PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held April 25, 2019

Commissioners Present:

Gladys M. Brown, Chairman
David W. Sweet, Vice Chairman, Statement, Dissenting
Norman J. Kennard, Statements
Andrew G. Place, Statement
John F. Coleman, Jr., Statement

Application of PPL Electric Utilities Corporation for Approval of Intercompany Restructuring — A-2017-2629534

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of PPL Electric Utilities Corporation (PPL EU) filed on October 1, 2018, to the Recommended Decision (R.D.) of Administrative Law Judges (ALJs) Benjamin J. Myers and Joel H. Cheskis, issued on September 11, 2018, relative to the above-captioned proceeding. On October 11, 2018, the Office of Small Business Advocate (OSBA) filed Replies to Exceptions. The Recommended Decision addresses the Application of PPL EU for Approval of

Intercompany Restructuring (Application) in which PPL EU is requesting approval of the corporate restructuring which would interject two new Delaware holding companies – PPL Subsidiary Holdings, LLC (Newco 1) and PPL Energy Holdings, LLC (Newco 2) – between PPL EU and its current parent, PPL Corporation. The ALJs recommended that PPL's Application be denied because PPL-EU failed to show that the proposed intercompany restructuring is necessary or proper for the service, accommodation, convenience, or safety of the public pursuant to Section 1103 of the Public Utility Code (Code), 66 Pa. C.S. § 1103.

For the reasons below, we shall deny PPL EU's Exceptions and adopt the ALJs' Recommended Decision consistent with this Opinion and Order.

I. History of the Proceeding

On October 16, 2017, PPL EU filed the aforementioned Application seeking the Commission's approval of PPL Corporation's proposed internal corporate restructuring (Proposed Restructuring). The Application was submitted pursuant to Section 1102(a)(3) of the Code, 66 Pa. C.S. § 1102(a)(3), and the Commission's Statement of Policy in Section 69.901 of the Commission's Regulations, 52 Pa. Code § 69.901.

On October 28, 2017, notice of the Application was published in the *Pennsylvania Bulletin* in accordance with Section 5.14 of the Commission's Regulations, 52 Pa. Code § 5.14.

On November 21, 2017, the OSBA filed a Notice of Intervention and Protest, and a Public Statement and Verification.

On May 29, 2018, the ALJs granted PPL EU's and the OSBA's joint request to waive cross-examination of all witnesses and admit evidence into the record by written stipulation. The evidentiary hearing scheduled for May 30, 2018, was cancelled.

On June 13, 2018, PPL EU and the OSBA jointly filed a Stipulation for Admission of Evidence (Stipulation). The Stipulation requested that the following evidence be admitted into the record: (1) PPL EU Direct Testimony; (2) PPL EU Rebuttal Testimony; (3) OSBA Direct Testimony; (4) OSBA Exhibits IEc-1 and IEc-2; (5) PPL EU's Application; and (6) PPL Exhibit No. 1-A. On June 29, 2018, PPL EU and the OSBA filed their Main Briefs. On July 13, 2018, the record in this matter was closed after the Parties filed their Reply Briefs.

In their Recommended Decision issued on September 11, 2018, ALJs Myers and Cheskis recommended (1) that the Stipulation be granted, and (2) that the Application be denied in its entirety. R.D. at 20-25.

As noted, on October 1, 2018, PPL-EU filed Exceptions to the ALJs' Recommended Decision. On October 11, 2018, the OSBA filed Replies to Exceptions.

II. Overview of the Application

PPL EU explained in the Application that it is a Pennsylvania business corporation formed in 1920, and a public utility as defined in Section 102 of the Code, 66 Pa. C.S. § 102. PPL EU provides electric service to approximately 1.4 million customers in eastern and central Pennsylvania. Application at 2.

PPL Corporation was formed in 1994 as a utility holding company and is incorporated in Pennsylvania. PPL Corporation currently directly owns all interests in the seven following subsidiary companies: (1) PPL Capital Funding, Inc., (2) LG&E and

KU Energy LLC, (two domestic, non-Pennsylvania electric distribution companies), (3) PPL Energy Funding Corporation ("PPL EF"), (4) PPL Services Corporation, (5) PPL TransLink, Inc., (6) PPL EU Services Corporation, and (7) PPL EU, collectively referred to as the PPL Group. Application at 2; Exhibit A to Application. Organization Chart No. 1, below, shows PPL Corporation's current organizational structure:

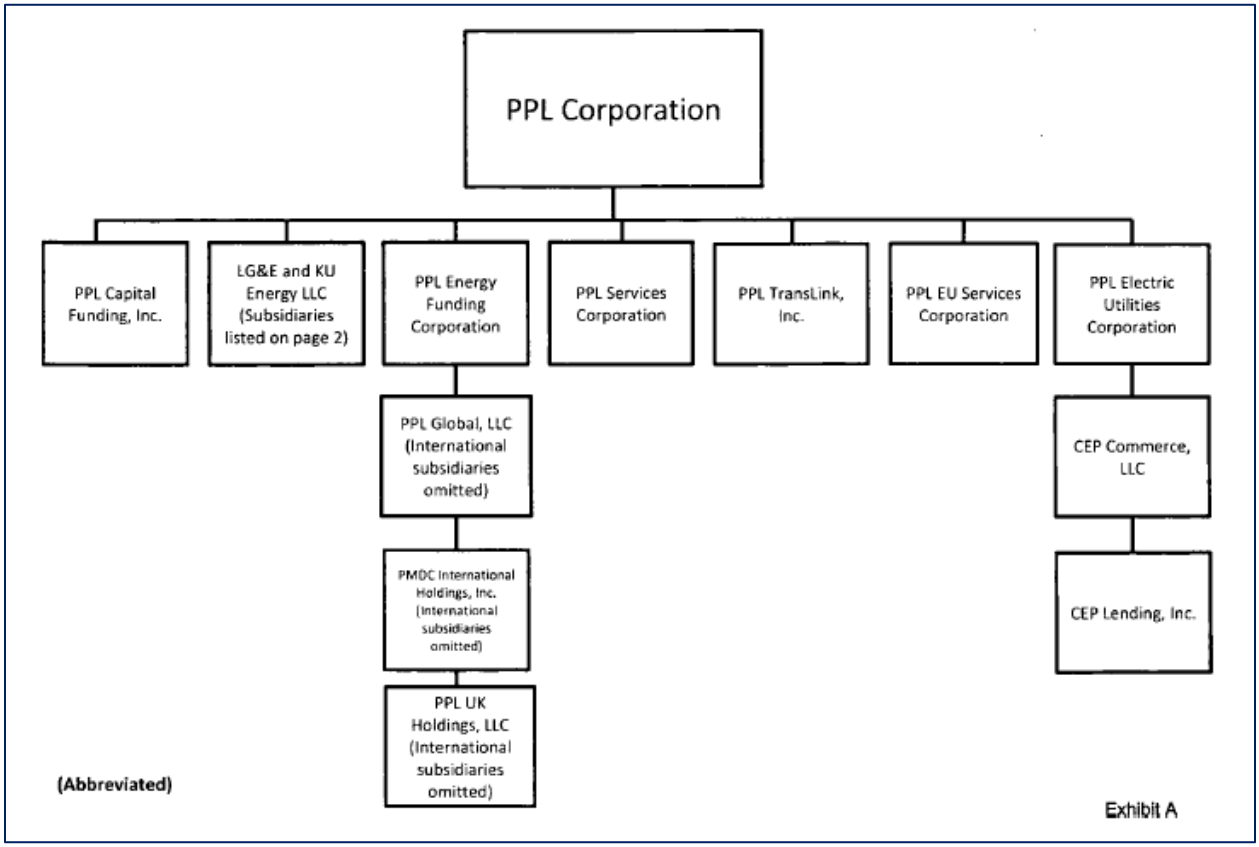

Chart No. 1 – PPL Corporation's Current Corporate Organization Structure (October 2017); Application, Exhibit A at 1.

PPL EU noted in the Application that PPL EF is a holding company that owns PPL Corporation's interests in the electricity distribution business in the United Kingdom. PPL EF previously owned PPL Corporation's generation business prior to the 2015 spinoff of the generation assets to Talen Energy Corporation. Application at 2, 7; *see* Docket Nos. A-2014-2435752 and A-2014-2435833.

After the Proposed Restructuring, PPL Capital Funding, Inc. will remain a direct subsidiary of PPL Corporation, but PPL EU, PPL EF and the other subsidiaries will become indirect subsidiaries of PPL Corporation. As explained in the Application, in the first step, PPL Corporation will form two new Delaware holding companies, "Newco 1" and "Newco 2." Newco 1 will be owned directly by PPL Corporation and Newco 2 will be owned directly by Newco 1. In the second step, PPL Corporation will contribute all of the interests it holds in PPL EU and certain other subsidiaries to Newco 1. Newco 1 will then contribute all of the shares received from PPL Corporation to Newco 2. Newco 1 will be named PPL Subsidiary Holdings, LLC and Newco 2 will be named PPL Energy Holdings, LLC. Application at 2-3; Exhibit B to Application. See Chart No. 2, below.

