BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Petition of Citizen Power and Pennsylvania	:	
Steel and Cement Manufacturers Coalition for a	:	Docket No. P-2010-2195426
Declaratory Order to Investigate Utility Stranded	:	
Cost Collection and Mitigation Efforts	:	

ANSWER OF CITIZEN POWER AND PENNSYLVANIA STEEL & CEMENT MANUFACTURERS COALITION

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Dated: November 1, 2010

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Citizen Power and Pennsylvania Steel and Cement Manufactures Coalition ("Joint Petitioners") hereby files, pursuant to 52 Pa. Code § 5.61, this Answer to the Motion of PPL Electric Utilities Corporation ("PPL") for Judgment on the Pleadings Dismissing the Joint Petition of Citizen Power and Pennsylvania Steel & Cement Manufacturers Coalition for a Declaratory Order. PPL claims that the Joint Petitioners fail to assert a basis in law for a refund and requests that the Joint Petition be dismissed. For the reasons that follow, the Pennsylvania Public Utility Commission ("Commission") should deny the relief requested in PPL's Motion for Judgment on the Pleadings.

I. INTRODUCTION

Between 1998 and 2001, at various Dockets, the Commission approved stranded cost calculations and recovery mechanisms for each Pennsylvania Electric Distribution Company ("EDC"). [1] These stranded cost calculations essentially looked at each EDC's existing rate based generation and power supply costs which would have been recoverable under regulation but, based upon long range price forecasts, may not be recovered in a competitive environment. On August 24, 2010, the Joint Petitioners filed a Petition for a Declaratory Order to investigate stranded cost mitigation efforts, to investigate stranded cost collections and to refund any stranded cost over collections, under 52 Pa. Code § 5.42 ("Petition for Declaratory Order" or "Petition"). On September 13, 2010, the Energy Association of Pennsylvania filed a Motion for an extension of time to file an answer or otherwise respond to the Petition. On September 14,

[1] Restructuring docket numbers: R-00973975 (UGI-Electric Utilities, Inc.), R-00973981 (West Penn Power Co.), R-00974101 (Duquesne Light Co.), R-00973953 (PECO Energy), R-00973954 (PP&L), R-00974008 (Metropolitan Edison Co.), and R-00974009 (Pennsylvania Electric Company).

2010, a Secretarial Letter was filed, granting the motion for an extension until October 12, 2010. On October 6, 2010, Patricia M. Braden R.N. and Herbert Braden, P.E. filed statements in support of the Petition for Declaratory Order. On October 11, 2010, Clean Air Council filed a Letter in Support of the Petition for Declaratory Order and on October 15, 2010 Dennis Baylor filed a statement in support of the Petition for Declaratory Order. On October 12, 2010, PPL, the Energy Association of Pennsylvania, UGI Utilities, Inc., West Penn Power Company, Duquesne Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and PECO Energy Company all filed answers to the Petition for Declaratory Order. In addition, PPL also filed a Motion for Judgment on the Pleadings Dismissing the Petition for Declaratory Order ("Motion for Judgment on the Pleadings" or "Motion"). The Joint Petitioners now file this Answer.

II. ARGUMENT

A. Requirements For Granting Judgment On The Pleadings.

Under 52 Pa. Code § 5.102(d)(1), a judgment on the pleadings will be granted "if the applicable pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law." In their Motion for Judgment on the Pleadings, PPL claims that if the averments in the Petition for Declaratory Order are accepted as true, that they are entitled to judgment as a matter of law because "the Commission does not have the authority to issue a refund with respect to stranded costs recovered pursuant to CTC and ITC rates." However, as stated below, the arguments articulated by PPL are not valid reasons to grant the Motion.

B. Stranded Or Transition Costs And The Resulting Charges To Customers Are Subject To Mitigation Under Section 2808(c)(4) of the Competition Act.

