

February 5, 2007

United States of America  
Nuclear Regulatory Commission

Before the Atomic Safety and Licensing Board

In the Matter of	)	Docket Nos. 50-387-LR
PPL Susquehanna, LLC	)	50-388-LR
Susquehanna Steam Electric Station,	)	ASLBP No. 07-851-01-LR
Units 1 and 2	)	

Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Mail Stop O-16 C1  
Washington, D.C. 20555-0001  
Attn: Rulemaking and Adjudications Staff

DOCKETED  
USNRC

February 5, 2007 (3:59pm)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Office of the Secretary  
U.S. Nuclear Regulatory Commission  
One White Flint North, 16th Floor  
11555 Rockville Pike  
Rockville, Maryland 20852  
Attn: Rulemaking and Adjudications Staff

Re: Eric Joseph Epstein's Motion to Compel PPL Susquehanna, LLC to: (1) Apply for a Direct License Transfer (Or Incorporate Modifications from an NRC Approved Transfer Into The Relicensing Application) Prior to the Issuance of a Relicensing Application for the Susquehanna Steam Electric Station; and, (2) Request and Receive a Scheduling Exemption to Proceed With a Premature Relicensing Application for the Susquehanna Steam Electric Station

TEMPLATE = SEL4-041

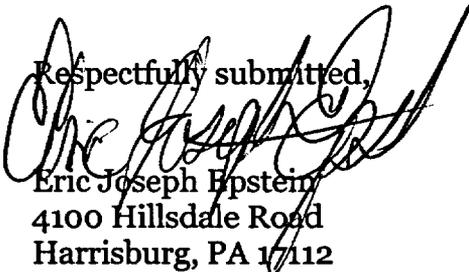
SEL4-02

February 5, 2007

Dear Sir or Madam:

Enclosed for filing in the above-captioned matter, please find Eric Joseph Epstein's Motion to Compel PPL Susquehanna, LLC to: (1) Apply for a Direct License Transfer (Or Incorporate Modifications from an NRC Approved Transfer Into The Relicensing Application) Prior to the Issuance of a Relicensing Application for the Susquehanna Steam Electric Station; and, (2) Request and Receive a Scheduling Exemption to Proceed With a Premature Relicensing Application for the Susquehanna Steam Electric Station.

Respectfully submitted,



Eric Joseph Epstein  
4100 Hillsdale Road  
Harrisburg, PA 17112

Enclosure: Certificate of Service:  
Exhibit

United States of America  
Nuclear Regulatory Commission

Before the Atomic Safety and Licensing Board

In the Matter of	)	Docket Nos. 50-387-LR
PPL Susquehanna, LLC	)	50-388-LR
Susquehanna Steam Electric Station,	)	ASLBP No. 07-851-01-LR
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Eric Joseph Epstein’s Motion to Compel PPL Susquehanna, LLC to: (1) Apply for a Direct License Transfer (Or Incorporate Modifications from an NRC Approved Transfer Into The Relicensing Application) Prior to the Issuance of a Relicensing Application for the Susquehanna Steam Electric Station; and, (2) Request and Receive a Scheduling Exemption to Proceed With a Premature Relicensing Application for the Susquehanna Steam Electric Station

**I. Introduction**

The current operating licenses for the Susquehanna Electric Steam Station (the “SSES”) Unit 1 and Unit 2 were issued to PPL Corporation in accordance with the Atomic Energy Act of 1954, as amended (AEA), and 10 CFR 50.51, which limit the duration of an operating license to a maximum of 40 years. In accordance with 10 CFR 54.31, any renewed license will be of the same class as the operating license currently in effect and cannot exceed a term of 40 years.

The terms of the renewal licenses for the SSES 1 and 2 are limited both by law and the Commission’s regulations to 40 years. Moreover, 10 CFR 54.31(b) explicitly states that, “A renewed license will be issued for a fixed period of time, which is the sum of the additional amount of time beyond the expiration of the operating license (not to exceed 20 years) that is requested in a renewal application plus the remaining number of years on the operating license currently in effect. The term of any renewed license may not exceed 40 years.”

