**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 : A-2012-2340872

with the Northeast-Pocono Reliability Project :

in portions of Luzerne, Lackawanna, Monroe, :

and Wayne Counties, Pennsylvania :

 :

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, : P-2012-2340871

Lackawanna County, Pennsylvania is :

reasonably necessary for the convenience :

or welfare of the public :

 :

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 : P-2012-2341105

County, Pennsylvania is reasonably necessary :

for the convenience or welfare of the public :

 :

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 :

 :

 :

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 : A-2012-2341115

James C. Arthur :

 :

Anthony J. Lupas, Jr. and Lillian Lupas :

John Lupas and Judy Lupas, : A-2012-2341118

Grace Lupas, Eugene A. Bartoli and :

Robert J. Fankelli :

 :

Ronald G. Sidovar and Gloria J. Sidovar : A-2012-2341120

 :

FR First Avenue Property Holding, LP : A-2012-2341123

 :

Transcontinental Gas Pipe Line Company, LLC : A-2013-2341208

 :

William Petrouleas and Joanna Petrouleas : A-2013-2341209

 :

Peter Palermo and Francine Palermo : A-2013-2341211

 :

Dianne L. Doss : A-2013-2341214

 :

Donald Januszewski : 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-2013-2341232

a/k/a Eylla Hughes :

 :

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 Solt : A-2013-2341249

 :

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 Company : A-2013-2341277

 :

James L. and Michaelene J. Butler : A-2013-2344353

 :

Susan Butler Reigeluth Living Trust : A-2013-2344604

 :

Blueberry Mountain Realty, LLC : A-2013-2344605

 :

Grumble Knot, LLC : A-2013-2344612

 :

Pennsylvania Glacial Till, LLC : A-2013-2344616

 :

Joe and Vanessa Caparo :

 :

 v. : C-2012-227 6713

 :

PPL Electric Utilities Corporation :

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| --- | --- | --- |
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**PREHEARING ORDER #6**

**Denying Request for Site View**

By letter dated April 1, 2013, North Pocono Citizens Alert Regarding the Environment (NP CARE) requested that I conduct a site view on the same day as the public input hearings scheduled for May 2, 2013 at 2:00 p.m. and 6:00 p.m. The letter requests a site view on Phelps Road which, according to NP CARE, is located twenty minutes from the site of the public input hearings.

According to the letter, the site view would allow me and the parties to view the location of the proposed line. NP CARE states that the area of the site view is situated in one of the primary natural tourist attractions of the area.

NP CARE requests that I schedule the site view for 10:30 a.m. on May 2, 2013. NP CARE contends that this will allow parties time to view the location and still arrive at the location for the public input hearing ahead of the scheduled hearing time.

By letter dated April 3, 2013, PPL Electric Utilities Corporation (PPL) responded to NP CARE’s request for a site view. PPL opposes the request.

PPL contends that 1) NP CARE has failed to describe the details of the site visit; 2) the site view will not be useful since there is no cleared right of way for the parties to observe; 3) the majority of the Phelps Road loop is unrelated to the proposed route for the 230 kV transmission line; 4) the site view will confuse and mislead the parties; 5) the better course of action would be to introduce photographs of the area at the evidentiary hearings; and 6) the site view should not be conducted on the same day as the public input hearings since it would result in a long day for the parties.

By letter dated April 4, 2013, NP CARE responded to PPL’s letter. According to NP CARE, PPL’s objections and concerns are unfounded. NP CARE asserts that the proposed site visit is reasonable, appropriate and similar to site visits in similar proceedings.

I agree with PPL that trying to conduct a site view and two public input hearings in one day is attempting to accomplish too much. I will deny NP CARE’s request.

In addition, a site view in this proceeding is of limited evidentiary value. The purpose of a view is to help the fact finder to understand the evidence presented in court and resolve conflicts in testimony. Cowan v Bunting Glider Co., 49 A.2d 270 (Pa. Super. 1946) (Cowan). Leonard Packel and Anne Bowen Poulin, Pennsylvania Evidence, Third Edition §425-6 (2007) The significance of what the fact finder observes depends on the testimony given in court. The fact finder may not reach a conclusion based on facts observed on the view which are not supported by testimony. Cowan.