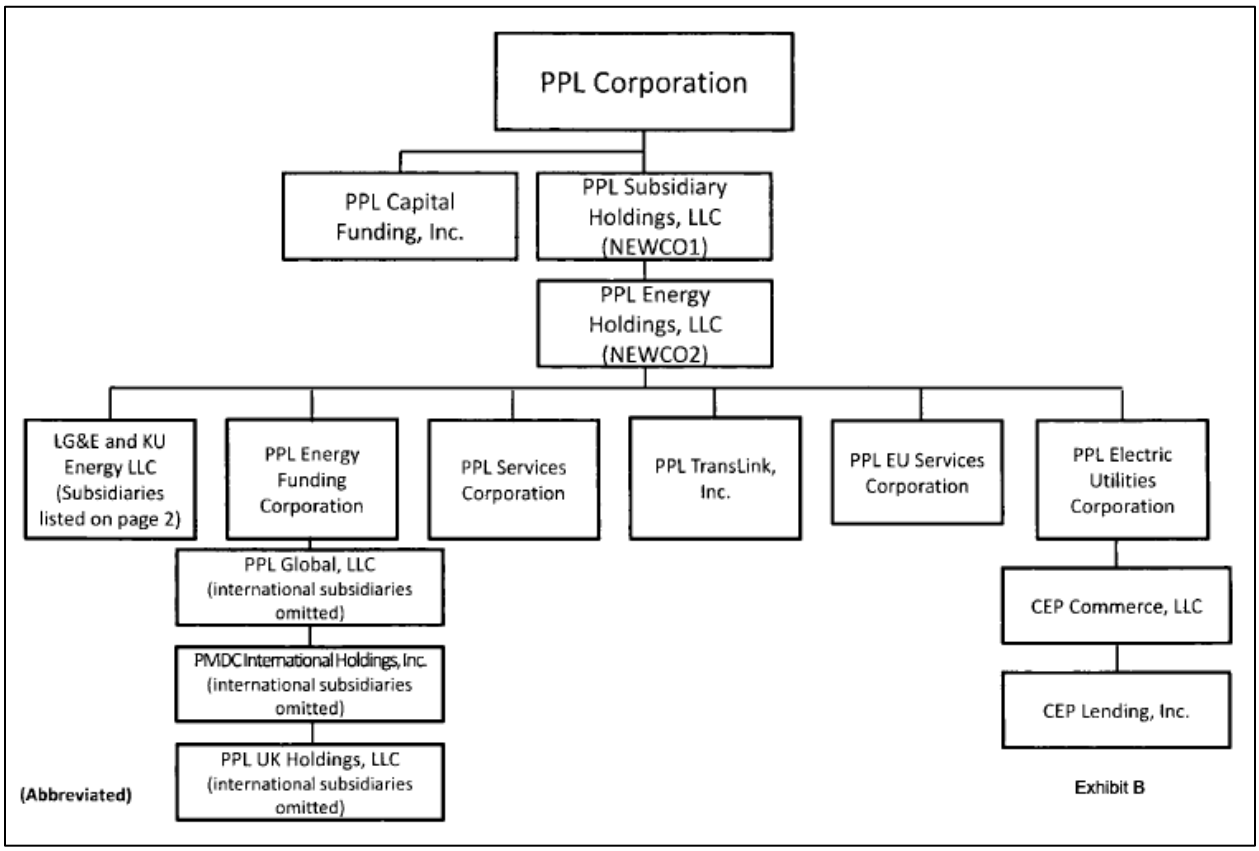

Chart No. 2 – PPL Corporation's Proposed Corporate Organization Structure (October 2017); Application, Exhibit B at 1.

PPL EU will go from being a wholly-owned direct subsidiary of PPL Corporation before the Proposed Restructuring to a wholly-owned indirect subsidiary of PPL Corporation after the Proposed Restructuring. After the Proposed Restructuring, two new holding companies, PPL Subsidiary Holdings, LLC (Newco 1) and PPL Energy Holdings, LLC (Newco 2), will be placed between PPL Corporation and PPL EU. Application at 3; Exhibit B to Application. The Application stated that the Proposed Restructuring involves no change in PPL Corporation's ultimate control of PPL EU or any of the other entities involved. Application at 3. The Application also stated that there will be no changes in the management or operations of PPL EU and, accordingly, there will be no change in control. Application at 3.

The stated purpose in the Application of the Proposed Restructuring is to allow PPL Corporation to effectively manage the movement of cash within the PPL Group. As explained in the Application, in order to fund capital expenditures as well as dividends to shareholders of PPL Corporation, subsidiaries of PPL Corporation must regularly distribute cash to PPL Corporation. In its existing structure, PPL Corporation is faced with potential future limitations on its ability to distribute cash from certain of its subsidiaries without creating negative federal or state income consequences due to limited tax basis in those subsidiaries. More specifically, to the extent that such distributions exceed accumulated earnings and profits, the distributions will be characterized as returns of basis to the extent thereof and then as capital gains. While returns of basis are "tax neutral" from both a federal and state income tax perspective, capital gains may trigger a tax cost. According to PPL's Application, this cost poses a clear impediment on the PPL Group's options for efficiently mobilizing cash to serve its needs. However, according to PPL, the Proposed Restructuring significantly mitigates this potential cost by consolidating the tax basis of the relevant subsidiaries within both Newco 1 and Newco 2. In turn, this proposed new structure will allow for more flexibility in making future cash distributions without triggering a negative tax impact. Application at 6.

As for the benefits of the Proposed Restructuring, PPL Corporation believes the proposed structure will make operating its regulated businesses more effective. PPL Corporation will be positioned as a pure holding company. Intercompany financing, including management of the regulated utility capital structure and associated regulatory requirements will be facilitated through the lower-tier holding companies rather than PPL Corporation. Application at 7.

The proposed restructuring will have no effect on the management or operations of PPL EU. Application at 3, 6, 8. After the Proposed Restructuring is consummated, PPL EU avers that it will remain legally, technically and financially fit and that the Proposed Restructuring will have no impact on PPL EU's ability to provide service as it will maintain the same employees that it has currently and provide the same services to its customers. In addition, PPL EU will maintain a separate investment grade rating from credit rating agencies. Application at 7-8.

PPL EU also avers in the Application that the Proposed Restructuring will promote the public interest because it will enable a more effective distribution of cash from PPL EU to PPL Corporation for purposes of funding capital expenditures within the PPL Group, including PPL's capital projects. Additionally, PPL EU claims that the creation of subsidiary holding companies will promote efficiency by providing a more effective structure to facilitate any future business acquisitions that PPL Corporation may wish to undertake, including the combination or merger of existing non-regulated corporate entities to gain efficiencies. Application at 7, 8.

PPL EU further asserted that approval of the new structure would allow for a more efficient operation of PPL Corporation's businesses that would permit it to prudently manage its tax liabilities. PPL St. 1 at 4-5; Exh. 1 at 2-3.

III. Discussion

A. Legal Standards

Section 1102(a)(3) of the Code provides, in pertinent part, that the Commission's prior approval, evidenced by a certificate of public convenience first had and obtained, is required:

> For any public utility . . . to acquire from, or to transfer to, any person or corporation, including a municipal corporation, by any method or device whatsoever, including the sale or transfer of stock and including a consolidation, merger, sale or lease, the title to, or the possession or use of, any tangible or intangible property used or useful in the public service.

66 Pa. C.S. § 1102(a)(3).

A utility is required to obtain a certificate of public convenience under Section 1102(a)(3) of the Code when a transfer of voting interest constitutes a change in *de facto* control of the utility or its parent. *See* 52 Pa. Code § 69.901; *see also Policy Statement Regarding Interpretation of 66 Pa. C.S. § 1102(a)(3)*, Docket No. M-930490, 1994 WL 932348 (Pa.P.U.C.), 1994 Pa. PUC LEXIS 56 (Order entered September 13, 1994) (*Policy Statement Order*). The Policy Statement in Section 69.901 of our Regulations provides, in pertinent part, as follows:

> 69.901. Utility stock transfer under 66 Pa. C.S. § 1102(a)(3).
>
> (a) Background.
>
> (1) Commission jurisdiction over the acquisition or transfer of public utility property is governed by 66 Pa. C.S. § 1102(a)(3) (relating to enumeration of acts requiring certificate). The ambiguous language in 66 Pa. C.S.

§ 1102(a)(3) has historically caused considerable uncertainty among the Commission, its staff and the industry regarding what type of transaction requires Commission approval. This uncertainty has been particularly apparent regarding stock transfers which may equate to the transfer of utility property.

(2) Recently, the Commission has examined 66 Pa. C.S. § 1102(a)(3) and determined that the transfer of stock or other voting interest of a utility's parent is jurisdictional regardless of the remoteness of the transaction if the effect of the transaction is to change the control of a utility. *Joint Application of Commonwealth Telephone Company, et al.*, A-310800, F.0006, (October 22, 1993). Furthermore, the Commission has held that a transaction resulting in a change of the de facto controlling interest in a utility or its parent, regardless of the tier in the corporate organization, constitutes a change of control of the utility and is jurisdictional under 66 Pa. C.S. § 1102(a)(3). *Joint Application of Paging Network of Pittsburgh, Inc. et al*., A-330013, F.0005. In view of these Commission holdings, it is necessary to further define and establish clear standards regarding what transfer of voting interest constitutes a change in de facto control and thereby constitutes the transfer or acquisition of utility property within the intendment of 66 Pa. C.S. § 1102(a)(3).

(b) Policy.

(1) A transaction or series of transactions resulting in a new controlling interest is jurisdictional when the transaction or transactions result in a different entity becoming the beneficial holder of the largest voting interest in the utility or parent, regardless of the tier. A transaction or series of transactions resulting in the elimination of a controlling interest is jurisdictional when the transaction or transactions result in the dissipation of the largest voting interest in the utility or parent, regardless of the tier.

(2) For purposes of this section, a controlling interest is an interest, held by a person or a group acting in concert, which enables the beneficial holders to control at least 20% of the voting interest in the utility or its parent, regardless of the remoteness of the transaction. In determining whether a

> controlling interest is present, voting power arising from a contingent right shall be disregarded.

52 Pa. Code § 69.901.

Section 1103(a) of the Code establishes the standard for granting a certificate of public convenience:

> A certificate of public convenience shall be granted . . . only if the commission shall find or determine that the granting of such certificate *is necessary or proper for the service, accommodation, convenience or safety of the public*. The commission, in granting such certificate, may impose such conditions as it may deem to be just and reasonable.

66 Pa. C.S. § 1103(a)(emphasis added).

According to the Pennsylvania Supreme Court, satisfying the standard of Section 1103(a) requires the Commission to find that the proposed transaction will "affirmatively promote the service, accommodation, convenience, or safety of the pubic in some substantial way." *City of York v. Pa. PUC*, 449 Pa. 136, 141, 295 A.2d 825, 828 (1972) (*City of York*). In establishing this precedent, the Court in *City of York* "abandoned" its own previous standard that upheld granting a certificate upon a finding of no adverse effect from the transaction, explaining that the statute's clear command is that the Commission must find that the granting of a certificate "will affirmatively benefit the public." *Id*. (overruling in part, *Northern Pennsylvania Power Co*. v. Pa. P.U.C., 333 Pa. 265, 267, 5 A.2d 133, 134) (*Northern Pennsylvania Power Co*.) (ruling that the granting of a certificate will be upheld "unless it is established, by competent evidence, that the sale will adversely affect the public in some substantial way . . .")). More recently, the Supreme Court explained:

> In conducting the underlying inquiry, the Commission is not required to secure legally binding commitments or to quantify benefits where this may be impractical, burdensome, or impossible; rather, the PUC properly applies a preponderance of the evidence standard to make factually-based determinations (including predictive ones informed by expert judgment) concerning certification matters.