In Section II.C of their Motion, PPL claims that both the Commission and the Commonwealth Court have found that stranded cost determinations are final and are not subject to being reopened. As support for this theory, PPL provides in their Motion that the definition of stranded costs as determined by the Commission in both the PECO and the PPL restructuring orders requires that the costs be determined on a net present value. Furthermore, PPL points to the Pennsylvania Power Company ("Penn Power"), Duquesne, and West Penn Power restructuring cases as incidences where the Commission determined that this net present value language prevented a "second look" of stranded costs. Finally, PPL discussed the Commonwealth Court case *ARIPPA v. Pa. P.U.C.*, 792 A.2d 636 (Pa. Cmwlth. Ct. 2002) which overruled a Commission decision to permit GPU Energy to recover increased purchased power costs through the CTC. In summary, it is PPL's position that stranded costs were fixed at a point in time because of the net present value language in 66 Pa. C.S. § 2803. The Joint Petitioners agree that the Commission and the Commonwealth Court have interpreted the net present value language in the statutory definition of stranded costs to indicate that a "second look" at the initial stranded cost determination is not allowed for the purpose of changing the initial stranded cost determination. The purpose of determining the stranded costs is to provide a fixed amount in order to determine CTC and ITC charges. However, these transition charges can be changed after the initial stranded cost determination based on mitigation efforts. For example, Duquesne Light sold their generation assets more than two years after their restructuring proceeding concluded and applied the proceeds to the Commission determined stranded costs. This development, occurring after the Duquesne Restructuring proceeding, required changing the CTC; in fact, it

resulted in completely eliminating the CTC for Duquesne's customers.[2] In this case, Duquesne provided total mitigation of stranded costs on behalf of its customers. However, had Duquesne sold its generation assets for a price that was less than an amount that enabled elimination of the CTC, the CTC would have had to have been adjusted accordingly. This example clearly demonstrates that while initial stranded cost amounts are determined in the restructuring proceedings, the subsequent transition charges can, and should, be modified by statutorily mandated mitigation efforts that take place during the transition period.

The examples cited by PPL in its Motion involved attempts to recalculate the initial Commission stranded cost determination, in other words a "second look". In contrast, the Joint Petitioners are asking the Commission for a "first look" into stranded cost mitigation efforts by each EDC under Section 2808(c)(4) of the Competition Act, which states:

> During the transition period, electric utilities shall have the duty to mitigate generation related transition or stranded costs to the extent practicable.

Therefore, a determination of the actual stranded costs is relevant because the difference between the estimated stranded costs and the actual stranded costs incurred by the EDC after the EDCs' mitigation efforts "during the transition period," as mandated by the statute, provides a measurement of mitigation of stranded costs. It turns out, Pennsylvania EDCs proved to be extremely adept at mitigating stranded costs "during the transition period." Consistent with Section 2808(c)(4)(v), which authorized utility ongoing transition period mitigation efforts to include "maximization of market revenues from existing rate base generation," Pennsylvania's EDCs initiated or supported an onslaught of PJM market rule changes that assured substantially

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[2] See: *Application of Duquesne Light Company for Certificate of Public Convenience and for Commission Approval of the Transfer of Property Used or Useful in the Public Service*, Docket No. A-00110150F2003

higher market revenues for their existing rate base generation assets.[3] The problem is the EDCs didn't pass on these mitigation benefits to customers. Therefore, it is disingenuous for PPL in their Motion to assert that the initial determination of stranded costs is not impacted by a separate requirement in the same Competition Act that authorized the recovery of stranded costs, and which PPL and other Pennsylvania utilities relied upon to substantially increase market revenues for their existing rate base generation assets via PJM rule changes. In summary, the Joint Petitioners believe that the Section 2808(c)(4) mitigation requirements survive the initial Section 2803 determination of stranded costs and must be expressed through post transition period adjustments to the total recoverable transition charges without changing the initial stranded cost determination. Therefore, the fact that initial stranded cost determinations cannot be re-examined is neither relevant to, nor requested by, the original Petition for a Declaratory Order.

C. Section 2808(c)(4) of the Competition Act Allows For A Review Of Mitigation Efforts.

In Section II.D of their Motion, PPL contends that stranded cost mitigation efforts are to be determined solely in the context of the restructuring proceedings. Therefore, in the view of PPL, all duty to mitigate ended at the moment that stranded cost amounts were determined in each EDC's restructuring proceeding. As evidence of this position, PPL points out that Section 2808(c)(4) is part of Section 2808(c), which is titled "Determination of competition transition

[3] PJM modified the basis for energy offers in April, 1999 (Docket ER97-3729), restricted competition in the capacity markets in 1999 (Docket ER99-2663) introduced a Day-Ahead Energy market and bid based ancillary service markets 2000 (Dockets ER00-298 and ER97-1082 respectively) introduced and then increased scarcity pricing in 2003 and 2004 (Dockets EL03-236 and EL04-121), the Reliability Pricing Model was added in 2006 (Dockets ER05-1410 and EL05-148), and the RPM prices were substantially increased in 2008 and 2009 (Dockets ER08-232 and ER09-412) and has recently proposed to more than double energy market prices during periods of short supply (Docket ER09-1063). All of these changes had the effect of raising the wholesale price above the levels originally contemplated in the long-term forecasts determining stranded costs.

charge" and argues that the duty to mitigate is one guiding principle in establishing the stranded costs. PPL argues that the intent of Section 2808(c)(4) was to direct the Commission "to take into account both past and future opportunities to mitigate stranded costs" in the determination of stranded costs. PPL then observes that mitigation efforts were reviewed in each EDC's restructuring order.