In this proceeding, as in all Pennsylvania Public Utility Commission (Commission) proceedings, the Commission, not the Administrative Law Judge (ALJ) is the ultimate fact finder and may independently weigh the testimony of witnesses. AT&T Communications of Pa. v. Pa. PUC*,* 568 A.2d 1362 (Pa. Cmwlth. 1990). If the Commission disagrees with an ALJ’s decision, it has the authority to reverse or modify the ALJ’s decision. East Goshen Twp. v. Pennsylvania Pub. Util. Com., 486 A.2d 550 (Pa. Cmwlth. 1985). On appeal, the Commission’s factual findings will be upheld if supported by substantial evidence even if those findings are different from the ALJ’s. MCI Air Signal of Pa. v. Pa. Pennsylvania Pub. Util. Com.*,* 518 A.2d 600 (Pa. Cmwlth. 1986).

Since the Commission is the ultimate fact finder, it cannot use a site view in its deliberations unless the site view is transcribed by a court reporter. In addition, what the ALJ observes at the site view would need to be described by the parties and photographed or videotaped so that the Commission can understand what the ALJ is observing as described in the hearing transcript. This does not differ significantly from presenting and authenticating photographs or videotapes at an evidentiary hearing. Parties may adequately depict what would be seen at a site view through the use of photographic or video evidence at the evidentiary hearings.

Therefore, any party requesting a site view in this proceeding must demonstrate that the view will help the Commission as fact finder to understand the evidence presented in court and resolve conflicts in testimony. In addition any party requesting a site view must demonstrate that the use of photographic or video evidence at the evidentiary hearing will inadequately depict the scene where the site view is to take place.

THEREFORE,

IT IS ORDERED:

1. That the request of North Pocono Citizens Alert Regarding the Environment for a site view to be conducted on May 2, 2013 is denied.

Dated: April 9, 2013 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 David A. Salapa

 Administrative Law Judge

**A-2012-2340872 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**

**P-2012-2340871 - 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**

**P-2012-2341105 - 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**

***REVISED 3/2813*** –EMINENT DOMAIN DOCKETS LISTED WITH PROPERTY OWNER’S ADDRESS

JOHN H ISOM ESQUIRE

CHRISTOPHER T WRIGHT ESQUIRE

POST & SCHELL PC

17 NORTH SECOND STREET

12TH FLOOR

HARRISBURG PA 17101-1601

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PPL SERVICES CORPORATION

TWO NORTH NINTH STREET

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CIRA CENTRE 13TH FLOOR

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**A-2013-2341277**

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HAWLEY PA 18428

*(FOR JOHN C JUSTICE AND LINDA S JUSTICE* ***A-2012-2341107*** *&*

*RONALD G SIDOVAR AND GLORIA SIDOVAR* ***A-2012-1241120)***

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SAUL EWING LLP

1200 LIBERTY RIDGE DRIVE

SUITE 200

WAYNE PA 19087-5569

*(FOR FR FIRST AVENUE PROPERTY HOLDING LP* ***A-2012-2341123,***

*FR E2 PROPERTY HOLDING LP* ***A‑2013‑2341263,***

*US INDUSTRIAL REIT II* ***A-2013-2341241,***

*TRANSCONTINENTAL GAS PIPELINE COMPANY LLC* ***A-2013-2341208)***

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**A-20132344616**

THREE GRIFFINS ENTERPRISES INC

PO BOX 136

HAMLIN PA 18427-0136

**A-2012-2341114**

MARGARET G ARTHUR (DECEASED)

AND BARBARA A SAURMAN TRUSTEES OF THE RESIDUARY TRUST OF

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11 BROWNSTONE DRIVE

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**A-2012-2341115**

MICHAEL & JOANNE PALERMO

52 ROWAN AVE

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STATEN ISLAND NY 10304

**A-2013-2341209**

PETER & FRANCINE PALERMO

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CHRISTOPHER & MELINDA MAROS

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390 NELSON ROAD

MONROE NY 10950-4248

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EYLLA HUGHES EST

C/O JUDY SEARFOSS

38 BUCK BLVD

WHITE HAVEN PA 18661-2130

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ART MRTG BORROWER PROPC 2010-5

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**A-2013-2341238**

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WATERLOO 1410

BELGIUM

**A-2013-2344604**

GRUMBLE KNOT LLC

2642 ROUTE 940

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**A-2013-2344612**

BLUEBERRY MOUNTAIN REALTY LLC

57 SEAVIEW BLVD

PORT WASHINGTON NY 11050

**A-2013-2344605**

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**C-2011-2276731**

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**A-2013-2341216**