

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of PPL Electric Utilities Corporation :
filed pursuant to 52 Pa. Code Chapter 57 :
Subchapter G, for approval of the siting and :
construction of transmission lines associated :
with the Northeast-Pocono reliability project :
in Portions of Luzerne, Lackawanna, Monroe, :
and Wayne Counties, Pennsylvania :

Docket No. A-2012-2340872

Petition of PPL Electric Utilities Corporation :
for a finding that a building to shelter control :
equipment at the North Pocono 230'69 kV :
substation in Covington Township, Lackawanna :
County, Pennsylvania is reasonably necessary :
for the convenience or welfare of the public :

Docket No. P-2012-2340871

Petition of PPL Electric Utilities Corporation :
for a finding that a building to shelter control :
equipment at the West Pocono 230-69 kV :
substation in Buck Township, Luzerne :
County, Pennsylvania is reasonably necessary :
for the convenience or welfare of the public :

Docket No. P-2012-2341105

Application of PPL Electric Utilities Corporation :
under 15 Pa.C.S. §1511(c) for a finding and :
determination that the service to be furnished :
by the applicant through its proposed exercise :
of the power of eminent domain to acquire a :
certain portion of the lands of the property :
owners listed below for siting and construction :
of transmission lines associated with the :
proposed Northeast-Pocono Reliability Project :
in portions of Luzerne, Lackawanna, Monroe, :
and Wayne Counties, Pennsylvania is necessary :
or proper for the service, accommodation, :
convenience or safety of the public :

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SECRETARY'S BUREAU

| | | |
|---|---|----------------|
| John C. Justice and Linda S. Justice | : | A-2012-2341107 |
| Three Griffins Enterprises, Inc. | : | A-2012-2341114 |
| Margaret G. Arthur and Barbara A. Saurman Trustees of the Residuary Trust of James C. Arthur | : | A-2012-2341115 |
| Anthony J. Lupas, Jr. and Lillian Lupas John Lupas and Judy Lupas, Grace Lupas, Eugene A. Bartoli and Robert J. Fankelli | : | A-2012-2341118 |
| Ronald G. Sidovar and Gloria J. Sidovar | : | A-2012-2341120 |
| FR First Avenue Property Holding, LP | : | A-2012-2341123 |
| Transcontinental Gas Pipe Line Corporation | : | A-2013-2341208 |
| William Petrouleas and Joanna Petrouleas | : | A-2013-2341209 |
| Peter Palermo and Francine Palermo | : | A-2013-2341211 |
| Christopher Maros and Melinda Maros | : | A-2013-2341213 |
| Dianne L. Doss | : | A-2013-2341214 |
| Doanld Januszewsk | : | A-2013-2341215 |
| International Consolidated Investment Company | : | A-2013-2341216 |
| Bradley D. Hummel | : | A-2013-2341220 |
| Michael Palermo and Joanne Palermo | : | A-2013-2341221 |
| Roberta Searfoss a/k/a Judy Searfoss Executrix of the Estate of Euylla Hughes a/k/a Eylla Hughes | : | A-2013-2341232 |
| John F. and Veronica Iskra | : | A-2013-2341233 |
| Michael A. Mitch and Sue K. Mitch | : | A-2013-2341234 |
| Clifton Acres, Inc. | : | A-2013-2341236 |

| | | |
|---|---|----------------|
| Dietrich Hunting Club | : | A-2013-2341237 |
| Art Borrower Propco 2010-5 LLC | : | A-2013-2341238 |
| NLMS, Inc. | : | A-2013-2341239 |
| US Industrial Reit II | : | A-2013-2341241 |
| Ronald Soft | : | A-2013-2341249 |
| Merel J. and Arlene J. Swingle | : | A-2013-2341250 |
| Edward R. Schultz | : | A-2013-2341253 |
| Donald W. Henderson and Louis Bellucci | : | A-2013-2341262 |
| Fr E2 Property Holding LP | : | A-2013-2341263 |
| Sylvester J. Coccia | : | A-2013-2341267 |
| Lawrence Duda | : | A-2013-2341271 |
| Mark M. Mack, J. Dean Mack and Heather K. Mack | : | A-2013-2341272 |
| Blue Ridge Real Estate | : | A-2013-2341277 |
| James L. and Michaelene J. Butler | : | A-2013-2344353 |
| Susan Butler Reigeluth Living Trust | : | A2013-2344604 |
| Blueberry Mountain Realty, LLC | : | A-2013-2344605 |
| Grumble Knot, LLC | : | A-2013-2344612 |
| Pennsylvania Glacial Till, LLC | : | A-2013-2344616 |
| Chris and Melinda Maros | : | |
| v. | : | C-2012-2305047 |
| PPL Electric Utilities Corporation | : | |

Joe and Vanessa Caparo

v.