In addition, 10 CFR 54.31(b) states that "A renewed license will be issued for a fixed period of time, which is the sum of the additional amount of time beyond the expiration of the operating license (not to exceed 20 years) that is requested in a renewal application plus the remaining number of years on the operating license currently in effect. The term of any renewed license may not exceed 40 years."

## **II. History of Proceeding**

PPL Susquehanna LLC's application for renewal was received by the Nuclear Regulatory Commission ("NRC" or "Commission") on September 13, 2006, (1) pursuant to 10 CFR Part 54. A notice of Receipt and Availability of the license renewal application (LRA), was published in the Federal Register on October 2, 2006 (71 FR 58014). A notice of acceptability for docketing, notice of opportunity for a hearing and notice of intent to prepare an environmental impact statement and conduct scoping process was published in the Federal Register on November 2, 2006 (71 FR 64566).

### **PPL defined its corporate organization in Section 1.3 SUSQUEHANNA STEAM ELECTRIC STATION LICENSEE AND OWNERSHIP**

Ownership of the station is shared by PPL Susquehanna, LLC, Berwick, PA (90 percent) and Allegheny Electric Cooperative Inc., Harrisburg, PA (10 percent). PPL Susquehanna, LLC, is a subsidiary of PPL Generation, LLC, which is a subsidiary of PPL Energy Supply, LLC, which is a subsidiary of PPL Corporation based in Allentown, PA. PPL Corporation generates electricity at power plants in the northeastern and western United States; markets energy throughout the United States and Canada; provides energy services for businesses in the mid-Atlantic and northeastern U.S.; and delivers energy to customers in Pennsylvania, the United Kingdom and Latin America. PPL Susquehanna is the licensed operator of SSES (PPL 2004).

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<sup>1</sup> In November 2001, PPL Susquehanna notified the NRC of its intention to file a license extension. (PPL Corporation, 2002 Annual Report, p. 58)

A subsequent “Correction” was published in the Federal Register on December 21, 2006 (FR Doc E6-21807 [Federal Register: December 21, 2006 (Volume 71, Number 245)] [Notices] [Page 76706] From the Federal Register Online via GPO Access [wais.access.gpo.gov] [DOCID: fr21de06-103]).

The comment Period for the Environmental Impact Statement for the License Renewal of Susquehanna Steam Electric Station (The “SSES” or “Susquehanna”), owned and operated by PPL Susquehanna (“PPL”) Units 1 and 2 Notice was given that the U.S. Nuclear Regulatory Commission has corrected the public scoping comment period for the plant-specific supplement to the “Generic Environmental Impact Statement (GEIS),” NUREG-1437, regarding the renewal of operating licenses NPF-14 and NPF-22 for an additional 20 years of operation at the Susquehanna Steam Electric Station (SSES), Units 1 and 2.

Mr. Epstein submitted comments in Berwick, Pennsylvania on November 15, 2006 on behalf of Three Mile Island Alert, Inc. (TMLIA) opposing PPL’s premature request to relicense the Susquehanna Steam Electric Station (SSES) to operate for 20 more years. PPL has applied to the Nuclear Regulatory Commission (NRC) for permission to run the Susquehanna Steam Electric Station until 2043 [Unit-1] and 2045 [Unit-2].

On January 2, 2007, Eric Joseph Epstein (“Mr. Epstein” or “Epstein”), pursuant to 10 C.F.R. § 2.309 (d) and (e), petitioned to intervene in the proceeding in response to the Notice of Opportunity for a Hearing and Notice of Intent to Prepare an Environmental Impact Statement and Conduct a Scoping Process as published in the Federal Register on November 2, 2006, (71 FR 64566), and concerning the application of PPL Susquehanna to renew its operating licenses for the Susquehanna Steam Electric Stations (“SSES” or “Susquehanna” or “the Company” or “the applicant”) Unit 1 and 2 for an additional 20 years beyond the current expiration dates on July 17, 2022 and March 23, 2024.

Mr. Epstein also requested a hearing consistent with 10 C.F.R. § 2.309(a). Pursuant to 10 C.F.R. § 2.309(o), and submitted five admissible contentions.