Popowsky v. Pa. PUC, 594 Pa. 583, 611, 937 A.2d 1040, 1057 (2007) *(Popowsky).* Further, the Court explained that demonstration of the affirmative public benefit does not require that every customer receive a benefit from the proposed transaction. *Id*. at 617-18, 937 A.2d at 1061.

The Supreme Court has further explained:

> The PUC's mandate with respect to the granting of certificates of public convenience is a broad one . . . The legislature, however, provided no definition of specifically what the criteria were to be in determining the propriety of granting a certificate, leaving the formulation of such criteria to the PUC . . .

Elite Industries, Inc. v. Pa. PUC, 574 Pa. 476, 483, 832 A.2d 428, 432 (2003) (*Elite*) (quoting *Seaboard Tank Lines v. Pa. PUC*, 502 A.2d 762, 764-65 (Pa. Cmwlth. 1985) (*Seaboard*)). In *Elite*, the Court upheld the Commission's elimination of the requirement that a common carrier demonstrate public need for the proposed service in order to be granted a certificate of public convenience because such changes "were made in consideration of the public interest" and because the Commission "acted in public interest[.]" *Elite*, 574 Pa. at 484.

Regarding the Court's decision in *Elite*, we have previously stated:

> [T]he *Elite* and *Seaboard* cases hold that the various and specific factors to be considered in determining whether to grant a certificate of public convenience to an applicant . . ., beyond those expressly stated in the statute, are matters left to the administrative expertise, sound discretion, and good judgement of the Commission.

See Final Rulemaking Amending 52 Pa. Code Chapters 1, 3, 5, 23 and 29 to Reduce Barriers to Entry for Passenger Motor Carriers, Docket No. L-2015-2507592 (Final Rulemaking Order entered October 27, 2016) (*Final Rulemaking*), slip op. at 6-7.

As the proponent of a rule or order by the Commission, PPL EU bears the burden of proof in this proceeding, pursuant to Section 332(a) of the Code. 66 Pa. C.S. § 332(a). To meet its burden of proof, PPL EU must establish its case by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. den*., 602 A.2d 863 (Pa. 1992). That is, PPL EU must present evidence more convincing, by even the smallest amount, than that presented by any opposing party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

Adjudications by the Commission must be supported by substantial evidence in the record. 2 Pa. C.S. § 704. Substantial evidence is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. *Consolidated Edison Company of New York v. National Labor Relations Board*, 305 U.S. 197, 229, 59 S.Ct. 206, 217. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1961); *Murphy v. Comm. Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

As we proceed to review the litigated issues in this proceeding, we note that any issue or Exception that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *also see, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

ALJs Myers and Cheskis made eight Findings of Fact and reached thirteen Conclusions of Law. R.D. at 3-4, 22-24. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

B. Litigated Issues

1. Application of Sections 1102 and 1103 of the Code to the Proposed Restructuring

a. Positions of the Parties

PPL EU argued that it should not be required to obtain a certificate of public convenience, because the Proposed Restructuring amounts to a technical change in control and will have no negative effect on utility operations. PPL M.B. at 5.

PPL EU submitted the Commission, in its evaluation of Section 1102 Applications involving a proposed internal restructuring, has focused on whether the Proposed Restructuring would result in ultimate change in control of a utility. According to PPL, where there is no change in ultimate control and no impact on the management and operations of a utility, the utility should not be required to show that a Proposed

Restructuring will result in affirmative public benefits. PPL EU contended that in the instant Application, its fundamental management and operations will remain unchanged and the Application should therefore be approved on that basis alone. PPL M.B. at 4.

Additionally, PPL contended that the Proposed Restructuring is merely a technical change in control because PPL Corporation will no longer hold PPL EU's stock directly – rather, two holding companies will be inserted between PPL Corporation and PPL EU. PPL EU pointed out that despite this insertion and change in structure, there will be no negative impact on the day-to-day management or operations of the regulated utility. *Id.* at 5. PPL EU averred that the Commission expressly stated in its *Policy Statement Order*, which addresses the review of internal reorganizations or changes of control, that such reviews are to determine whether the proposed transaction would have a fundamental effect on the management and operations of a utility. *Id.* (citing *Policy Statement Order*, 1994 Pa. PUC LEXIS 56 at *11).

PPL EU specifically noted that the *Policy Statement Order*, for the most part, focuses on transfers of utility property accomplished by mergers of utility parents or selling utility stock and changing ultimate ownership of utility property. However, in the instant Application, PPL EU asserted there is no transfer of property to a new ultimate owner. In this regard, PPL EU noted that the Policy Statement is not binding, and the determination of whether a certificate under Section 1102 (a)(3) of the Code is needed depends on whether the transaction results in transfer of ownership. PPL M.B. at 5-6.

In addition, PPL EU averred that similar to *Duquesne*,[1] because there is no change in management and operations and no change in ultimate ownership in the instant

[1] *See Application of Duquesne Light Company to Convert to a Limited Liability Company*, Docket No. A-2017-2599375 (Order entered August 31, 2017) *(Duquesne).*

Application, the Commission should conclude that there is no requirement to obtain a certificate of public convenience under Section 1102(a)(3). In addition, PPL EU argued that similar to *Frontier*,[2] there should be no basis for PPL EU to demonstrate affirmative public benefit in this proceeding as the Proposed Restructuring is simply an internal reorganization that does not result in a fundamental change in control. PPL M.B. at 6-8 (citing *Duquesne*; *Frontier*). PPL EU noted that the Commission approved Frontier's application but did not issue a certificate of public convenience, suggesting that Section 1102 approval is not required at all for internal reorganizations that do not result in an ultimate change in control. PPL M.B. at 7.

The OSBA disagreed with PPL EU arguments in support of its request for approval of the instant Application. The OSBA argued that the Proposed Restructuring produces no affirmative public benefits and that only PPL Corporation and its shareholders would benefit from it. In addition, the OSBA argued that if the Commission approved the Proposed Restructuring, such approval would require that the Commission issue a certificate of public convenience pursuant to Section 1102(a)(3) of the Code 66 Pa. C.S. § 1102(a)(3),[3] because it would involve a utility stock transfer and would result in a change of control. OSBA M.B. at 3. Thus, the OSBA argued that the Proposed Restructuring falls squarely under Section 66 Pa. C.S. § 1102(a)(3) because PPL Corporation plans to contribute all of the interests it holds in certain of its direct, wholly owned subsidiaries, including its shares in PPL EU and PPL EF, to Newco 1, which will

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[2] *Joint Application of Frontier Communications of Breezewood, Inc. et al. for Approval of Restructurings from Corporations to Limited Liability Companies*, Docket No. A-310400F004, 2003 Pa. PUC LEXIS 323 (Order entered October 17, 2003) *(Frontier)*.

[3] Section 1102(a)(3)(i) – (iv) of the Code provides for those instances where Commission approval is not required for public utility acquisitions or public utility transfers of property "including the sale or transfer of stock and including a consolidation, merger, sale or lease, the title to, or the possession or use of, any tangible or intangible property used or useful in the public service."

then contribute all of the shares received from PPL Corporation to Newco 2. OSBA M.B. at 6 (citing 52 Pa. Code 69.901(b)(1)).

Furthermore, the OSBA disputes PPL EU's attempt to focus this case on the "fundamental effect" language of the Commission's Policy Statement rather the application of the *City of York* standard. According to the OSBA, the "fundamental effect" of the Proposed Restructuring is that the Application meets the legal standard for a change of control of a utility and is therefore jurisdictional under 66 Pa. C.S. § 1102(a)(3) and 52 Pa. Code 69.901(a) and (b)(1). *Id.* at 8-10. The OSBA averred that the Proposed Restructuring meets the legal standard of a change of control as set forth in 52 Pa. Code 69.901(b)(1), and that the Application is jurisdictional under Section 1102(a)(3) and the *City of York* standard. Therefore, the affirmative benefit standard must be met before it can be approved. OSBA M.B. at 10-11.

b. ALJs' Recommendation

The ALJs agreed with the OSBA's argument regarding this issue and noted that the Proposed Restructuring constitutes sufficient change in control to trigger Sections 1102 and 1103 of the Code. R.D. at 14. The ALJs found, based on the testimony and evidence in this case, that the Proposed Restructuring will place two new holding companies between PPL EU and its current direct parent, PPL Corporation. According to the ALJs, based on the Proposed Restructuring, PPL Corporation plans to contribute all of the interests it holds in certain of its direct, wholly owned subsidiaries, including its shares in PPL EU, to Newco 1. Newco 1 will then contribute all of those shares to Newco 2. The ALJs noted that under the Proposed Restructuring, PPL EU will be a direct subsidiary of Newco 2 and an indirect subsidiary of Newco 1 and PPL Corporation. Thus, the ALJs concluded that this arrangement would result in sufficient change in control to trigger Sections 1102 and 1103 of the Code. *Id.*

Furthermore, in noting their agreement with the OSBA's position on this issue, the ALJs referenced Section 69.901(b)(1) of the Policy Statement which provides that:

> *A transaction or series of transactions resulting in a new controlling interest* is jurisdictional when the transaction or transactions *result in a different entity becoming the beneficial holder of the largest voting interest in the utility or parent, regardless of the tier*. A transaction or series of transactions resulting in the elimination of a controlling interest is jurisdictional when the transaction or transactions result in the dissipation of the largest voting interest in the utility or parent, regardless of the tier.