PPL Electric Utilities Corporation

:
:
:
:
:

C-2012-2276713

**ANSWER AND NEW MATTER OF THE
TOWNSHIP OF COVINGTON, LACKAWANNA COUNTY, PENNSYLVANIA
TO THE
PETITION OF PPL ELECTRIC UTILITIES CORPORATION**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

The Township of Covington, Lackawanna County, Pennsylvania ("Covington") hereby answers the Petition of PPL Electric Utilities Corporation ("PPL"), which requested a finding that the building to shelter control equipment ("Control Equipment Building") at the proposed North Pocono 230-69 kV Substation in Covington Township, Lackawanna County, Pennsylvania is exempt from any local zoning ordinance, and hereby states the following.

I. INTRODUCTION

- 1. Admitted.
- 2. Admitted.
- 3. Admitted. By way of further answer, the attorney for Covington is:

Brian Yeager (ID # 58020)
 Solicitor of the Township of Covington
 Lenahan & Dempsey, P.C.
 116 N. Washington Avenue, Suite 400
 P.O. Box 234
 Scranton, PA 18501-0234
 Phone: 888-536-2426
 Fax: 570-346-1174
 E-mail: by@lenahandempsey.com

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The Solicitor for Covington is authorized to receive all notices and communications regarding this Answer to Zoning Petition.

4. Admitted that PPL Electric is a public utility and an electric distribution company. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph.

5. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

6. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

7. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

8. Admitted.

9. Admitted.

10. Admitted.

11. Admitted that these documents accompanied this Petition.

II. PROJECT SUMMARY

12. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

13. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

14. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

15. Admitted that Figure 2-1 provides an area map. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of the remaining averments.

III. NEED FOR THE PROJECT

16. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

17. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

18. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

19. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

20. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

21. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

22. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

IV. THE PROPOSED PROJECT

23. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

24. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

25. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

26. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

27. Admitted.

28. Admitted that the North Pocono 230-69 kV Substation will include a Control Equipment Building. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of the remaining averments.

29. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

30. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

31. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

32. Admitted that Appendix A is provided with the Zoning Petition.

V. EXEMPTION FROM LOCAL ZONING

33. Denied. The Pennsylvania Municipalities Planning Code ("MPC") provides in full at 53 P.S. §10619:

This article shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the municipality in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.

Section 619 of the MPC, 1968, July 31, P.L. 805, No. 247, art. VI, § 619. Reenacted and amended 1988, Dec. 21, P.L. 1329, No. 170, § 64, effective in 60 days, 53 P.S. §10619.

The Commission is charged by this statute with giving the municipality, here Covington, notice of a hearing and an opportunity to appear. No notice of a hearing has been received by Covington to the date of this answer. The Commission is only empowered to confirm the site of the Building to be constructed by PPL as shown by the decision in Del-Aware Unlimited, Inc. v. Pennsylvania Pub. Util. Comm'n, 99 Pa. Cmwlth. 634, 639, 513 A.2d 593, 596 (1986).

In this case, the PUC is empowered *only* to decide whether the proposed *site* of the Bradshaw pumphouse is reasonably necessary for the public convenience or welfare. Del-Aware Unlimited, Inc. v. Pennsylvania Pub. Util. Comm'n, 99 Pa. Cmwlth. 634, 639, 513 A.2d 593, 596 (1986).

34. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

35. Denied. The Commission can only find that the site is reasonable and necessary for public convenience and welfare, but not that the Control Equipment Building is totally exempt from the Zoning Ordinance.