On January 29, 2007, PPL Susquehanna's filed an Answer to Eric Joseph Epstein's Petition to Intervene, and the NRC Staff Responded to Eric Joseph Epstein's Petition for leave to Intervene, Request for Hearing, and Contentions Re: PPL Susquehanna LLC Application for Susquehanna Steam Electric Station's Renewed Operating Licenses, NPF-14 and NPF-22 Docket Nos. 50-387 PLA-6110 and 50-388.

### III. Argument

***PPL Susquehanna LLC is a separate and distinct entity from the original licensee of the Susquehanna Electric Steam Station.***

PPL Susquehanna's description of itself under **ADMINISTRATIVE INFORMATION** describes a new company that did not apply or receive received a direct or indirect license transfer form the predecessor licensee, PPL Electric. (2) As a new licensee, PPL Susquehanna also failed to request a schedular exemption, and may not qualify as an "electric utility" under NRC statues.

PPL's relicensing request is premature and out of sequence until a direct license transfer has been consummated and adopted into the relicensing process. At such time, PPL Susquehanna, as a new licensee, must also seek and receive a schedular exemption prior to filing for a license extension at the Susquehanna Electric Steam Station.

Rather than seek a license transfer and schedular exemption, PPL Susquehanna is prematurely requesting a license renewal. The applicant stated, "This application is designed to allow the NRC to make the findings required by 10 CFR 54.29, 'Standards for issuance of a renewed license, in support of the issuance of renewed facility operating licenses or SSES Units 1 and 2' (Appendix A-D: 1.0 ADMINISTRATIVE INFORMATION.)

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<sup>2</sup> "The corporate realignment followed receipt of various regulatory approvals, including approvals from the IRS, the PUC, the FERC and the NRC." (PPL Corporation, 2002 Annual Report, Note 19: p. 79)

Based on recent admissions by PPL Electric at the Pennsylvania Public Utility Commission, the relicensing application submitted by PPL Susquehanna is **premature** and invalid. PPL Susquehanna must first apply and receive a **direct license transfer from PPL Electric and adopt that language into a relicensing application.** (Refer to Exhibit 1) On August 27, 1998, by Order of the Pennsylvania Public Utility Commission (the "Pa PUC"),

PPL Electric transferred all of its generating assets including SSES, and exited from the business of generating electricity. The SSES facility was transferred to PPL Susquehanna, LLC. The decommissioning funds were included in the transfer. PPL Electric no longer owns Susquehanna and no longer owns the decommissioning trusts. (3)

In clear and unambiguous terms the Pennsylvania PUC has ruled; and PPL Electric has recently acknowledged in a legal forum, that a new and independent corporation - PPL Susquehanna, LLC – is separate and apart from the original licensee - PPL Electric.

PPL Susquehanna LLC now owns and operates the Susquehanna Steam Electric Station. No such corporate entity existed at the time the Susquehanna Electric Station was licensed. PPL Susquehanna LLC is not in the rate base, and is subject to the whims and unprotected forces of the marketplace. The NRC can no longer assume that PPL Susquehanna enjoys the economic shield of rate payers and "that utilities commission would support project with favorable rate decisions" (New England Coalition on Nuclear Power v. US N.R.C., (1978 , CA 1) 582 F2d 87, 8 ELR 20707, 51 ALR Fed 451.)

PPL Electric has emphatically cut corporate, legal and financial links and claims to PPL Susquehanna. PPL Electric has made it crystal clear that any informational requests or inquires related to PPL Susquehanna or the SSES,

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<sup>3</sup> Petition of PPL Electric Utilities Corporation, 2006 Competitive Transition Charge Reconciliation, Filing Docket No. M-FACE 0612, PPL Electric Utilities Corporation's Objections to Interrogatories 1-13 and Instruction (c) of Eric Epstein's Interrogatories Set I in the above-referenced proceeding, pp. 8-9, January 29, 2007.