Id. at 14-15 (citing 52 Pa. Code § 69.901(b)(1)) (emphasis added). Pursuant to the above language, the ALJs pointed out that the contribution of all of PPL Corporation's interests including its shares in PPL EU and PPL EF to Newco 1, which will then contribute all of those shares to Newco 2, is a transaction or series of transactions resulting in a new controlling interest of PPL EU and results in a different entity becoming the beneficial holder of the largest voting interest in the utility or parent, regardless of the tier. In light of the Policy Statement language above, the ALJs dismissed as misguided, PPL EU's argument that the Proposed Restructuring is merely a technical change in control, especially because PPL Corporation will no longer hold PPL EU's stock directly. According to the ALJs, PPL EU's Proposed Restructuring results in a new controlling interest in PPL EU – as a direct subsidiary of PPL Energy Holdings, LLC and an indirect subsidiary of PPL Subsidiary Holdings, LLC. The ALJs posited that PPL EU cannot argue that the Proposed Restructuring is merely a technical change in control as it would result in new layers of ownership and control between PPL EU and PPL Corporation that were not present prior to the Restructuring. R.D. at 15.

Next, the ALJs dismissed PPL EU's argument that Section 1102(a)(3) of the Code, 66 Pa. C.S. § 1102(a)(3),[4] applies only to transfers of utility property to a new ultimate owner. According to the ALJs, the Commission's Policy Statement on Section 1102(a)(3) of the Code defines when this type of transfer occurs, such as in the case of a merger or sale of utility stock, including by a parent or grandparent of a utility. *Id.* (citing 52 Pa. Code § 69.901). The ALJs were persuaded by the OSBA's argument that PPL Corporation will be positioned as a pure holding company and intercompany financing, including managing the capital structures of the regulated utilities to comply with regulatory requirements, will be facilitated through the lower tier holding companies rather than PPL Corporation. R.D. at 15-16 (citing PPL St. 1 at 4; Application at 6-7).

According to the ALJs, PPL Corporation will become a pure holding company after it transfers all of its interests in PPL EU to Newco 1. Newco 2 will then receive all of the shares of PPL EU from Newco 1 and Newco 1 or Newco 2 will then handle the regulatory compliance of PPL EU. The tiered control of PPL EU transfers from the parent, PPL Corporation, down to subsidiaries Newco 1 and Newco 2, including the handling of regulatory matters. Based on this arrangement, the ALJs agreed with the OSBA that the Proposed Restructuring is a "change of *de facto* control" of PPL EU addressed by 52 Pa. Code § 69.901(b)(1). R.D. at 16.

Next, the ALJs dismissed as inaccurate, PPL EU's argument that the OSBA would require transactions involving nonregulated businesses to provide substantial benefits to customers of the regulated utility. Rather, the ALJs acknowledged that the OSBA argued that the Proposed Restructuring is a transaction or series of transactions

[4] Section 1102(a)(3)(i) – (iv) of the Code provides for those instances where Commission approval is not required for public utility acquisitions or public utility transfers of property "including the sale or transfer of stock and including a consolidation, merger, sale or lease, the title to, or the possession or use of, any tangible or intangible property used or useful in the public service."

that result in a new controlling interest that is jurisdictional because the Proposed Restructuring will result in a different entity becoming the beneficial holder of the largest voting interest in the utility or parent, regardless of the tier. The ALJs pointed out that it is not transactions involving nonregulated businesses that must provide substantial benefits to customers of the regulated utility. Rather, it is the transaction involving the regulated utility that must provide those benefits and that because PPL EU proposes transactions involving the transfer of PPL EU stock to other corporations, PPL EU must satisfy the requirements of Section 1102(a)(3). *Id.* at 16-17.

Finally, the ALJs determined that PPL EU's reliance on *Frontier*, *Duquesne* and *Verizon North*[5] is misplaced. In this regard, the ALJs stated that, as noted above, the facts in *Frontier* involved the much simpler transaction of converting an entity from a business corporation to a limited liability corporation compared to the Proposed Restructuring in this proceeding, which is more complicated. *Id.* at 17.

The ALJs found that, pursuant to 66 Pa. C.S. § 1102(a)(3), in order for PPL EU to acquire from, or to transfer to, any person or corporation, including a municipal corporation, by any method or device whatsoever, including the sale or transfer of stock and including a consolidation, merger, sale or lease, the title to, or the possession or use of, any tangible or intangible property used or useful in the public service, it must first obtain a certificate of public convenience before the Proposed Restructuring may occur. Therefore, the ALJs concluded that Sections 1102 and 1103 of the Code apply in this proceeding. R.D. at 17.

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[5] *Application of Verizon North Inc. for any Approvals required under the Public Utility Code for Transactions related to the Restructuring of the Company to a Pennsylvania-only Operation and Notice of an Affiliate Transaction,* Docket No. A-2009-2111330, 2009 Pa. PUC LEXIS 2341 (Order entered November 19, 2009)*(Verizon North).*

2. The Affirmative Public Benefit

a. Positions of the Parties

While PPL EU maintained in this proceeding that the appropriate standard for evaluating its proposal should be whether there will be a change in the fundamental management and control of the utility, PPL EU argued that even if the Commission applies the affirmative public benefit standard in the instant Application, the Application should be approved because the Proposed Restructuring will result in potential benefits to its customers. PPL M.B. at 4, 8. Specifically, PPL EU stated that the Proposed Restructuring will strengthen the financial position of PPL Corporation and the ultimate source of equity capital for PPL EU, which will in turn benefit PPL EU's customers due to the ability of PPL Corporation to raise capital at reasonable rates. PPL EU further argued that the Proposed Restructuring will also facilitate PPL Corporation's ability to effectively manage its tax liabilities. PPL M.B. at 4, 8. PPL EU cited to several cases in which the Commission, in its evaluation of Section 1102(a) Applications, accepted a public utility's improved ability to focus its operational and managerial efforts as public benefits that justify an approval of such transactions. *Id.* at 8-9 (citations omitted).

According to PPL EU, the Proposed Restructuring will not result in any cost to PPL EU and will benefit PPL EU's customers. For instance, PPL EU stated that the efficient flow of cash to PPL Corporation without creating new tax liabilities will strengthen PPL Corporation, the ultimate source of equity capital for PPL EU. PPL EU asserted that mitigating potential future tax payments means that more cash is potentially available to PPL Corporation, and in turn, to PPL EU. PPL EU argued the increased

source of equity capital will reduce the need for PPL Corporation to go to the equity market and will reduce the need for PPL EU to raise additional external debt, thereby improving PPL EU's financial condition. From PPL EU's perspective, these benefits are real and are not theoretical. *Id.* at 9.

Furthermore, PPL EU averred that on the regulatory side, it is in the midst of a major infrastructure program and the tax reform has increased requirements to raise capital in public markets. *Id.* (citing *PPL Electric Utilities Corporation for Approval of its Second Long-Term Infrastructure Improvement Plan*, Docket No. P-2017-2622393, Order entered December 21, 2017). PPL EU indicated that while it raises its own debt directly in public markets, equity capital is raised by PPL Corporation, which has announced a major issuance of equity. *Id.* at 9-10 (PPL St. 1-R at 6-7). PPL EU contended that managing tax payments would benefit its customers because a financially stronger PPL Corporation will have lower capital needs, an improved ability to raise capital, would be more likely to raise such capital at reasonable rates, would result in more internal capital available to PPL EU, and reduce the need for PPL EU to further leverage its business and increase its financial risk. PPL M.B. at 10. PPL EU believes these are all affirmative public benefits that justifies approval of the instant Application as "necessary for the service, accommodation, convenience, or safety of the public." *Id.* (citing 66 Pa. C.S. § 1103(a)).

Emphasizing PPL EU's burden of proof in this case, the OSBA averred that PPL EU failed to prove that the Proposed Restructuring satisfies the legal standard articulated in the *City of York.* OSBA M.B. at 6-8. The OSBA dismissed the affirmative public benefits asserted by PPL EU which PPL EU claims will result from the Proposed Restructuring including: (1) consolidation of tax benefits; (2) more effective financing for PPL EU; and (3) mergers and acquisitions. *Id.* at 11-16. Regarding PPL EU's claim of tax benefits from the Proposed Restructuring, the OSBA refutes this claim stating that based on PPL EU's testimony in this proceeding and the record evidence, there is a

reasonable possibility that approval of the Application will reduce tax revenues for the Commonwealth of Pennsylvania with no offsetting reduction in consumer utility rates. From the OSBA's perspective, the Proposed Restructuring would allow PPL Corporation to avoid "unnecessary Pennsylvania state tax liability . . . thereby allowing PPL Corp. and its shareholders more efficient, lower cost access to cash distributions." *Id.* at 11-13 (citing PPL St. 1 at 5). Therefore, the OSBA does not believe that a reduction in taxes paid to the Commonwealth of Pennsylvania with no corresponding reduction in ratepayer costs constitute a reasonable claim for an affirmative public benefit. OSBA M.B. at 13.

On the issue of more effective financing for PPL EU as a result of the Proposed Restructuring, the OSBA averred that nothing in the record evidence supports this claim as PPL EU failed to identify any specific means by which an affirmative public benefit in the form of reduced financial costs for PPL EU's ratepayers will result from the Proposed Restructuring. *Id.* at 13-14. Finally, with regards to PPL EU's claim that the Proposed Restructuring will "facilitate future business acquisitions . . . as well as any combination or merger of existing non-regulated corporate entities," the OSBA noted that while corporate mergers and acquisitions may serve the interests of PPL Corporation's shareholders, nothing in the record evidence stipulates how "facilitating" unspecified acquisitions, combinations, and mergers will provide any affirmative public benefit. *Id.* at 14-16.

b. ALJs' Recommendation

The ALJs addressed whether the Proposed Restructuring provides an affirmative public benefit or whether the Proposed Restructuring is necessary or proper for the service, accommodation, convenience, or safety of the public. R.D. at 17. In

weighing PPL EU's argument that certain corporate tax and financial benefits may result from the Proposed Restructuring against *City of York,* the ALJs determined that PPL EU's argument falls short or failed to demonstrate that such theoretical or potential benefits affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way. According to the ALJs, benefits to PPL EU's shareholders does not amount to substantial affirmative benefits "to the public." *Id.* at 20.