VI. THE COVINGTON TOWNSHIP ZONING ORDINANCE

36. Admitted that extracts of 52 Pa. Code §69.1101 are quoted.
37. Admitted.
38. Admitted.
39. Denied. Essential services are accessory uses in every zoning district in Covington Township. An accessory use is incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use. COVINGTON TOWNSHIP ZONING ORDINANCE, p. III-1. Admitted that semi-public buildings or uses include essential services and public utilities that require enclosure within any structure or building. COVINGTON TOWNSHIP ZONING ORDINANCE, p. III-19 & 20. Admitted that semi-public buildings or uses are not permitted within any SC district.
40. Admitted.
41. Admitted.
42. Admitted.
43. Denied. Covington requests that the Commission find that the Control Equipment Building at the proposed new North Pocono 230-69 kV Substation be required to meet the provisions of the Covington Township Zoning Ordinance that enable Covington to promote, protect and facilitate the public health, safety, morals, general welfare, coordinated and practical community development, transportation, natural resources, agricultural land and uses, reliable and safe and adequate water supplies, sewerage and other public requirements and other purposes set forth in the

Pennsylvania Municipalities Planning Code, all of which are purposes of the Zoning Ordinance. COVINGTON TOWNSHIP ZONING ORDINANCE, p. I-1.

44. Admitted that PPL has described the Northeast-Pocono Reliability Project, including the North Pocono 230-69 kV Substation. Denied that Covington had a full description of the extent of the Northeast-Pocono Reliability Project, including the North Pocono 230-69 kV Substation, until the Application and the Zoning Petition was served on Covington.

45. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

VII. RELATED PROCEEDINGS

46. Admitted that the Application describes in general terms the North-Pocono 230-69 kV Substation and its use in the Northeast-Pocono Reliability Project.

47. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

48. After reasonable investigation, Covington is without knowledge or information sufficient to form a belief as to the truth of this averment.

49. Admitted that PPL has made a request for proceedings to be consolidated.

VIII. NEW MATTER

50. PPL has sent copies of the Zoning Petition to the Covington Planning Commission.

51. The Covington Township Subdivision and Land Development Ordinance, Compiled 1998 ("Subdivision Ordinance"), is publicly available at the web-site for Covington, under Forms and Ordinances, at:

http://www.covingtontwporg/documents/Covington_Twp_Subdivision_and_Land_Development_Ordinance.pdf.

52. The Subdivision Ordinance defines a land development as the improvement of one lot involving a single non-residential building on a lot. Covington Township Subdivision and Land Development Ordinance, p. 6.

53. The Control Equipment Building described in the Zoning Petition is a single non-residential building that is improving one lot.

54. The development of the North Pocono 230-69 kV Substation in the form of the Control Equipment Building is subject to the Covington Subdivision Ordinance.

55. The Township of Covington has elected to administer and enforce the provisions of the Pennsylvania Construction Code Act of 1999, 35 P.S. §§7210.101 – 7210.1103, as amended from time to time, and the regulations in support thereof. This was done by Ordinance 2004-05, dated June 1, 2004 (Exhibit A attached).

56. 35 P.S. §7210.501 specifically states that enforcement of the Pennsylvania Construction Code Act is done by a municipality that enacts an ordinance adopting the Uniform Construction Code, which Covington has done.

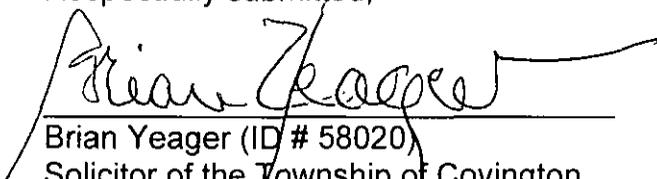
57. The Pennsylvania Construction Code Act applies to the construction of all buildings in the Commonwealth (35 P.S. §7210.104(a)).

58. The construction of the Control Equipment Building, as a building being built in Covington, is subject to the provisions of the Pennsylvania Construction Code Act, to include permit applications and inspection by the Covington Building Inspector.

