denied, 528 A.2d 603 (Pa. 1987) ("*Grove City*"), wherein the Commonwealth Court found that nothing in the Borough Code suggested that a borough, "having consented that a utility duly authorized to serve the territory may bring and conduct electric current into the borough limits, may by its fiat alone force the utility to abandon that service without recourse by the affected customers and without allowance by the PUC." *Grove City*, at 353.

Furthermore, Olyphant's reliance on 66 Pa. C.S. §2805(b), which permits a Borough to prohibit electric generation suppliers ("EGS") from serving end-use customers within its borough limits, is inapplicable to the instant matter. PPL is not providing service within the borough limits as an EGS, but as an electric distribution company ("EDC") as those terms are defined at 66 Pa. C.S. §2803. EDCs, as is PPL in this instance, provide service as such pursuant to their certificates of public convenience and section 2807(e)(1) of the Competition Act. As has already been stated, such a certificated utility can only abandon service to a customer, in the absence of customer requests or nonpayment of bills, by obtaining Commission authorization to abandon pursuant to a Certificate of Public Convenience in accordance with section 1102(a)(2) of the Code.

After examining the Public Utility Code, the Borough Code, and PPL's existing

certificate, as did the Court in *Grove City*, we find nothing to suggest that Olyphant by its fiat alone can force PPL to abandon service in this instance without allowance of the Commission. We find that only the Commission and not Olyphant can require PPL to abandon certificated service to PPL's customers.

Obligation to Pay Competitive Transition Charges

The purpose of the Competition Act was to introduce and foster competition in an industry, the electric utility industry, which had up until the passage of that Act been completely regulated. In order to make competition in the electric utility industry a reality there were of necessity certain accommodations that had to be made to the existing electric industry such as the allowance of competitive transition charges ("CTCs") and intangible transition charges ("ITCs"). Otherwise, the electric utilities existing prior to the introduction of electric competition in Pennsylvania ran the risk of great loss and unfair disadvantages in the new competitive environment. *See, Indianapolis Power & Light Co. v. PUC*, 711 A.2d 1071 (Pa.Cmwlt. 1998) (holding that the Competition Act's provision for the recovery of stranded costs did not violate the Commerce Clause of the United States Constitution).

We find with regard to the issue before us of whether or not PPL customers located in the Industrial Park, as of January 1, 1997 or thereafter, would have to continue to pay CTCs even if such customers were to receive electric service from Olyphant in the future, as follows.

PPL was and is authorized to collect non-bypassable competitive transition charges from its customers located within PPL's certificated territory on the effective date of the Competition Act (or that become a customer within such territory) and who remain within the territory, pursuant to 66 Pa. C.S. §2808 and the irrevocable Commission Final Order of August 27, 1998 at Docket No. R-00973954 approving settlement of PPL's restructuring plan ("Final Order"). Final Order, ¶ 9.

Therefore, PPL has a right to impose and collect CTCs from its customers in its certificated territory, and PPL customers have an obligation to pay CTCs in accordance with the provisions of 66 Pa. C.S. §2808. This includes the PPL customers in Olyphant and, specifically, as it relates to the matter before us, the PPL customers located in the Industrial Park.

Furthermore, even if an Industrial Park customer were to receive distribution service from Olyphant in the future, that customer would still be accessing PPL's transmission network which delivers all power purchased by Olyphant. Such a customer would remain obligated to pay CTCs directly to PPL in accordance with PPL's tariff as required by 66 Pa. C.S. §2808(a).

Therefore, we find as a matter of law and consistent with the Commission's Final Order, that any retail customer of PPL in Olyphant, specifically including customers in the Industrial Park, must continue to pay CTCs previously imposed by this Commission, during the period in which transition charges are being collected, even if such customer were, in the future, to receive service from Olyphant instead of PPL.

Obligation to Pay Intangible Transition Charges

Section 2812(f)(2) of the Code provides the Commission with the exclusive jurisdiction to determine matters pertaining to the obligations to impose and collect the intangible transition charges of electric utilities and, specifically, the issues presented to us by PPL's Petition regarding the same. And, just as with CTCs, the Commonwealth Court in *Indianapolis* found that allowing for the recovery of stranded costs by the Commission did not violate the Commerce Clause of the United States Constitution. *Indianapolis*, at 1074.

With regard to the specific issue of whether or not PPL customers located in the

Industrial Park, as of January 1, 1997 or thereafter, would have to continue to pay PPL ITCs if they were to receive electric service from Olyphant in the future, we agree with PPL's arguments.