...would require an unreasonable investigation by PPL Electric because it requires PPL Electric to divulge information from a “predecessor or successor attorneys, agents, employees, or other representatives...PPL Electric would be required to investigate whether its many prior employees have information regarding these issues. This would constitute an unreasonable investigation and, therefore, is not permitted. 532 Pa § 5.361(a)(4). In addition, it would be impossible for PPL electric to provide information from successor attorneys, agents or other representatives, because PPL Electric does not know who those people are until they are hired. (4)

#### IV. Conclusion

***PPL Susquehanna must first apply and receive an NRC-approved direct license prior to applying and receiving a license extension for the Susquehanna Electric Steam Station.***

Relicensing is premature until PPL Susquehanna applies and receives a direct license transfer from the NRC and adopts the conditions and language into the relicensing application. If such a transfer is granted, than PPL Susquehanna must necessarily apply for a **schedular exemption** prior to resubmitting an application for the relicensing of the Susquehanna Steam Electric Station.

The NRC must also determine if PPL Susquehanna is an “electric utility.” Is PPL Susquehanna currently in compliance with the NRC definition after December 31, 2009? Will PPL Susquehanna be in compliance with the NRC definition after December 31, 2009?

The Nuclear Regulatory Commission (NRC) defines “electric utilities” as “any entity that generates or distributes electricity and which recovers the cost of electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority (10 CFR § 50.2).”

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4 Petition of PPL Electric Utilities Corporation, 2006 Competitive Transition Charge Reconciliation, Filing Docket No. M-FACE 0612, PPL Electric Utilities Corporation's Objections to Interrogatories 1-13 and Instruction (c) of Eric Epstein's Interrogatories Set I in the above-referenced proceeding, pp. 8-9, January 29, 2007.

PPL Electric's Restructuring Settlement agreement provides for the collection of authorized nuclear decommissioning costs through the Competitive Transition Costs (CTC). The CTC nuclear decommissioning cost recovery mechanism **expires** on December 31, 2009. In connection with certain Nuclear Regulatory Commission (NRC) requirements, PPL Susquehanna maintains trust funds to cover certain costs of decommissioning the Susquehanna Steam Electric Station (SSES).

## **V. Remedies**

1) PPL Susquehanna must formally request a direct license transfer proceeding in accordance with Section 184 of the Atomic Energy Act, and 10 C.F.R. § 50.80, and obtain permission from the NRC, after public comment, to transfer PPL Electric's 90% interests in the SSES to PPL Susquehanna, LLC.

A license transfer from PPL Electric to PPL Susquehanna must include certain administrative amendments to conform to the original operating license and plant technical Specifications to reflect the proposed transfers, which should be submitted in accordance with 10 CFR § 50.90.

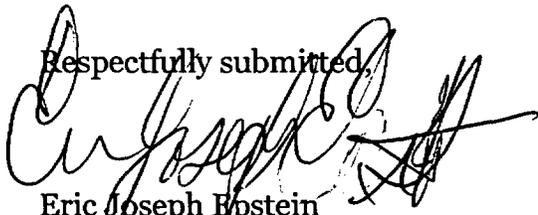
Administrative changes to documents other than the existing licenses and the Technical Specifications will also be necessary upon satisfactory completion of the the transfer. Changes to documents such as the Updated Final Safety Analysis Reports, Physical Security Plans, and Emergency Plans must be approved pursuant to NRC regulations 10 C.F.R. § 50.71(e). Additional information pertaining to the "proposed" reorganization will also be required under 10 C.F. R. § 50.80.

2) After PPL Susquehanna has applied and received permission to operate the SSES, then the Company must necessarily file a Scheduler Exemption prior to apply for licensing renewal under Title 10 of the Code of Federal Regulations (10 CFR), Part 54.17(c) stipulates that an application for a renewed license may not be submitted to the Commission earlier than 20 years before the expiration of the operating license currently in effect.

The potential exists that, because PPL's Susquehanna's decision to apply for early license renewal for both units at the SSES, PPL Susquehanna may not obtain the maximum 20-year extended operation permitted by 10 CFR 54.31(b). Any actual reduction will depend on the date the renewed licenses are issued. If a reduction in the 20-year extension is required, and PPL Susquehanna desires further extension of the SSES' operating licenses in the future, an additional renewal application can be submitted in accordance with 10 CFR Part 54.

