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**HAND DELIVERED**

June 16, 1998

ORIGINAL: 1893, 1914, 1917, 1918, 1919

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Robert E. Nyce, Executive Director *Nyce* + Each Commissioner rec'd full  
Independent Regulatory Review Commission packet.  
333 Market Street  
14th Floor, Harrisstown 2  
Harrisburg, Pennsylvania 17101

**Re: Regulation Nos. 57-185; 57-190;  
57-192; 57-187; 57-193**

Dear Mr. Nyce:

Enclosed for filing on behalf of PP&L, Inc. ("PP&L") are PP&L's comments to the five above-captioned final-form regulations promulgated by the Public Utility Commission ("PUC").

PP&L requests that the Independent Regulatory Review Commission ("IRRC") not approve these five final-form regulations. PP&L's concerns can be summarized as follows:

- Reg. No. 57-185 (Electric Service Reliability Standards) exceeds the statutory authority of the PUC and will impose an unreasonable economic impact.
- Reg. No. 57-190 (Advanced Meter Deployment for Electricity) will impose an unreasonable economic impact.
- Reg. No. 57-192 (Reporting Requirements for Quality of Service Benchmarks and Standards) is not needed, will impose unreasonable reporting requirements and will impose an unreasonable economic impact.

BEFORE THE  
INDEPENDENT REGULATORY REVIEW COMMISSION

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Pennsylvania Public Utility Commission : Regulation No. 57-185  
Electric Service Reliability Standards :

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**COMMENTS OF PP&L, INC.**

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1. Introduction

PP&L, Inc. ("PP&L" or the "Company") appreciates the opportunity to submit comments to this final-form regulation promulgated by the Public Utility Commission ("PUC"). PP&L, as both an Electric Distribution Company ("EDC") and an Electric Generator Supplier ("EGS"), is in a unique position to provide input on issues related to electric generation competition. The Company has been an early and consistent advocate for customer choice in electricity generation. Moreover, PP&L was the first electric public utility to apply for and to obtain a license under the PUC's interim licensing requirements. For these reasons, PP&L's comments reflect an element sometimes missing in the discussion of various issues affecting customer choice – namely, balancing legitimate EDC and EGS interests in a manner designed to facilitate the successful implementation of customer choice in Pennsylvania.

## 2. Standard for Review

The Regulatory Review Act sets forth specific criteria which the Independent Regulatory Review Commission ("IRRC") must apply in determining whether a final-form regulation is in the public interest. First, the IRRC determines if the final-form regulation is within the statutory authority of the promulgating agency and if it is consistent with the intent of the General Assembly. 71 P.S. § 745.5(d). If the final-form regulation satisfies this initial test, the IRRC considers additional public interest criteria, including economic impacts, need for the rule and reasonableness of the rule. 71 P.S. § 745.5(e). As discussed below, under this standard of review, the final-form regulation promulgated by the PUC is not in the public interest and should not be approved.

## 3. Specific Comments

This final-form regulation adds Subchapter N to the PUC's regulations (52 Pa. Code, Chapter 57) establishing standards and procedures for assessing the reasonableness of electric utility service reliability. Specifically, the regulation addresses issues of transmission system reliability, distribution system reliability and generation reliability. In addition, it establishes specific reporting requirements and provides for reliability investigations and enforcement by the PUC.

This regulation is not in the public interest for the following reasons. First, the regulation exceeds the statutory authority of the PUC. Section 57.193 sets forth standards for maintaining reliability of the transmission system, including an

EDC's transmission service to wholesale customers. In addition, this section requires an EDC to submit annual reports to the PUC concerning the performance of its transmission system. Section 57.197 authorizes the PUC staff to initiate an investigation to determine whether an EDC is providing service in accordance with Section 57.193 (relating to transmission system reliability). In addition, this section authorizes the PUC to direct the EDC to take corrective action, including expenditures to repair or upgrade its transmission system.