Pursuant to their assessment of PPL EU's argument that managing future liabilities of its non-regulated companies would not be a detriment to its utility customers, the ALJs concluded that arguing that something is not a negative does not in and of itself demonstrate that it is a positive. The ALJs further noted that the question is not whether managing future tax liabilities of non-regulated companies is not a detriment to those utility customers. Rather, it is whether the management of future tax liabilities of PPL EU's non-regulated companies would provide an affirmative public benefit or would be necessary or proper for the service, accommodation, convenience, or safety of the public. In this case the ALJs were not convinced by PPL EU's argument stating that none of the arguments proffered by PPL in the instant proceeding supports or demonstrates that the Proposed Restructuring would provide for any of the above criteria. *Id.* at 21.

The ALJs also agreed with the OSBA that in *Popowsky,* while the Court permitted predictive benefits, this does not mean that the *City of York* standard cited

above is easily met. According to the ALJ, unlike the instant proceeding, in *Popowsky*, the Parties brought tangible assets to the table, which the Court noted even a "lay perspective" could see were not purely speculative but could see the benefits when those tangible assets were combined. Citing *Popowsky* at 612, 937 A.2d at 1058.[6] Here, according to the ALJs, PPL EU failed to show that any of the benefits it alleges will be created by its Proposed Restructuring are ones that a lay perspective can see or that they are benefits that are anything more than purely speculative. The ALJs pointed out that the Court in *City of York* required that such benefits be something more. The ALJs stated that "PPL [PPL EU]has failed to show that." *Id.*

Consequently, the ALJs denied the Application stating it fails to meet the standards of Section 1103 of the Code. *Id*. at 21-22.

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[6] The Supreme Court in *Popowsky* found evidence of affirmative public benefits in the proposed merger between the parties and stated as follows:

> Indeed, *even from a lay perspective*, bearing in mind today's technological advances affecting all segments of business and personal life, there is much force to the Commission's conclusion that a combination of Verizon's and MCI's assets and strengths has substantial potential to create an integrated infrastructure supporting delivery of innovative, high-speed data and video services via the fiber-optic network, as well as deployment of mobile devices freeing workers from fixed workstations.

Popowsky at 612, 937 A.2d at 1058 (emphasis added).

C. Exceptions

Inasmuch as PPL EU's Exception Nos. 1 and 3 are closely interrelated, as they pertain to the first litigated issue and involve arguments concerning the ultimate ownership of PPL EU upon consumation of the Proposed Restructuring and whether a certificate of public convenience should be required, we will address these two Exceptions first and resolve them in a single consolidated disposition. Afterwards, we will address Exception No. 2 which pertains to the second litigated issue involving arguments concerning the affirmative public benefit that would result upon approval of the Application.

1. PPL EU's Exception No. 1:

The Recommended Decision Erred in Concluding that PPL EU was Required to Show Substantial Public Benefit to Justify an Internal Reorganization that Does Not Change Ultimate Ownership of PPL EU's Utility Property.

a. Exceptions

In its Exception No. 1, PPL EU faults the ALJs for applying the substantial benefit test in the instant Application. From PPL EU's point of view, there is no reason to apply this test since the Application is an internal reorganization and there is no change in the ultimate owner of the utility property. PPL EU avers that the ALJs' treatment of the Application as if it were an ultimate change of control, is legally and factually wrong, and such a ruling, if approved, would be extraordinarily poor public policy that would result in an illogical and unprecedented result. PPL EU asserts there is no reason to deny the Application since, to its knowledge, the Commission has never rejected an internal reorganization or restructuring on this basis. Exc. at 3. PPL EU cites to the *Policy Statement Order* in which the Commission stated its focus in reviewing internal reorganizations is whether the management or operations of the utility will change.

According to PPL EU, because there is no such change in the Proposed Restructuring, the Commission should review the Application using the standard set forth in Section 1103(a) of the Code, 66 Pa. C.S. § 1103, by determining whether the Restructuring is "necessary or proper for the service, accommodation, convenience, or safety of the public." *Id.* at 3-4.

PPL EU next reiterates its argument that the substantial benefit test does not apply in this case because the ultimate ownership and control of PPL EU and its utility property by PPL Corporation will not change and the Proposed Restructuring will not in any way, change the management or operations of PPL EU. *Id.* at 6. PPL asserts that the ALJs applied the wrong standard in reaching their determination to deny the Application. According to PPL EU, because there will be no change in the ultimate ownership and control or a change in management or operations of PPL EU as a result of the Proposed Restructuring, the ALJs' requirement that PPL EU must prove that the Application will provide substantial affirmative benefits is erroneous. *Id.* (citing R.D. at 21). From PPL EU's perspective, the correct legal standard that should be applied here is contained in Section 1103(a) of the Code which provides that the granting of the certificate is necessary, or proper for the service, convenience, accommodation or safety of the public. *Id.* at 6-7.

PPL EU highlights the following reasons why it believes the ALJs applied the incorrect standard in their Recommended Decision. First, PPL EU argues that unlike the instant proceeding, in both the *City of York* and *Popowsky*, the ALJs referenced as the basis of their conclusion, there was a change in the ultimate controlling owner of the utility that was seeking Commission's approval. PPL EU references Conclusion of Law No. 4 in the Recommended Decision, which states:

> Where there is an actual change in the ultimate control of a utility and, therefore, a transfer of property under Section 1103(a)(3), the Commission must find that the transaction will "affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way." *City of York v. Pa. Pub. Util. Comm'n,* 449 Pa. 136, 151, 295 A.2d 825, 828 (1972).

Id. at 7 (citing R.D. at 22)(emphasis by PPL EU). PPL EU avers that while the Conclusion of Law is correct, it was applied incorrectly because there will be no change in *ultimate control* in the Proposed Restructuring. *Id.* at 7.

Furthermore, PPL EU argues the Commission clearly concluded in Section 69.901 of its Policy Statement on Utility Stock Transfer under 66 Pa. C.S. § 1102(a)(3) (Policy Statement), that transfers of voting interests of a utility parent or grandparent – the ultimate owner – at any level is a transfer of control. 52 Pa. Code § 69.901. PPL EU argues, in this case, ultimate voting control and ownership stays with PPL EU Corporation both before, and after, the Proposed Restructuring. Thus, PPL EU contends that the ALJs erred in applying a standard that is required to justify a change in ultimate ownership to an internal reorganization that does not change ultimate control. Exc. at 7-8.

PPL EU reiterates that in the *Policy Statement Order*, the Commission made a clear distinction between an internal reorganization that changed the ownership of a utility from one affiliated company to another affiliated company without a change in the ultimate owner of the utility from a merger or acquisition of the ultimate controlling owner of a public utility. According to PPL EU, the Commission made it clear in the *Policy Statement Order* that the focus of an investigation of a proposed internal reorganization was whether the restructuring would affect the management or operations of the utility. PPL EU submits that this is not the case in the Proposed Restructuring as

no management or operations of the utility will be affected by the Proposed Restructuring. *Id.* at 8-9 (citing to PPL Electric St. 1-R at 3).

Lastly, PPL EU argues that applying the substantial public benefit test, which is reserved for transactions involving fundamental changes in ultimate ownership, sets an unachievable standard for a simple internal reorganization with less impact on utility customers. From PPL EU's perspective, utilizing the substantial benefit test for simple internal reorganization transactions may potentially stand in the way of the benefits that utility customers serve to gain from such transactions. PPL EU contends that the Commission should, instead, apply the standard contained in Section 1103(a) of the Code, which provides that:

> A certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.

Id. at 9.

According to PPL EU, in *James Black*,[7] the Commission explained the flexibility of the Section 1103(a) standard in the context of an application to provide water service stating that (emphasis added by PPL EU):

> In granting a certificate, we have an express statutory mandate to grant a certificate only if we determine that the granting of such certificate is "necessary or proper for the service, accommodation, convenience or safety of the public." 66 Pa. C.S. § 1103(a). In carrying out this mandate,

[7] *Application of James Black Water Service Company*, Docket No. A-2013-2395443 (Order entered April 5, 2018) *(James Black).*

> we have previously stated that the controlling and paramount factor in granting a certificate of public convenience is the public interest. *Re: Apollo Gas Co.*, 67 Pa. P.U.C. 586, 588 (1988) (citations omitted). Moreover, the appellate courts have recognized that *this statutory standard is broad*, and that the various and specific factors to be considered in determining whether to grant a certificate, beyond those expressly stated in the statute, are matters left to the administrative expertise, sound discretion, and good judgement of the Commission. *See Elite Industries, Inc. v. Pa. P.U.C.*, 832 A.2d 428, 432 (Pa. 2003) (*Elite*), citing *Seaboard Tank Lines, Inc. v. Pennsylvania Pub. Util. Comm'n*, 502 A.2d 762, 764-65 (Pa. Cmwlth. 1985) (*Seaboard*) (emphasis added).

Id. at 9-10 (citing *James Black* at 38). Based on the above, PPL EU avers that since the Commission's authority to apply the Section 1103(a) standard is broad, the Commission should abide by the directives of its *Policy Statement Order* and approve the Proposed Restructuring on the basis of the record evidence because there is no change or impact on management or operations of PPL EU as a result of the Proposed Restructuring. Exc. at 10.

b. Replies to Exceptions

In its Replies, the OSBA agrees with the ALJs' recommendation that the Proposed Restructuring requires a showing of substantial public benefit for approval under Section 1102(a)(3) of the Code. The OSBA contends the only standard for determining whether an application should be approved is the substantial public benefit test expressed in *City of York* and *Popowsky*. R. Exc. at 3. The OSBA disagrees with PPL EU's argument that because there is no *ultimate change in control or a change in management or operations*, the substantial public benefit standard does not apply. The OSBA submits that such an argument is misguided. In refuting PPL EU's "ultimate control" argument in the Policy Statement and the Commission's Regulation at 52 Pa.