3) The NRC must determine if PPL Susquehanna is currently an "electric utility" under NRC statutes.

Respectfully submitted,



Eric Joseph Epstein  
4100 Hillsdale Road  
Harrisburg, PA 17112

## CERTIFICATE OF SERVICE

I hereby certify that copies of enclosed correspondence dated February 7, 2007, were served on the persons listed below by deposit in the U.S. Mail, first class, postage prepaid and electronic mail.

Administrative Judge  
Ann Marshall Young, Esq., Chairman  
Atomic Safety and Licensing Board  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
[amy@nrc.gov](mailto:amy@nrc.gov)

Administrative Judge  
Dr. Kaye D. Lathrop  
Atomic Safety and Licensing Board  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
[klathrop@independence.net](mailto:klathrop@independence.net)

Administrative Judge  
Dr. William W. Sager  
Atomic Safety and Licensing Board  
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Secretary  
Att'n: Rulemakings and Adjudications Staff  
Mail Stop O-16 C1  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
[secy@nrc.gov](mailto:secy@nrc.gov); [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov)

Dated: February 5, 2007

Susan L. Uttel, Esquire  
Molly L. Barkman, Esquire  
US N.R.C. - OGC  
Mail Stop O-15 D-21  
Washington, D.C. 20555-0001

Pillsbury, Winthrop et al  
David R. Lewis, Esquire  
PPL Susquehanna, LLC  
2300 N Street, N.W.  
Washington, D.C. 20037-1128

Office of Commission Appellate U.S.  
Adjudication  
Mail Stop O-16 C1  
U.S. NRC  
Washington, D.C. 20555-0001

## **Exhibit 1**



17 North Second Street  
12th Floor  
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717-731-1970 Main  
717-731-1985 Fax  
www.postschell.com

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Anthony D. Kanagy

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File #: 2507-127372

January 29, 2007

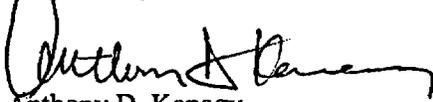
Eric J. Epstein  
4100 Hillsdale Road  
Harrisburg, PA 17112

**RE: PPL Electric Utilities Corporation 2006 Competitive Transition  
Charge Reconciliation Filing - Docket No. M-FACE0612**

Dear Mr. Epstein:

Enclosed please find PPL Electric Utilities Corporation's Objections to Interrogatories 1-13 and Instruction (c) of Eric Epstein's Interrogatories Set I in the above-referenced proceeding. As indicated on the certificate of service, copies have been served on all parties in the manner indicated.

Respectfully submitted,



Anthony D. Kanagy

ADK/skr

Enclosures

cc: James J. McNulty (letter and certificate of service only)  
Certificate of Service

ALLENTOWN HARRISBURG LANCASTER PHILADELPHIA PITTSBURGH PRINCETON WASHINGTON, D.C.

A PENNSYLVANIA PROFESSIONAL CORPORATION

CPH 381751v1

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Objections to Interrogatories 1-13 and Instruction (c) of Eric Epstein's Interrogatories Set I has been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

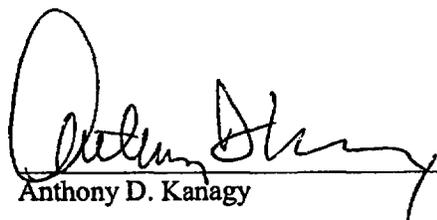
**VIA E-MAIL AND FIRST CLASS UNITED STATES MAIL:**

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Date: January 29, 2007

  
Anthony D. Kanagy



3. On December 14, 2006, the Commission issued a Hearing Notice scheduling a hearing in the above-captioned proceeding for February 15, 2007, before Administrative Law Judge Wayne L. Weismandel ("ALJ").

4. PP&L Industrial Customer Alliance ("PPLICA") filed a Petition to Intervene on December 15, 2006.

5. On December 18, 2006, the Office of Trial Staff filed a Notice of Appearance.

6. At its December 21, 2006 Public Meeting, the Commission accepted PPL Electric's CTC reconciliation filing, subject to a public hearing to be held pursuant to Section 1307(e). The Commission also directed PPL Electric to file a tariff supplement implementing revised CTC rates reflecting PPL Electric's projected undercollected position as of December 31, 2006, to be effective January 1, 2007.