Again, the question is whether the Section 2808(c)(4) mitigation requirement was intended to survive the initial restructuring proceedings, or whether all duty to mitigate stranded costs ended for an EDC when the Commission issued its Restructuring Order for that EDC. It is true that Section 2808(c)(4) is contained in Section 2808, "Determination of competitive transition charge." However, unlike the initial stranded cost determination, competitive transition charges are not necessarily fixed. For example, Section 2808(a) states that "[t]he recovery of transition or stranded costs associated with existing generating facilities is contingent on continued operation at reasonable availability levels of the generation facilities for which recovery has been approved, except when the generation facility is uneconomic on a production cost basis because of the transition to a competitive market." This clearly indicates the intention that transition costs may change after the restructuring proceeding, including in the case where, during the transition period, a generation facility is determined to "uneconomic on a production cost basis." Thus, recalibration of transition charges is contingent on events that may take place after the initial restructuring proceeding.

Two additional examples of mitigation strategies are listed in Section 2808(c)(4), and they clearly envision actions taking place after the initial restructuring proceeding. Section 2808(c)(4)(v) lists "[m]aximization of market revenues from existing rate base generation assets" as a potential mitigation strategy. Since the initial stranded cost determination already estimates

the revenue from generation assets under the foreseeable market conditions at the time of the initial transition cost estimates, it is apparent that maximizing market revenues anticipates something greater than that estimate, which can only be achieved after the final restructuring order. As noted above, the initial transition cost estimates could never anticipate the myriad market rule changes that would be requested by generation owners in PJM and that substantially increased resulting market revenues for existing rate base generation assets. Similarly the West Penn Power Company initial stranded cost estimates did not include the increase in market revenues received by the West Penn Power Company existing rate base generation assets when parent company Allegheny Energy, Inc. and PJM created PJM West, effective April 1, 2002. As Allegheny Energy, Inc. explained to its shareholders in their 2001 Annual Report to Shareholders, "[t]he Company anticipates the formation of PJM West will enhance its ability to compete for power sales in the expanded PJM/PJM West market area."[4] Clearly the Commission's initial stranded cost estimates could not anticipate the mitigating impact on the West Penn Power Company existing rate base generation assets of the creation of PJM West 3 years after the initial estimates. Only a post implementation review can adequately assess such mandatory mitigation efforts that were taken "during the transition period" and provide the basis for a *prospective* adjustment of the competitive transition charges.

Similarly Section 2808(c)(4)(ii) states that mitigation efforts may include "[m]inimization of new capital spending for existing rate base generation assets." The minimization of new capital spending can only occur when a decision on capital spending occurs, which would likely be after the restructuring proceeding. The clear intent of this section is for the duty to mitigate to impact the determination of the competitive transition charge both during and after the initial restructuring proceeding.

[4] Allegheny Energy, Inc., 2001 Annual Report To Shareholders, p 34.

The review of mitigation efforts during the restructuring orders is not evidence that the mitigation duty ended with the restructuring proceedings. Obviously, when preparing the most accurate estimate of stranded costs, it makes sense to take into account potential mitigation strategies *known at the time*, which the Commission did. But that consideration by the Commission does not change the statutory requirement to mitigate "during the transition period" in ways that were unforeseeable at the time of the initial stranded cost estimations. Specifically, in the case of PPL, "[t]he Commission also adopted PPL Electric's proposal to use a $70 million per year reduction in depreciation expense related to the Susquehanna Nuclear Generating Station as an offset to stranded costs through the term of the CTC recovery period." In the case of the depreciation expense related to the Susquehanna Nuclear Generating Station, the mitigation savings were able to be determined during the restructuring proceeding, so they were applied during the restructuring proceeding. However, in the case of Duquesne Light, as referenced in Section II.B of this Answer, mitigation of stranded costs through sale of its generation assets occurred well after its restructuring proceeding. The adjustment to the CTC for Duquesne Customers also occurred after its restructuring proceeding. Therefore, it is clear that mitigation efforts and corresponding adjustments to transition charges can take place after a restructuring proceeding.