IX. CONCLUSION

WHEREFORE, the Township of Covington, Lackawanna County, PA respectfully requests that the Commission find: (1) that the Control Equipment Building at the proposed new North Pocono 230-69 kV Substation be required to meet the provisions of the Covington Township Zoning Ordinance that enable Covington to promote, protect and facilitate the public health, safety, morals, general welfare, coordinated and practical community development, transportation, natural resources, agricultural land and uses, reliable and safe and adequate water supplies, sewerage and other public requirements and other purposes set forth in the Pennsylvania Municipalities Planning Code, all of which are purposes of the Zoning Ordinance; (2) that the Control Equipment Building at the proposed new North Pocono 230-69 kV Substation be required to meet the provisions of the Covington Township Subdivision and Land Development Ordinance; and (3) that the Control Equipment Building at the proposed new North Pocono 230-69 kV Substation be required to meet the provisions of the Pennsylvania Construction Code Act as administered and enforced by the Township of Covington.

Respectfully submitted,



Brian Yeager (ID # 58020)
Solicitor of the Township of Covington
Lenahan & Dempsey, P.C.
116 N. Washington Avenue, Suite 400
P.O. Box 234
Scranton, PA 18501-0234
Phone: 888-536-2426
Fax: 570-346-1174
E-mail: by@lenahandempsey.com

VERIFICATION

I, David J. Petrosky, Chairman of the Board of Supervisors of the Township of Covington, Lackawanna County, Pennsylvania, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Township of Covington will 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.

Date: Feb 11 - 2013



David J. Petrosky
Chairman

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COVINGTON TOWNSHIP
LACKAWANNA COUNTY, PENNSYLVANIA SECRETARY'S BUREAU
PA.P.U.C.

AN ORDINANCE OF THE COVINGTON TOWNSHIP BOARD OF SUPERVISORS ESTABLISHING THE UNIFORM CONSTRUCTION CODE OF THE COMMONWEALTH OF PENNSYLVANIA IN THE TOWNSHIP; PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE UNIFORM CONSTRUCTION CODE; AND PROVIDING FOR FEES TO ADMINISTER THIS CODE.

WHEREAS, the purpose of this ordinance is to promote the general health, safety and welfare of the citizens of Covington Township and to conform to the requirements of the Pennsylvania Construction Code Act and regulations to the Act promulgated by the Pennsylvania Department of Labor and Industry (hereinafter sometimes collectively referred to as the "Code"); and

WHEREAS, the Pennsylvania Construction Code Act requires the enactment of an appropriate ordinance by municipalities electing to administer and enforce the building code provisions of the Code.

NOW, THEREFORE, it is hereby enacted and ordained as follows:

1. Covington Township, Lackawanna County hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. §§7210.101- 7210.1103, as amended from time to time, and its regulations.
2. The Uniform Construction Code, contained in 34 Pa. Code, Chapters 401- 405, as amended from time to time, is hereby adopted and incorporated herein by reference as the municipal building code of Covington Township.
3. Administration and enforcement of the Code within Covington Township shall be undertaken in any of the following ways as determined by the Board of Supervisors of Covington Township from time to time by resolution:
 - a. By the designation of an employee of the Township to serve as the municipal code official to act on behalf of the Township;
 - b. By the retention of one or more construction code officials or third- party agencies to act on behalf of the Township;

c. By agreement with one or more other municipalities for the joint administration and enforcement of this Act through an intermunicipal agreement;

d. By entering into a contract with another municipality for the administration and enforcement of this Act on behalf of the Township;

e. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections and enforcement of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures.

4. A Board of Appeals shall be established by resolution of the Board of Supervisors of the Township in conformity with the requirements of the relevant provisions of the Code, as amended from time to time, and for the purposes set forth therein. If at any time enforcement and administration is undertaken jointly with one or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities.

5. a. All building code ordinances or portions of ordinances which were adopted by the Township on or before July 1, 1999, and which equal or exceed the requirements of the Code shall continue in full force and effect until such time as such provisions fail to equal or exceed the minimum requirements of the Code, as amended from time to time.

b. All building code ordinances or portions of ordinances which are in effect as of the effective date of this ordinance and whose requirements are less than the minimum requirements of the Code are hereby amended to conform with the comparable provisions of the Code.

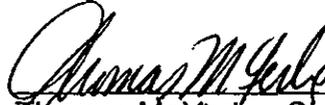
c. All relevant ordinances, regulations and policies of the Township not governed by the Code shall remain in full force and effect.