7. Pursuant to the Commission's directive, on December 22, 2006, PPL Electric filed Supplement No. 52 to Tariff – Electric Pa. P.U.C. No. 201 which reflected, among other things, PPL Electric's revised CTC rates.

8. On December 29, 2006, the Commission issued a Secretarial Letter accepting Supplement No. 52 and approving the rates contained therein to become effective on January 1, 2007.

9. On January 3, 2007, Mr. Epstein filed a Petition to Intervene in the above-captioned proceeding.

10. PPL Electric filed an Answer to PPLICA's Petition to Intervene on January 8, 2007.

11. On January 19, 2007, Mr. Epstein propounded his first set of interrogatories consisting of 13 separately numbered interrogatories, several with sub-parts, to PPL Electric.

12. By Order dated January 23, 2007, the ALJ granted PPLICA's and Mr. Epstein's Petitions to Intervene.

## II. OBJECTIONS

13. PPL Electric objects to Interrogatory Nos. 1-13 of Mr. Epstein's Set I interrogatories which read as follows:

**Interrogatory 1:** PPL Electric's Restructuring Settlement agreement provides for the collection of authorized nuclear decommissioning costs through the Competitive Transition Costs (CTC). The CTC nuclear decommissioning cost recovery mechanism expires on December 31, 2009. In connection with certain Nuclear Regulatory Commission (NRC) requirements, PPL Susquehanna maintains trust funds to cover certain costs of decommissioning the Susquehanna Steam Electric Station (SSES).

"As of June 30, 2002, these funds were invested primarily in domestic equity securities and fixed-rate, fixed-income securities and are reflected at fair value on PPL's Balance Sheet. The mix of securities is designed to provide returns to be used to fund Susquehanna's decommissioning and to compensate for inflationary increases in decommissioning costs. However, the equity securities included in the trusts are exposed to price fluctuation in equity markets, and the values of fixed-rate, fixed-income securities are exposed to changes in interest rates" (PPL ENERGY SUPPLY LLC; Form: 10-Q.)

a) Please provide an annual accounting of the amount of CTC revenues collected by PPL for nuclear decommissioning costs by year and customer class.

b) Please provide an aggregate accounting of the amount CTC revenues collected by PPL for nuclear decommissioning costs by year and customer class.

c) Please provide actual and projected investment levels for all nuclear decommissioning trust accounts through 2009?

**Interrogatory 2:**

What was the targeted nuclear decommissioning funding levels for the PPL's share of the SSES at the time of the Negotiated Settlement?

**Interrogatory 3:**

What is the current nuclear decommissioning funding target for PPL's share of the Susquehanna Steam Electric Station?

**Interrogatory 4:**

What is the projected funding target for nuclear decommissioning after the rate caps expire on December 31, 2009?

**Interrogatory 5:**

What is the projected gap between the aggregate amount of CTC revenue streams collected through December 31, 2009, and the actual cost to decommission PPL's 90% share of the Susquehanna Steam Electric Station?

**Interrogatory 6:**

Funding scenarios are linked to the following NRC approved modes of nuclear decommissioning: DECOM, ENTOMB and SAFSTOR.

- a) What method(s) are PPL currently utilizing when forecasting nuclear decommissioning costs?
- b) Have the method(s) changed? If so, why and when?

**Interrogatory 7:**

- a) Has PPL moved any of its decommissioning trust funds to the State of Nevada?
- b) If the answer to 7a is yes, please provide an year-by-year and aggregate amount of tax savings realized by moving the accounts from Pennsylvania to Nevada.

**Interrogatory 8:**

- a) What is the current estimate for decommissioning and decontaminating PPL's share of **non radioactive** components at the SSES?

b) How much of the targeted funding has been accumulated?

c) What is the source of the funding for non-radioactive decommissioning of the SSES?

d) How will PPL reconcile any funding gap in this area?