D. The Petition For Declaratory Order Is Not Asking For Retroactive Ratemaking.

In Section II.E of their Motion, PPL claims that the Petition for Declaratory Order's request for refunds is in violation of the Commission-made rate doctrine. This doctrine stands for the proposition that Commission approved rates render a utility immune from retroactive rate changes as long as the rates are determined to be reasonable after a full examination. PPL claims

that since the Commission-made rate doctrine applies and because it prohibits retroactive refunds, the Commission is prohibited from granting the Petition with respect to granting refunds.

The Joint Petitioners disagree with this assessment because the duty to mitigate under Section 2808(c)(4) is part of the determination of competitive transition charges under Section 2808(c), and therefore creates a known potential for adjustments to the transition charge, similar to a fuel cost adjustment clause or any other adjustable aspect of a rate. The initial stranded cost determination was used to determine the initial transition charges. The reasonableness of these initial transition charges obviously would be controlling under the Commission-made rate doctrine if the duty to mitigate during the transition period did not exist. It is this duty which anticipates a change to transition charges paid by customers based upon the mitigation efforts of an EDC during the transition period. In other words, competitive transition charges after the restructuring proceedings are only reasonable if there is a reasonable attempt to mitigate the stranded costs during the transition period. Future adjustments to competitive transition charges can be deemed to be reasonable based upon the results of an investigation into mitigation efforts. Since the Commission-made rate doctrine does not apply when there has not been a prior review for reasonableness, it does not apply with regard to a determination of whether the transition charges are correct.

The Commission doctrine precluding retroactive ratemaking when a full examination has deemed charges to be reasonable is not applicable in this instance because the initial examination is necessarily incomplete due to the requirement that there be mitigation efforts during the transition period that were impossible to foresee at the time of the initial restructuring proceeding. Some form of post transition period review is necessary in order to determine the

reasonableness of the total transition charges to customers, that factors in the level of mitigation actually achieved "during the transition period." It is telling that Pennsylvania EDCs that may have been extremely successful in finding creative ways to mitigate their transition costs would now object to the Commission reviewing the success of their mitigation efforts, and in particular their "[m]aximization of market revenues from existing rate base generation assets."

E. Refunds Under Section 1312 Of The Public Utility Code May Be Justified.

In Section II.F of their Motion, PPL states that the Joint Petitioners fail to state a basis for a refund under Section 1312 of the Public Utility Code. Specifically, PPL contends that the Joint Petitioners have failed to set forth a valid claim for a refund under one of three allowable Section 1312 circumstances: the rate was unjust or unreasonable, the rate was in violation of any regulation or order of the Commission, or that the rate was in excess of the applicable rate in the tariff. PPL does admit that the Petition for Declaratory Order does assert that the recovery of stranded costs may have been unjust or unreasonable. Since they believe that the doctrine of Commission-made rates applies, recovery of refunds under this basis would not be possible in their view. However, as explained in Section II.D of this Answer, the Commission-made rate doctrine does not apply to all of the transition charges as evidenced by actual changes made to some of those charges, and because the clear intent of the Competition Act was to allow for prospective adjustments. Therefore, the Joint Petitioners have stated a valid basis for refunds under Section 1312 of the Public Utility Code.

F. The Petition For Declaratory Order Does Not Violate Section 2812 Of The Public Utility Code Because It Does Not Seek To Reduce, Postpone, Impair, Or Terminate The Intangible Transition Charges Authorized To Be Collected

In Section II.G of their Motion, PPL correctly states that under an irrevocable Qualified Rate Order collection of the Intangible Transition Charges shall not be, directly or indirectly subject to reduction, postponement, impairment, or termination by the Commission under Section 2812(b)(3). In addition, it is also true that Paragraph 18 of the *PPL Electric Qualified Rate Order* specifically declares that certain paragraphs are irrevocable for purposes of Section 2812 of the Public Utility Code. PPL contends that refunds would be an "indirect" reduction or impairment, which is not allowed under 2812(b)(3) or Paragraph 18.