Code § 69.901, the OSBA asserts that "ultimate control" was never addressed or even mentioned in the Policy Statement or the Commission Regulation at 52 Pa. Code § 69.901. Rather, what was comprehensively discussed in the Policy Statement was *de facto* control. *Id.* at 3-5 (citing *Policy Statement Order* at 10; Policy Statement at 52 Pa. Code § 69.901(a)(2)). According to the OSBA, the ALJs appropriately evaluated the issue of *de facto* control rather than the ultimate control advocated by PPL EU. R. Exc. at 5 (citing R.D. at 12-13, 16). The OSBA further argues that PPL EU's reference to *City of York* and *Popowsky* in support of its "ultimate control" argument is equally flawed because the Pennsylvania Supreme Court never addressed the concept of "ultimate control" in either case. R. Exc. at 5 (citing Exc. at 7). Because *de facto* control is the only applicable legal term in this case and would result from the Proposed Restructuring, the OSBA argues the Commission should reject PPL EU's "ultimate control" argument. R. Exc. at 5 (citing OSBA M.B. at 4-5).

The OSBA also disputes PPL EU's argument that the public benefit test should not be applied in this case because there will be no change in management or operations of PPL EU as a result of the Proposed Restructuring. The OSBA argues there will be change in management control of PPL EU because PPL EU will be under the control of intermediary companies, Newco 1 and Newco 2. R. Exc. at 5. The OSBA contends that PPL EU has not proven in this proceeding and simply does not have a way to prove that this change in ownership and managerial control will not have an impact on the operations and management of PPL EU. The OSBA avers that PPL EU's argument is undermined by PPL EU's sworn testimony that based on the Proposed Restructuring, PPL EU Corporation plans to contribute all of the interests it holds in certain of its direct, wholly owned subsidiaries, including its shares in PPL EU and PPL EF to Newco 1. And that Newco 1 will then contribute all of the shares it receives to Newco 2. According to the OSBA, this means PPL EU will be a direct subsidiary of Newco 2 and an indirect subsidiary of Newco 1 and PPL Corporation. *Id.* at 5-6 (citing PPL St. 1 at 4).

The OSBA cites to the following PPL EU's testimony which it claims confirms that there will be a change in management control:

> PPL Corp will be positioned as a pure holding company. Intercompany financing, including managing the capital structures of the regulated utilities to comply with regulatory requirements, will be facilitated through the lower tier holding companies rather than PPL Corp.

Id. at 6 (citing PPL St. 1 at 4; Application at 6-7). The OSBA argues the above testimony supports its position that there will be a change in management control, and that the new holding companies will be involved in facilitating PPL EU's compliance with regulatory requirements. R. Exc. at 6. The OSBA also questions PPL EU's plan to use the increased cash flexibility from the Proposed Restructuring to pursue acquisition and mergers as this could result in reduced management attention to the regulated utility business. From the OSBA's perspective, this reduction of focus on the regulated utility business could easily result in policy and managerial changes, thereby affecting PPL EU. Therefore, the OSBA requests that the Commission deny PPL EU's Exception No. 1, as it falls short of the *City of York* and *Popowsky* standards. *Id.* at 7.

2. PPL EU's Exception No. 3:

The Recommended Decision Erred in Concluding that Section 1102(a)(3) Applies to an Internal Reorganization that Does Not Result in a Change to Ultimate Ownership of PPL EU's Utility Property

a. Exceptions

In its Exception No. 3, PPL EU disagrees with the ALJs' conclusion that approval of the Application requires the issuance of a certificate of public convenience under Section 1102(a)(3) of the Code or a demonstration of substantial affirmative public benefits because the Proposed Restructuring does not result in a change in the ultimate

controlling interest of PPL EU's utility properties. Exc. at 5, 13. According to PPL EU, the Commission does not have to reach this conclusion if it decides, within its broad discretion, that the Proposed Restructuring meets the standard of Section 1103(a) of the Code. *Id.* at 13. PPL EU argues that although the *Policy Statement Order* requires that intercompany reorganizations be reviewed because they could affect management or operations, going by the record evidence, the Commission's review of the instant Application should: (1) conclude that no certificate is required under Section 1102(a)(3), because there is no change in ultimate ownership; and (2) grant approval of the transaction ***without*** the need to issue a certificate of public convenience. *Id.*

PPL EU also faults the ALJs for concluding that the Proposed Restructuring is a change in control because a new entity will own PPL EU's stock and that it technically falls within the terms of the Policy Statement. *Id.* According to PPL EU, the ALJs' reliance on the Policy Statement in this case is misguided because the Policy Statement focuses on changes in the ultimate control of owner of utility property through mergers with, or acquisitions of, a parent or grandparent of the utility, which does not apply in this case. PPL EU references the Policy Statement stating:

> A transaction or series of transactions resulting in a new controlling interest is jurisdictional when the transaction or transactions result in a different entity becoming the beneficial owner of the largest voting interest in the utility or parent, regardless of tier.

Id. at 14 (citing 52 Pa. Code § 69.901(b)(1)). PPL EU asserts that what is important here is not whether an entity owns the utility directly. Rather, it is the change in the entity that is the ultimate owner that triggers a Section 1102(a)(3) approval. Moreover, PPL EU argues, even if the Policy Statement applies in this case, policy statements do not have the force of law but are expressions of how an agency expects to act in the future. *Id.* at 14 (citing *Petition of Philadelphia Gas Works for a Statement of Policy on the*

Application of Philadelphia Gas Works' Cash Flow Ratemaking Method, 2009 Pa. PUC LEXIS 2018, *20 (December 30, 2009)).

Additionally, PPL EU argues that the Commission has adopted a practical approach to reviewing internal reorganizations that do not result in an ultimate change in control of the utility or a change in the utility's management operations. Exc. at 14 (citing *Frontier; Duquesne*). According to PPL EU, in *Frontier*, the Commission determined that *City of York* did not apply to a proposed corporate restructuring in which the existing utilities would be converted from business corporations to Pennsylvania LLCs because there would be no change in the managerial, technical and financial resources available to the utilities, and the entities would remain under the direct or indirect control of the existing parent. According to PPL EU, the Commission stated in *Frontier* that:

> Since there will be no change in control of the utility services nor any change in resources available to the incumbent and successor utilities, it will not be necessary to demonstrate an affirmative public benefit or the promise thereof pursuant to *City of York* as is normally required for acquisitions and changes in control of a utility.
>
> However, if the change in business entity is accompanied by any change in the ownership of the utility, changes in senior management, or diminution of resources, a conventional application will be required, and the standards of *City of York* will apply.

Id. at 14-15 (citing *Frontier* at 6). According to PPL EU, the Commission approved Frontier's Application without issuing a certificate of public convenience, and this suggests that a Section 1102(a)(3) approval is not required for internal reorganizations that do not result in an ultimate change in control. Exc. at 15.

Finally, PPL EU faults the ALJs' dismissal of *Frontier* and *Duquesne* as less complicated than the Proposed Restructuring because they involved conversions from business corporations to limited liability companies. PPL EU argues these transactions were exempt from Section 1102(a)(3) approval because they did not result in a change in the ultimate owner of the utility property. PPL EU further argues that *Frontier* and *Duquesne* are no less complicated than the Proposed Restructuring which only places two intervening parent companies between PPL Corporation and PPL EU. Therefore, PPL EU requests that if the Commission decides not to grant its Exception Nos. 1 and 2, it should, at least, grant Exception No. 3, and conclude that no approval under Section 1102(a)(3) of the Code is necessary or required for the Proposed Restructuring, and issue an Order approving the Application. *Id.*

b. Replies to Exceptions

The OSBA replies that it agrees with the ALJs' recommendation that the Proposed Restructuring requires approval under Section 1102(a)(3) of the Code. The OSBA avers that PPL EU's "no change in management or operations of PPL EU" argument is not supported by the record evidence. Rather, the OSBA asserts the ALJs were correct in concluding that:

> The Proposed Restructuring is a change in control because a new entity will own PPL Electric [PPL EU] stock and that technically falls within the terms of the Policy Statement.

R. Exc. at 10 (citing Exc. at 13). Furthermore, the OSBA avers that the *Policy Statement Order* and the Policy Statement in Section 69.901 of the Commission's Regulations, both support the reasoning that the Proposed Restructuring is a change in control. The OSBA states that the ALJ's use of the word "technically" in the above quote simply means that PPL EU acknowledged that the ALJs were correct in their conclusion. R. Exc. at 10-11.

The OSBA further refutes PPL EU's interpretation of this matter under the *Policy Statement Order* and the Policy Statement in Section 69.901 of the Commission's Regulations when PPL EU argued the following in its Exceptions:

> However, it is clear that the Policy Statement was focused on changes in the ultimate owner of utility property through mergers with, or acquisitions of, a parent or grandparent of the utility.
>
> * * *
>
> Thus, it is not what entity owns the utility directly that is important, but a change in the entity that is the ultimate owner that triggers Section 1102(a)(3) approval. Here, the ultimate owner does not change, and a certificate should not be required.

R. Exc. at 11 (citing Exc. at 13-14). First, the OSBA submits that PPL EU's argument is well outside of the plain language of the Policy Statement and the *Policy Statement Order*. In addition, the OSBA submits that because the Policy Statement and *Policy Statement Order* focus on *de facto* control of PPL EU following the Proposed Restructuring and not the ultimate control, the Commission should dismiss PPL EU's interpretation of the Policy Statement and Section 69.901 of the Code in this proceeding. R. Exc. at 11. The OSBA also dismisses PPL EU's averment that the Policy Statement and Section 69.901 of the Code are irrelevant to this proceeding. *Id.*

Finally, the OSBA discounts PPL EU's "practical approach" argument stating that the *Frontier* and *Duquesne* cases referenced by PPL EU are merely corporate conversions with each changing from a business corporation to a limited liability company. However, the OSBA argues the Proposed Restructuring is a far more complex transaction than a simple corporate conversion. The OSBA notes that the ALJs thoroughly reviewed the evidence in this proceeding before concluding that this is a far

more complex case than the *Frontier* and *Duquesne* cases. *Id.* at 12 (citing Exc. at 14-15; R.D. at 17). The OSBA further notes that *Duquesne* is not relevant to this case because it was not adjudicated under Chapter 11 of the Code where affirmative public benefits are required. Rather, it was adjudicated under the Pennsylvania Entity Transaction Law and did not involve a transfer of property. R. Exc. at 12 (citing 15 Pa. C.S. §§ 311 *et. seq.*, OSBA R.B. at 10-11). Therefore, the OSBA requests that the Commission deny PPL EU's Exc. No. 3 and affirm the continued relevance of the Commission's Policy Statement to the instant Application and similar other proposals. R. Exc. at 13.

c. Disposition of Exception Nos. 1 and 3

Upon review, we shall deny PPL EU's first and third Exceptions and adopt the ALJs' Recommended Decision. As discussed further below, we agree with the ALJs' analysis and conclusion that Sections 1102(a)(3) and 1103(a) of the Code apply to the Application and the Proposed Restructuring.