**Interrogatory 9:**

a) What is the current cost estimates to restore 90% of the SSES to "Greenfield"?

b) How much of the targeted funding has been accumulated?

c) What is the source of the funding for site restoration to Greenfield?

d) How will PPL reconcile any funding gap in this area?

**Interrogatory 10:**

a) Will any of the SSES's decommissioned and decontaminated radioactive scrap metal (RSM) be sold or recycled?

b) What percentage of the RSM proceeds will flow back to rate payers?

c) On a year-by-year basis, how has the RSM been depreciated and accounted for since the Negotiated Settlement?

**Interrogatory 11:**

a) What portion of PPL's nuclear radiological costs will have to be funded after the CTC expires on December 31, 2009?

b) How much of PPL's nuclear radiological costs will have to be funded after the CTC expires on December 31, 2009?

**Interrogatory 12:**

Please break out by percentage and amount how the nuclear trust funds are invested as of June 30, 2006, e.g., domestic equity securities mutual funds, fixed-rate, fixed-income securities, etc.

**Interrogatory 13:**

The Nuclear Regulatory Commission (NRC) defines “electric utilities” as “any entity that generates or distributes electricity and which recovers the cost of electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority (10 CFR § 50.2).”

a) Is PPL Susquehanna currently in compliance with the NRC definition after December 31, 2009?

b) Will PPL Susquehanna be in compliance with the NRC definition after December 31, 2009?

**A. Mr. Epstein’s Set I Interrogatories Are Irrelevant Because They Request Information That Is Outside The Scope Of The Proceeding.**

14. PPL Electric objects to all of Mr. Epstein’s Set I Interrogatories as irrelevant, because they request information that is outside the scope of this proceeding. As explained below, the scope of this proceeding is limited to a review of the mathematical accuracy of PPL Electric’s CTC filing. None of Mr. Epstein’s interrogatories relate to the mathematical accuracy of PPL Electric’s calculations.

15. The reconciliation of stranded costs is governed by Sections 1307(e) and 2808(f) of the Public Utility Code, 66 Pa. C.S. §§ 1307(e) and 2808(f). Section 2808(f) provides as follows:

**(f) Annual revenue.** – Consistent with section 1307(e) (relating to sliding scale of rates; adjustments), the commission shall establish procedures for the annual review of the competitive transition charge. The review shall reconcile the annual revenues received from the charge with the annual amortization of transition or stranded costs approved by the commission under this section. The commission shall adjust the competitive transition charge based upon underrecovery or overrecovery of the annual amortization amount.

16. As demonstrated by the language of Section 2808(f) quoted above, the scope of this proceeding is limited to reconciling the 2006 CTC revenues received by PPL Electric with

the 2006 CTC recovery approved by the Commission and to adjust for overrecovery or underrecovery of costs. Therefore, under Section 2808(f), the only issue in this CTC reconciliation proceeding is the mathematical accuracy of PPL Electric's calculations.

17. Likewise, the scope of a Section 1307(e) hearing is limited to the mathematical accuracy of the CTC automatic adjustment filing made by PPL Electric. In *Re Annual Statements of Automatic Adjustment Clauses*, 55 Pa. PUC 289, Docket No. M-FCAE0001, Order entered October 2, 1981, the Commission stated as follows with regard to the scope of Section 1307(e) hearings:

We agree with the position of the commission's trial staff and the ALJ that the scope of the instant proceeding under 66 Pa. C.S. § 1307(e) is limited to a review of the arithmetic accuracy of the automatic adjustment statements filed by the respective electric utilities...

55 Pa. PUC 289, at 290.

18. As demonstrated above, the scope of this CTC reconciliation proceeding is very narrow, and strictly limited to the mathematical accuracy of PPL Electric's CTC filing. None of Mr. Epstein's Set I interrogatories concern the mathematical accuracy of PPL Electric's calculations.<sup>1</sup> Thus, they are irrelevant and not reasonably designed to lead to the discovery of admissible evidence. PPL Electric should not be required to answer them.