It is clear that the Joint Petitioners are not asking the Commission to directly impair the collection of the ITCs, since they have been fully recovered. The Joint Petitioners are not asking for an indirect reduction in the ITCs either, since the refund they are asking for, if warranted after an investigation is completed, is solely based upon a failure to mitigate stranded costs under 2808(c)(4). The collection of ITCs and mitigation of stranded costs "during the transition period", although related, could occur at the same time without having an impact on each other and should be treated as separate matters. The purpose of an irrevocable QRO is to assure any purchasers of intangible transition property of proper payment. An adjustment of the overall transition charges due to the success or failure of ongoing mitigation efforts required by the Competition Act does not have any impact on the ability of holders of intangible transition property to collect ITCs from ratepayers. Therefore, the Joint Petition does not violate Section 2812 of the Public Utility Code.

G. The Commission Has Jurisdiction To Consider Gains Or Losses From The Operation Of Generation Assets That Are Not Sold To A Third Party And Are Not Sold At Book Value.

In Section II.H of their Motion, PPL contends that since PPL transferred its generation assets to an affiliated company outside the regulatory jurisdiction of the Commission, that the Commission does not have the authority to investigate gains and losses of those generation assets post transaction. Furthermore, PPL states that it would be an unconstitutional taking to use any post transaction gains from these generation assets to reduce regulated utility rates.

This argument is disingenuous and misleading. Section 2803 defines the "transition or stranded costs" as "[a]n electric utility's known and measurable net electric generation related costs, … which traditionally would be recoverable under a regulated environment but which may not be recoverable in a competitive electric generation market." PPL's Answer to the Petition for Declaratory Order in Section E, pp11-12, points out correctly that pursuant to the PPL Electric Qualified Rate Order and a subsequent Commission approved Generation Supply Agreement between PPL Electric and an affiliate PPL Energy Plus, LLC, the generation assets were no longer owned by PPL Electric. Since "transition or stranded costs" as defined above are "[a]n electric utility's generation related costs" but PPL Electric continued to collect stranded costs after transferring their generation assets, the Commission does have the right to review the overall recovery of stranded costs after all mitigation efforts during the transition period have been implemented. Under the Generation Supply Agreement ("GSA") the generation costs to PPL Electric were set at 100% of the monthly revenue billed to customers for generation energy and capacity, plus an advance payment of $90 million. Thus under the Commission approved GSA, PPL Electric total stranded "net electric generation related costs" were the $90 million advance payment and nothing more. Any other stranded or transition costs were born by the non-jurisdictional affiliated generation entities and as such were not recoverable by PPL Electric from Pennsylvania jurisdictional ratepayers. PPL cannot have it both ways, transfer the assets at

book value such that PPL Electric suffers no gain or loss in the transaction, supply the energy from those assets to their Pennsylvania Utility affiliate under rates that do not cause the utility operation to strand any costs, still collect generation related stranded costs, and then claim that the Commission has no jurisdiction over the recovered stranded costs. By doing so, PPL is in fact claiming that the total stranded costs incurred by PPL Electric are the $90 million advance payment, and that any stranded costs incurred beyond that were born by their generation owning affiliates, over whom the Commission has no authority to allow for stranded recovery from Pennsylvania consumers.

H. PPLs Motion For Judgment On The Pleadings Does Not Address The Request For A Declaratory Order To Investigate Stranded Cost Mitigation Efforts Or To Investigate Stranded Cost Over Collection.

PPL's Motion for Judgment on the Pleadings asks the Commission to dismiss the Petition for Declaratory Order because "the Commission does not have the authority to order a refund with respect to stranded costs recovered pursuant to CTC and ITC." PPL's Motion mischaracterizes what the Petition for Declaratory Order has requested. Joint Petitioners have requested the Commission to review the success or failure of mitigation efforts during the transition period as required by the Competition Act. Since the stranded cost charges were based necessarily upon estimates, there is an implied requirement for a post implementation review, and any such review could, under the Act, necessitate an adjustment of the transition charges recovered by Pennsylvania's EDCs. The Competition Act provided for generation related stranded cost recovery, yet the transition charges were recovered by EDCs that universally no longer owned any of the generation related assets that incurred stranded costs. Joint Petitioners have pointed out how stranded cost mitigation via asset sales by Duquesne resulted in an early

elimination of any need for continuing the CTC through the transition period. In light of arguments made by PPL Electric, it is likely that the Pennsylvania EDCs that transferred generation assets to an affiliate at book value never incurred any substantial electric generation related stranded costs at all. Since the assets were transferred at book value. Clearly, no costs were stranded by the EDC in that transfer. Provided that the electricity supply from the transferred generation assets was provided by the utility affiliate at a cost that approximated the EDCs capacity and energy related generation revenues, neither did the affiliate incur any stranded costs. In that case, almost all CTCs recovered by such a situated Pennsylvania EDC would in fact have been an over collection of stranded costs, as stranded costs were defined by Section 2803 of the Competition Act.