The threshold issue to be decided is whether, pursuant to Section 1102(a)(3) of the Code, PPL EU is required to obtain a certificate of public convenience for the Proposed Restructuring. To simplify PPL EU's position, PPL EU essentially asks us to conclude that we have the authority under Section 1102(a)(3) to review the Proposed Restructuring to determine whether it will result in a change in ultimate control of the utility but no authority to either issue a certificate of public convenience or disapprove of the Proposed Restructuring under Section 1102(a)(3) of the Code because, according to PPL EU, the Proposed Restructuring will not result in a change in "ultimate control" of PPL EU or otherwise impact the management or operations of PPL EU. We respectfully disagree with PPL EU's position for the reasons discussed in more detail below.

First, we agree with the OSBA's position in its Replies to Exceptions that the primary focus in our Policy Statement in Section 69.901 of our Regulation and our *Policy Statement Order* is on *de facto* control. We previously concluded that internal transactions involving corporate reorganizations are subject to our review and approval under Section 1102(a)(3) of the Code if the proposed reorganization constitutes a transfer of *de facto* control, as defined in Section 69.901. In the *Policy Statement Order*, we stated:

> Internal transactions usually involve corporate reorganizations which can have fundamental effect on the management and operations of a utility. Accordingly, we believe that the legislature intended that those transactions be subject to the regulatory review under Section 1102(a)(3) to the extent they constitute a transfer of *de facto* control as defined by the policy statement heretofore issued.

Policy Statement Order.[8]

We concluded in the *Policy Statement Order* that under Section 1102(a)(3) of the Code, the General Assembly intended to include, *inter alia*, our authority to review internal transactions that involve corporate reorganizations as long as such transactions constitute a transfer of *de facto* control of the utility or its parent. *Id.* We expressed our reason for this legal conclusion because internal transactions resulting in a change of *de facto* control of a utility or its parent "can have fundamental effect on the management and operations of a utility." *Id*. In other words, any corporate restructuring resulting in a

[8] We made these statements in the *Policy Statement Order* to explain our disagreement with PPL's position in its comments to the proposed Policy Statement. *Id*. In its comments in that proceeding, PPL argued that the language in the Policy Statement "is too broad because it applies to internal transactions which do not result in a change in the controlling entity." *Id*. Thus, PPL's argument in this proceeding is a repeat of the same argument we expressly rejected in the *Policy Statement Order*.

transfer of *de facto* control is subject to our regulatory review under Section 1102(a)(3) *because of the potential* for such types of transactions to affect the management and operations of a utility. Thus, our authority is not dependent upon whether the substantial record evidence demonstrates that the management or operations of a utility will be impacted by such transaction. A corporate reorganization that results in a change of *de facto* control of the utility or its parent is subject to our jurisdiction for approval under Section 1102(a)(3) of the Code. Based on the foregoing, we conclude that the ALJs appropriately evaluated the issue of *de facto* control rather than the "ultimate control" standard advocated by PPL EU in determining the scope of authority under Section 1102(a)(3). R.D. at 12-13, 16. Therefore, we reject PPL EU's argument that our authority under Section 1102(a)(3) to review the Proposed Restructuring exists only if there is a change in "ultimate control" of the utility or its parent.

Next, based on our review of the Application and the related record in this proceeding, we agree with the ALJs that the series of transactions described in the Application will result in a change of *de facto* control of PPL EU. In our Policy Statement in Section 69.901 of our Regulations, a change in *de facto* control is defined as including, *inter alia*, a series of transactions resulting in a different entity becoming the beneficial holder of the largest voting interest (20% or more) in the utility, regardless of the tier. 52 Pa. Code § 69.901(b)(1)-(2). As the ALJs correctly noted, the combination of the first and second transactions described in the Application – first, PPL Corporation's contribution of all its interests in PPL EU to Newco 1, and second, Newco 1's immediate contribution of all of the interests it receives from PPL Corporation to Newco 2 – constitutes a series of transactions resulting in a new controlling interest of PPL EU. The transfer of control occurs within the PPL Group at a new tier created in between PPL Corporation and PPL EU. An entity different from PPL Corporation, Newco 2 or PPL Energy Holdings, LLC, will become the beneficial holder of all the voting interest in PPL EU. In turn, Newco 2 will be wholly owned by Newco 1, or PPL Subsidiary Holdings, LLC, which, in turn, will be wholly owned by PPL Corporation.

After the Proposed Restructuring, the direct beneficial holder of all interests in PPL EU will no longer be PPL Corporation and two new layers of ownership and control between PPL EU and PPL Corporation will exist that did not exist prior to the Proposed Restructuring. Thus, we agree with the ALJs that the Proposed Restructuring will result in a change of *de facto* control of PPL EU. Therefore, the Proposed Restructuring is subject to our review and approval pursuant to Section 1102(a)(3) of the Code. Accordingly, we agree with the ALJs' conclusion that PPL EU is required to first obtain a certificate of public convenience pursuant to Section 1102(a)(3) before the Proposed Restructuring may be effectuated.

Furthermore, we note, albeit for a different reason, our agreement with the ALJs that PPL EU's reliance on *Frontier, Duquesne* and *Verizon North* to support its position that a certificate of public convenience is not required for the Proposed Restructuring, is misplaced. In our opinion, the complexity of the transactions described in the Application as compared to the transactions in the above cited cases is not the reason. The reason PPL EU's reliance on the cited cases is misplaced is because the Proposed Restructuring will result in a change of *de facto* control of PPL EU while the business entity conversions (from corporations to limited liability companies) in the above cited cases did not result in a change in *de facto* control of the respective subject utilities or their respective parents.[9] Accordingly, in those cases, we determined that the business entity conversions were not subject to our authority to issue or withhold a certificate of public convenience pursuant to Section 1102(a)(3) of the Code. Thus, while

[9] Following the business entity conversion, Duquesne Light Company remained a wholly-owned subsidiary of Duquesne Light Holdings, Inc. (DLH) and DLH's interests were converted from shares in a corporation to membership interests in a limited liability company. *See Duquesne*, slip op. at 3. Likewise, following its business entity conversion, the Frontier Utilities (as defined in *Frontier*, slip op. at 1) remained direct subsidiaries of Frontier Subsidiary Telco, LLC, which, in turn, remained a direct subsidiary of Citizens Communications Company, a publicly held company. *See Frontier*, slip op. at 2.

we approved those transactions as being "necessary or proper for the service, accommodation, convenience or safety of the public," doing so was not an exercise of authority in determining whether a certificate of public convenience shall be issued or withheld in accordance with Sections 1102(a)(3) and 1103(a) of the Code.

Having concluded above that a certificate of public convenience under Section 1102(a)(3) is required for the Proposed Restructuring, based on the positions of the Parties, the next issue to be decided is the correct legal standard to be applied under Section 1103(a) of the Code for granting a certificate. To simplify, PPL EU argues that for transactions subject to our authority under Section 1102(a)(3), *City of York* sets forth a higher standard under Section 1103(a) to be applied when an ultimate change of control is at issue (*e.g.*, merger transactions). PPL EU relies on our prior decision in *James Black Service* to argue that we have flexibility to apply the plain language of Section 1103(a), arguing that such standard is different from the "affirmative public benefit" standard articulated in *City of York*. Meanwhile, the OSBA argues that the Commission must apply a "substantial public benefit" standard that it states was articulated by the Supreme Court in *City of York* in granting a certificate of public convenience. We respectfully reject PPL's position[10] for the reasons discussed below.

As an administrative agency, we are bound by the Supreme Court's interpretations of Section 1103(a) of the Code as set forth in *City of York*, *Popowsky* and *Elite*, *supra*, relating to the exercise of our authority pursuant to Section 1102(a)(3). At the same time, the Court's interpretations in those cases do not permit us "to ignore the language of [the] statute" or to "deem any language [in the statute] to be superfluous."

[10] We must reject PPL's position outright because it is not supported by the rules of statutory construction. *See Wayne M. Chiurazzi Law Inc. v. MRO Corp.*, 626 Pa. 303, 333, 97 A.3d 275, 292 (Pa. 2014) (explaining the courts' well-settled approach to questions of statutory construction). Also, PPL's position fails to recognize that the Commission, as an administrative agency, is bound by judicial interpretation of the Code.

1 Pa. C.S. § 1921(a); *Commonwealth v. McCoy*, 599 Pa. 599, 962 A.2d 1160, 1168 (2009). Thus, we shall apply the legal standard expressly laid out in Section 1103(a) of the Code, as the application of such standard has been interpreted by the Supreme Court in *City of York*, *Popowsky* and *Elite*, which is discussed more extensively above in the Legal Standards section of this Order. The ALJs correctly identified this standard, stating that PPL EU must demonstrate that granting a certificate of public convenience provides an affirmative public benefit or is necessary or proper for the service, accommodation, convenience, or safety of the public. R.D. at 17. We read the ALJs' use of the word "or" as interpreting the "affirmative public benefit" phrasing in *City of York* to be equal with, or as having the same meaning as, the express language in the statute. We concur with the ALJs' Recommended Decision.