**B. Interrogatories Regarding The Susquehanna Steam Electric Station, Including Present Or Future Decommissioning Of This Facility, Are Not Related To PPL Electric And Its Provision Of Electric Service To Its Customers.**

19. In addition to the objections stated above, PPL Electric objects to Interrogatories 1.c, and 3-13 as irrelevant, because they are not related to PPL Electric and its provision of

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<sup>1</sup> PPL Electric notes that Interrogatories 1(a) and 1(b) ask for an annual and aggregate accounting of CTC revenues collected by PPL Electric for nuclear decommissioning costs by year and customer class. These questions are irrelevant because the issue in this proceeding involves the reconciliation of the overall CTC amount and not the specific CTC amount related to nuclear decommissioning costs. In addition, PPL Electric does not calculate CTC revenues for nuclear decommissioning costs by customer class.

electric service to its customers. These questions are all related to present or future decommissioning and other issues associated with the Susquehanna Steam Electric Station (“SSES”). PPL Electric does not own SSES and does not own the decommissioning trusts.

20. In conjunction with the restructuring of electric public utility companies under the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. Ch. 28 (“Competition Act”) and with prior approval by the Commission in its restructuring order, *Application of Pennsylvania Power & Light Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code, et al.*, Docket No. R-00973954, Order entered August 27, 1998, PPL Electric transferred all of its generating assets, including SSES, and exited from the business of generating electricity. The SSES facility was transferred to PPL, Susquehanna, LLC. The decommissioning trusts were included in this transfer.

21. PPL Electric no longer owns Susquehanna and no longer owns the decommissioning trusts. Questions 1.c and 3-13 are all related to these issues. Therefore, in addition to seeking information that is outside the scope of this proceeding, as explained in Section II.A above, these interrogatories are also irrelevant, because they are not related to PPL Electric and its provision of electric service to its customers.

**C. Interrogatories Seeking Information To Support A Recalculation Of Stranded Costs Are Irrelevant.**

22. In addition to the objections stated above, PPL Electric objects to Interrogatories No. 2 and No. 5 because they seek information that is only relevant to support a recalculation of stranded costs. Interrogatory No. 2 asks for information regarding targeted decommissioning funding levels for SSES at the time of the restructuring settlement. This question was relevant in the restructuring proceeding for determining stranded cost levels. However, it is no longer

relevant because stranded costs were set on a once-and-done basis and cannot be recalculated. *ARIPPA v. Pa. PUC*, 792 A.2d 630, 667 (Pa. Cmwlth. 2002).

23. Likewise, Interrogatory No. 5 asks PPL Electric to provide the projected gap between CTC revenue streams and actual decommissioning costs. This question is irrelevant because, even if there is a gap between CTC revenues and decommissioning costs, CTC revenues cannot be increased or decreased to reflect updated decommissioning forecasts. *Id.* Therefore, the difference between CTC revenue streams and actual decommissioning costs is irrelevant.

**D. Instruction C Would Require An Unreasonable Investigation By PPL Electric.**

24. In addition to the Interrogatories set forth above, PPL Electric objects to Instruction (c) which reads as follows:

c) All information is to be divulged that is within the knowledge, possession, control or custody of the Respondent or may be reasonably ascertained thereby. The term "PPL", "the Company", or "PPL Electric Utilities Corporation"; as used herein, includes: PPL Electric Utilities Corporation, its attorneys, agents, employees, or other representatives and predecessor or successor attorneys, agents, employees, or other representatives;

25. Instruction (c) would require an unreasonable investigation by PPL Electric because it requires PPL Electric to divulge information from all "predecessor or successor attorneys, agents, employees, or other representatives." In order to comply with this instruction, PPL Electric would be required to investigate whether its many prior employees have information regarding these issues. This would constitute an unreasonable investigation and, therefore, is not permitted. 52 Pa. Code § 5.361(a)(4). In addition, it would be impossible for PPL Electric to provide information from successor attorneys, agents, employees or other representatives, because PPL Electric does not know who those people are until they are hired.

WHEREFORE, for all the foregoing reasons, PPL Electric Utilities Corporation objects to Eric Epstein's Interrogatories, Set I, 1-13 and Instruction (c) and requests that the ALJ excuse it from any requirement to answer them.

Respectfully submitted,



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