I. Joint Petitioners Have Standing To Request Commission Review Of Mitigation Efforts During The Transition Period And Are Not Estopped From Requesting Such

Joint Petitioners include Citizen Power, a nonprofit, public policy research, education and advocacy organization based in Pittsburgh and the PSCMC, an ad hoc coalition of steel and cement manufacturers across Pennsylvania. The principal place of business of Citizen Power is 2121 Murray Avenue, Pittsburgh, Pennsylvania 15217. Citizen Power is a customer of Duquesne Light at this location. Citizen Power devotes almost all of its resources to consumer and environmental protections issues. Citizen Power has participated in numerous proceedings regarding electricity market deregulation, renewable resource standards, energy efficiency, and customer rates in Pennsylvania and Ohio and at the Federal Energy Regulatory Commission ("FERC"). Citizen Power has been a statewide advocate for lower energy costs and increased use of renewable energy and energy-efficiency technologies. As part of its advocacy, Citizen Power

has investigated the impacts of deregulation and the role that market power plays upon the wholesale markets. Specifically, David Hughes testified on behalf of Citizen Power before the Pennsylvania House Environmental Resources and Energy Committee on July 22, 2008 regarding the impact of deregulation. Citizen Power has also testified in Docket M-00061957 concerning policies to mitigate potential electricity price increases.

PSCMC members operate facilities served by PPL Utilities, West Penn Power Company, Duquesne Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and PECO Energy Company. As such, Joint Petitioners have a right to request the Commission to investigate the mitigation efforts and assess the level of stranded costs after the mitigation efforts that have been implemented by the various EDCs. To the extent that PSCMC members have paid stranded costs that in fact mitigated after the initial determinations of stranded costs and not in fact stranded, then members may be entitled to refunds to the extent that such are necessary to insure that overall rate levels are just and reasonable. PSCMC member companies were not Parties to any of the initial restructuring orders. Some PSCMC member owned assets may have been owned and operated by entities that participated in the restructuring process, however corporate entities such as Lukens Steel or Bethlehem Steel were dissolved via bankruptcy proceedings and International Steel Group's purchase of certain assets was not a succession of the interests of those entities but rather acquired via liquidation in a bankruptcy process. Furthermore even if a Joint Petitioner had been a Party to a restructuring settlement order, that Petitioner is not precluded from requesting that the Commission investigate the level of mitigation achieved during the transition period and compare that to the level of stranded costs initially estimated during the restructuring process.

The Competition Act clearly anticipates mitigation during the transition period and a review of that mitigation is a necessary activity for the Commission to undertake.

III. CONCLUSION

Joint Petitioners have presented evidence indicating that substantial mitigation of stranded or transition costs did occur throughout the transition period. Joint Petitioners suspect that the level of mitigation was so great that Pennsylvania consumer have likely substantially over paid estimated stranded costs vs. the actually stranded generation related costs of Pennsylvania EDCs. PPL Electric in response to Joint Petitioners filed further evidence that their actually incurred stranded costs in fact were a mere $90 million advance payment and that their generation owning affiliates incurred any actually stranded costs or reaped any market based windfalls and that these costs or windfalls are beyond the Commission's authority to review. Joint Petitioners offer PPL's own Answer as perhaps the strongest evidence of the need for a Commission investigation.

Respectfully submitted,

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Dated: November 1, 2010

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PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Petition of Citizen Power and Pennsylvania Steel and Cement Manufacturers Coalition for a Declaratory Order to Investigate Utility Stranded Cost Collection and Mitigation Efforts	:	Docket No. P-2010-2195426

VERIFICATION

I, David Hughes, hereby state that the facts above set forth in the ANSWER OF CITIZEN POWER AND PENNSYLVANIA STEEL & CEMENT MANUFACTURERS COALITION are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

/s/ David Hughes

David Hughes
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Dated this 1st day of November, 2010.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Petition of Citizen Power and Pennsylvania Steel and Cement Manufacturers Coalition for a Declaratory Order to Investigate Utility Stranded Cost Collection and Mitigation Efforts	:	Docket No. P-2010-2195426

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the ANSWER OF CITIZEN POWER AND PENNSYLVANIA STEEL & CEMENT MANUFACTURERS COALITION, which was electronically filed today, in accordance with the requirements of § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 1st day of November, 2010.

/s/ David Hughes

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