PPL was and is authorized to collect non-bypassable intangible transition charges from its customers located within PPL's certificated territory on the effective date of the Competition Act (or that become a customer within such territory) and who remain within the territory, pursuant to 66 Pa. C.S. §2812(b)(5); the Final Order, and the irrevocable May 21, 1999 Supplemental Order to the Final Order ("Supplemental QRO"). These Commission actions provide direct authorization for PPL's collection of ITCs from customers located in the Industrial Park. Therefore, in accordance with these actions, PPL has been imposing ITCs on its customers in the Industrial Park and those customers have been paying them.³

By way of its March 15, 2001 letter to WEA Manufacturing located in the Industrial Park, Olyphant has informed at least one Industrial Park customer that if it were to receive electric service from Olyphant it would not have to pay PPL imposed intangible transition charges.

However, pursuant to 66 Pa. C.S. §2812(b)(5) and the Final Order the obligations of PPL to collect ITCs from the customers located in the Industrial Park are equally binding upon PPL's successors, assigns, and any other future entity providing transmission and distribution service to a customer of PPL in the Industrial Park that was a PPL customer on or after January 1, 1997. Therefore, if Olyphant were to provide service to those PPL's customers, it would have an obligation to collect and remit on behalf of PPL the ITCs.⁴

³ PPL has been collecting and remitting the ITCs directly to a trustee for the benefit of the transition bondholders.

⁴ Olyphant would also have an obligation to remit collected ITCs directly to the trustee for the benefit of the transition bondholders. 66 Pa. C.S. §2812(b)(5); Final Order, ¶17.

To think that Olyphant would, at the same time as being a direct beneficiary under the Competition Act, now seek to usurp the legal obligations thereunder by thwarting the obligation of PPL customers to pay ITCs and its own obligation to collect the subject ITCs, is untenable. We find that as a matter of law and consistent with the Commission's Final Order and Supplemental QRO, that any retail customer of PPL in Olyphant, specifically including customers within the Industrial Park, must continue to pay non-bypassable ITCs previously imposed by this Commission, during the period in which transition charges are being collected, even if such customer were, in the future, to receive service from Olyphant instead of PPL.

In summary, by this Order we are upholding the validity of the Commission's issuance of certificates of public convenience defining PPL's electric service territory and its obligation to serve customers therein. Our actions directly comport with the Public Utility Code, which provides the framework in which electric utilities, such as PPL in the matter before us, operate within Pennsylvania.

Furthermore, our holdings regarding the payment of both competitive and intangible transition charges by PPL customers, fosters electric competition in Pennsylvania by creating an environment in which electric competition participants can be placed on equal footing. These holdings serve to implement the purposes of the Electricity Generation Customer Choice and Competition Act.

We are well satisfied the our Order today continues to promote the public interest and welfare regarding the service of electricity in the Commonwealth of PA;

THEREFORE,

IT IS ORDERED:

1. That the Petition to Intervene filed by the Borough of Olyphant on August 11, 2003 at P-00021986 is hereby granted consistent with this Opinion and Order.

2. That the Motion by the Borough of Olyphant to Deny the Petition of PPL for a Declaratory Order filed on August 11, 2003 at P-00021986 is hereby denied consistent with this Opinion and Order.

3. That the Petition of PPL for a Declaratory Order to Terminate Controversies Concerning PPL's Certificated Rights to Provide Service in the Borough of Olyphant and Related Transition Charges filed on October 17, 2002 at P-00021986 is hereby granted consistent with this Opinion and Order.

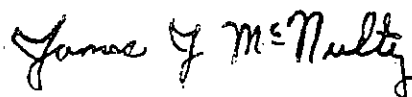
4. That the Mid-Valley Industrial Park in Olyphant, Pennsylvania is within PPL's certificated electric service territory.

5. That only this Commission, and not the Borough of Olyphant on its own accord, can require PPL to abandon certificated electric service to PPL's customers in the Mid-Valley Industrial Park.

6. That any retail electric customer of PPL as of January 1, 1997 or thereafter located in Olyphant must continue to pay intangible transition charges previously imposed by this Commission, during the period in which intangible transition charges are being collected, even if such customer were, in the future, to receive electric service from Olyphant instead of PPL.

7. That any retail electric customer of PPL as of January 1, 1997 or thereafter located in Olyphant must continue to pay competitive transition charges previously imposed by this Commission, during the period in which competitive transition charges are being collected, even if such customer were, in the future, to receive electric service from Olyphant instead of PPL.

BY THE COMMISSION



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: December 18, 2003

ORDER ENTERED: **DEC 18 2003**