In our opinion, PPL EU's reliance on *James Black Service* is misplaced in support of its position that there exists flexibility within the Section 1103(a) standard depending on the type of Section 1102(a)(3) transaction before the Commission. In *James Black Service*, the application involved a *de facto* water utility operating a small, nonviable water system. We note here that, throughout that proceeding, neither the Parties in their briefs or exceptions, nor the ALJs in their recommended decision, discussed or applied the affirmative public benefit language appearing in *City of York*. Rather, what was discussed was relevant prior cases, including, *inter alia*, *Seaboard*, that required us to find a public need for the water utility service and find that the applicant is fit to provide the service. In support of our decision in *James Black Service*, we relied, in part on those cases, as well as the express language on Section 1103(a) and the Court's decision in *Elite*, which left the specific factors to be considered in granting a certificate to our administrative expertise, sound discretion and good judgment. *Id*. at 5-7. We concluded that the continuation of existing service from the water distribution system to its existing customers, subject to the system's operator satisfying extensive conditions we deemed just and reasonable and subject further to the outcome of the Section 529 investigation ordered therein, was necessary or proper for the service, accommodation,

convenience and safety of the public served by that system. *James Black Service*, slip op. at 55. Our decision to grant a conditional certificate of public convenience was made after finding that substantial record evidence demonstrated an immediate public need for the existing water distribution service and that the water system was currently compliant with environmental water quality testing and managed by an active owner. *Id*. at 41-43. Additionally, we found the record demonstrated various operational issues, resulting in our directive to the operator to satisfy, within the time periods ascribed, extensive conditions that we deemed just and reasonable. *Id*. at 47-50. We also expressly notified the operator that failure to satisfy such conditions as directed therein could warrant further enforcement action, including, *inter alia*, cancellation of the certificate. *Id*. at 50. Thus, upon review, while we acknowledge that the "affirmative public benefit" language was not specifically referenced in that proceeding, we do not read our decision in *James Black Service* as having applied a different, unequal or lower standard of review.

3. PPL EU's Exception No. 2:

The Recommended Decision Erred in Concluding that the Proposed Internal Reorganization Would Not Benefit PPL EU's Customers in a Manner Sufficient to Justify the Internal Reorganization.

a. Exceptions

In its Exception No. 2, PPL EU asserts that the ALJs erred in concluding that the Proposed Restructuring will not produce affirmative public benefit to PPL EU's customers. PPL EU argues that, on the contrary, the Proposed Restructuring will allow PPL Corporation to better manage its cash flows and taxes thereby improving PPL Corporation's profitability and financial profile and its ability to raise capital. PPL EU contends this will in turn provide substantial affirmative benefit for PPL EU's customers

because it lends PPL EU the ability to attract capital in public markets on reasonable terms thereby allowing PPL EU to provide safe and reliable service to its customers. Exc. at 4. PPL EU contends the ALJs' conclusion is misplaced and would produce illogical and counter-intuitive results because it applied the test for third-party mergers and acquisitions to a simple internal reorganization. PPL EU argues that unlike a major third-party acquisition where there is a clear change in ownership and major impacts on management with a possibility of producing a variety of significant harms and benefits to the public, the instant Application is a minor internal restructuring that does not involve a change in ultimate control or change in management or operations of the utility. PPL EU argues that because the Proposed Restructuring merely involves affiliated holding and financing companies, there is no basis for reviewing it in the context of a third-party change of control. Exc. at 4-5.

Specifically, PPL EU contends that notwithstanding the fact that the ALJs applied an erroneous "benefit" standard in this case, the benefits from the Proposed Restructuring are clearly sufficient to justify an approval even if we apply the substantial benefit test. *Id.* at 10. Highlighting the several benefits that would result following the Proposed Restructuring, PPL EU points out that PPL EU Corporation will be better able to manage the cash flows and tax liabilities of its non-regulated subsidiaries, which would make more funds available to PPL EU Corporation for other activities including payments of dividends and investment in utility and non-utility projects. According to PPL EU, a financially stronger PPL Corporation benefits PPL EU by improving its ability to raise capital at reasonable terms for PPL EU and its other subsidiaries. *Id.* at 11 (citing PPL St. 1-R at 6). Citing to several Commission decisions, PPL EU argues that the Commission has, in the past, acknowledged the ability of a parent company of a utility to raise capital on reasonable terms and attract investors, as substantial benefit. Exc. at 11.

PPL EU also disputes the ALJs' conclusion that it has only proven that customers will not be harmed but has not proven that customers will benefit from the Proposed Restructuring. *Id.* (citing R.D. at 21). PPL EU argues that this conclusion ignores the fact that a financially healthy and more efficient parent company that would result if the Proposed Restructuring were approved would benefit PPL EU's customers and that the lack of harm to the customers would reduce the amount of benefit required under a net benefits test. Exc. at 12 (citing *Joint Application of North Pittsburgh Telephone Company and Penn Telecom, Inc.*, 2007 Pa. PUC LEXIS 632 (November 16, 2017)).

Finally, PPL EU rejects the ALJs' conclusion that the *City of York* substantial benefit test is not easily met and that *Popowsky* requires more than speculative benefits. PPL EU contends that managing its non-regulated tax liabilities to produce more funds for investment and dividends is not speculative. According to PPL EU, the ALJs' use of an erroneous standard in this case could potentially interfere in PPL EU Corporation's right to manage its business in a manner that creates no harm to utility customers and its ability to produce a financially stronger PPL Corporation that will be beneficial to all of its subsidiaries. For all of the above reasons, PPL EU believes there is sufficient evidence in this proceeding to meet the affirmative public benefit standard, even if it is applied in this case to an internal restructuring of PPL Corporation's subsidiaries that does not result in a change in ultimate control of PPL EU's public utility property. Exc. at 12.

b. Replies to Exceptions

In Reply, the OSBA disagrees with PPL EU arguing that the ALJs properly determined that the Proposed Restructuring did not provide sufficient affirmative benefits to justify an approval. R. Exc. at 7-8. The OSBA disputes PPL EU's argument regarding cash flows, tax liabilities, more funds and the financial strength that would result from the

Proposed Restructuring. The OSBA argues that the record evidence demonstrates that the cash flow benefit touted by PPL EU does not accrue to the public. Rather, PPL EU has admitted throughout this proceeding that no cash distributions related to PPL EU are contemplated as a result of the Proposed Restructuring, which means there is no cash benefit to PPL EU. *Id.* at 8 (citing PPL St. 1 at 5; OSBA St. 1 at 6-7).

Regarding the tax liabilities, the OSBA avers that reducing PPL Corporation's tax liabilities is not a public benefit. The OSBA argues that while the Application stated that the Proposed Restructuring will help with the avoidance of state and federal taxes, PPL EU has testified that the Proposed Restructuring would allow PPL Corporation and not PPL EU, to avoid "unnecessary Pennsylvania state tax liability." Further, the OSBA submits PPL EU has readily admitted that none of this tax reduction "benefit" will inure to PPL EU's ratepayers. R. Exc. at 8 (citing PPL St. 1 at 5; OSBA St. 1, Exh. IEc-2, response to OSBA-I-1(c)). Therefore, the OSBA does not believe that reducing tax payments to the Commonwealth of Pennsylvania without any commensurate reduction in taxes paid by PPL EU's ratepayers constitute a public benefit. Rather, the tax savings represent a negative to the public, since the tax authorities will need to recover this lost revenue elsewhere. R. Exc. at 8-9 (citing OSBA St. 1 at 6).

Regarding PPL EU's argument that more funds will be generated as a result of the Proposed Restructuring, the OSBA argues this generalized claim is not supported by the record evidence. From the OSBA's perspective, PPL EU erroneously assumes that any tax savings resulting from the Proposed Restructuring would stay with PPL Corporation and would not be explicitly reflected in reduced equity costs recoverable from PPL EU's ratepayers. R. Exc. at 9 (citing PPL Exh. 1-A; PPL EU's response to OSBA-II-2). The OSBA asserts that these purported tax benefits would likely be dissipated through dividend payments, alternative investments, or mostly enrich PPL Corporation's shareholders. The OSBA also highlights PPL EU's averment that one of

the reasons for the Proposed Restructuring is to facilitate future acquisitions. R. Exc. at 9 (citing Application at 6-7; PPL St. 1 at 5).

Lastly, the OSBA argues PPL EU's claim that PPL EU will be financially stronger as a result of the Proposed Restructuring is simply a variation of the "more funds" argument and contradicts the testimony of PPL EU's witness, Mr. Torok, who stated that *"the proposed transaction will not result in any change to the financing of PPL Electric [PPL EU]."* R. Exc. at 9 (citing PPL Direct Testimony at 5) (emphasis added). Therefore, the OSBA requests that the Commission reject PPL Exception No. 2, because the Proposed Restructuring is devoid of any affirmative public benefits. R. Exc. at 9-10.

c. Disposition of Exception No. 2

Upon review of the record, the ALJs' Recommended Decision, PPL EU's second Exception and the OSBA's Replies thereto, we shall deny PPL EU's second Exception and adopt the analysis and conclusion set forth in the ALJs' Recommended Decision on this issue. On this issue, the OSBA presented persuasive arguments and effective challenges to the arguments and evidence presented by PPL EU. In our opinion, PPL EU failed to meet its burden of proof in showing that our granting a certificate of public convenience for the Proposed Restructuring will provide affirmative public benefit or is necessary or proper for the service, accommodation, convenience, or safety of the public. Therefore, we shall deny PPL EU's Application pursuant to Sections 1102(a)(3) and 1103(a) of the Code.

IV. Conclusion

Based on our review of the record in this proceeding, we shall deny the Exceptions filed by PPL EU adopt the ALJs' Recommended Decision that denies the Application, consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:

1. That the Exceptions filed by PPL Electric Utilities Corporation on October 1, 2018, to the Recommended Decision Administrative Law Judges Benjamin J. Myers and Joel H. Cheskis that was issued on September 11, 2018, are denied, consistent with this Opinion and Order.

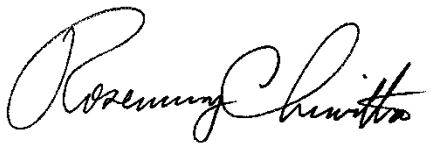
2. That the Recommended Decision of Administrative Law Judges Benjamin J. Myers and Joel H. Cheskis, issued on September 11, 2018, is adopted, consistent with this Opinion and Order.

3. That the Application for Intercompany Restructuring filed by PPL Electric Utilities Corporation on October 16, 2017, at Docket Number A-2017-2629534, is hereby denied.

4. That the Parties shall provide two copies of all documents referenced in the Stipulation to the Commission's Secretary's Bureau for inclusion in the official record.

5. That the docket in this matter be marked closed.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: April 25, 2019

ORDER ENTERED: April 25, 2019