As a result of the unbundling required by the Electricity Generation Customer Choice and Competition Act ("Act"), the PUC no longer has jurisdiction over transmission. See, e.g., Washington Water Power Co., 78 FERC ¶ 61,178 (1997). The rules and procedures under which EDCs provide transmission service are governed exclusively by their Open Access Transmission Tariffs on file with the Federal Energy Regulatory Commission ("FERC") (or, in the case of the Pennsylvania PJM companies, the PJM Open Access Transmission Tariff). Each EDC providing transmission service also has on file with the FERC, "Standards of Conduct for Compliance With the FERC's OASIS Final Rule." See Open Access Same-Time Information System (formerly Real-Time Information Networks) and Standards of Conduct, Order No. 889, 61 Fed. Reg. 21,737 (May 10, 1996), FERC Stats. & Regs. ¶ 31,035 (1996), Order on reh'g, Order No. 889-A, 62 Fed. Reg. 12,484 (March 14, 1997), FERC Stats. & Regs. ¶ 31,049 (1997). The FERC has addressed all issues it believes are relevant to the use of the transmission system by eligible customers under the Open Access Transmission Tariff, which include EGSs.

See PJM Open Access Transmission Tariff, § 1.11. Accordingly, under the Regulatory Review Act, this regulation is not in the public interest because it is not within the statutory authority of the PUC. 71 P.S. § 745.5(d).

Second, the regulation will impose an unreasonable economic impact on PP&L and other Pennsylvania EDCs and could be inconsistent with the PJM Open Access Transmission Tariff and the Reliability Assurance Agreement (“RAA”) approved by the FERC along with that tariff. See *Pennsylvania-New Jersey-Maryland Interconnection*, 81 FERC ¶ 61,257, pp. 62,275-79 (1997). In essence, the regulation requires EDCs to maintain historic levels of system reliability while they also implement unprecedented changes in their structures and operations. Functional disaggregation of the electric industry in Pennsylvania, the introduction of many new participants and the opportunity for customers to switch among suppliers could be expected to affect system reliability. The PJM Interconnection recognized and accommodated these changes in the RAA. Indeed, the applicable schedule of the RAA specifically addresses the transition to retail access. See RAA, Schedule 5.

Under the RAA, all Load Serving Entities (“LSEs”), which include traditional utilities and EGSs, must become parties to the RAA and must contribute to regional reliability. Reserve obligations under the RAA will vary from one PJM planning period to the next as the peak load forecasts of each LSE varies. However, under the proposed regulation, Pennsylvania EDCs will be required to maintain historic levels of reliability, without consideration of the financial implications of meeting that requirement, or their obligations under the RAA. In addition, the regulation

imposes a broad new set of reporting obligations. All EDCs must file reports with the PUC on an annual basis and must provide extensive information regarding system reliability, including complex reliability indices for each of the preceding five calendar years.

Clearly, this new regulation cannot be promulgated in the face of conflicting federal obligations under the RAA. Moreover, given the changes that retail competition is expected to have on system reliability support, the approach taken in the RAA appears to be far superior.

It is anticipated that the cost of complying with these requirements will be significant even if electric generation competition were phased-in over the three-year period established by the Act. 66 Pa.C.S. § 2806(b). However, in a series of restructuring case decisions, the PUC has accelerated the phase-in schedule for PP&L and other Pennsylvania EDCs. *Application of Pennsylvania Power & Light Company for Approval of Restructuring Plan Under Section 2806 of the Public Utility Code*, Docket No. R-00973954 (Order entered June 15, 1998). Under this accelerated phase-in schedule, by January 2, 1999, two-thirds of all customers will be permitted to choose an EGS; by January 2, 2000, all customers can choose an EGS. For PP&L, this accelerated schedule means that as many as 800,000 of its customers will have an opportunity to choose an EGS on January 2, 1999. Implementing this phase-in will place a tremendous strain on all of the Company's systems. And, for that reason, it is likely to make compliance with the Commission's service reliability regulation even more expensive. In addition, the proposed regulation will add an

extensive additional implementation project at a time when the Company should be devoting the maximum possible resources to the customer enrollment and supplier selection processes. Accordingly, under the Regulatory Review Act, this regulation is not in the public interest because it will impose an unreasonable economic impact. 71 P.S. § 745.5(e).

#### 4. Conclusion

For the reasons set forth in the foregoing comments, PP&L, Inc. respectfully requests that the Independent Regulatory Review Commission not approve this final-form regulation promulgated by the Public Utility Commission.

Respectfully submitted,



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Dated: June 16, 1998  
at Allentown, Pennsylvania