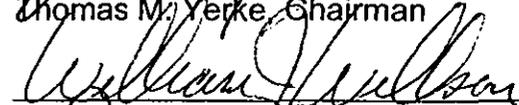
6. Fees assessable by the Township for the administration and enforcement undertaken pursuant to this ordinance and the Code shall be established by the Board of Supervisors by resolution from time to time.

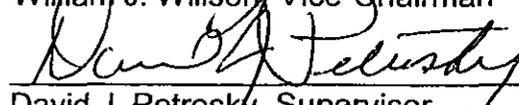
7. This ordinance shall be effective five days after the date of passage of this ordinance.

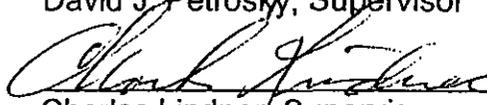
8. If any section, subsection, sentence, or clause of this ordinance is held, for any reason, to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance.

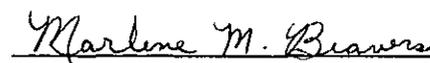
BE IT HEREBY ENACTED AND ORDAINED, THIS 1st DAY OF JUNE, 2004 BY THE BOARD OF SUPERVISORS OF COVINGTON TOWNSHIP, LACKAWANNA COUNTY, PENNSYLVANIA.


Thomas M. Yerke, Chairman

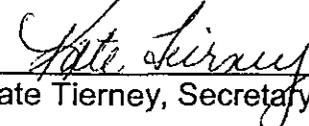

William J. Willson, Vice-Chairman


David J. Petrosky, Supervisor


Charles Lindner, Supervisor


Mariene M. Beavers, Supervisor

ATTEST:


Kate Tierney, Secretary

CERTIFICATE OF SERVICE

I hereby certify that I have this day served via first class mail a true copy of the foregoing Answer and New Matter upon the parties, listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

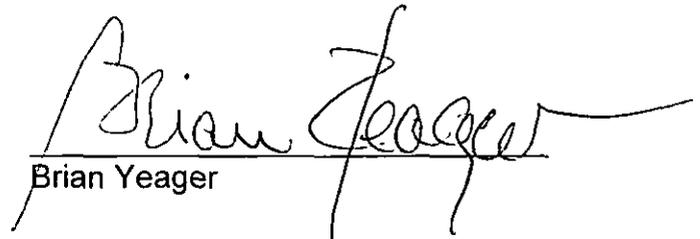
Paul E. Russell, Esquire
Associate General Counsel
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18101

David B. MacGregor, Esquire
Post & Schell, P.C.
Four Penn Center
1600 John F. Kennedy Coulevard
Philadelphia, PA 19103-2808

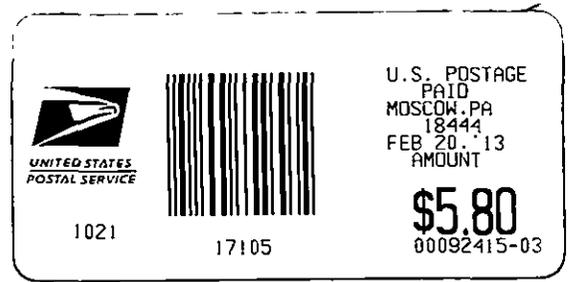
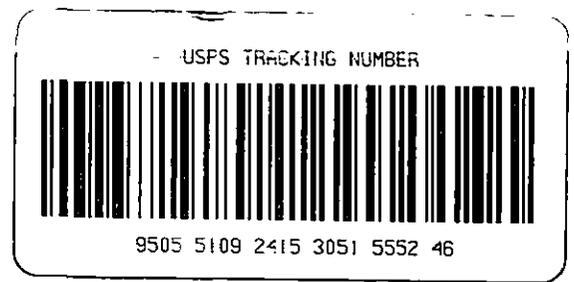
John H. Isom, Esquire
Christopher T. Wright, Esquire
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601

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Date: 02-20-2013


Brian Yeager

COVINGTON TWP. SUPERVISORS
20 Moffat Drive
Covington Twp, PA 18444



Rosemary Chiavetta, Secretary
PA Public Utility Commission
PO Box 3265
Harrisburg PA 17105-3265

