

COMMONWEALTH OF PENNSYLVANIA



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August 26, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17101

RE: Application of PPL Electric Utilities Corporation
Docket No. A-2012-2340872, et al.

Dear Secretary Chiavetta:

Attached for electronic filing is the Main Brief of the Office of Consumer Advocate in the above-captioned proceeding.

Copies of this document have been served per the attached Certificate of Service.

Sincerely,

A handwritten signature in cursive script that reads "Amy E. Hrakis".

Amy E. Hrakis
Assistant Consumer Advocate
PA. Attorney ID#310094

Attachment

cc: Honorable David A. Salapa
Certificate of Service

173848

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
	:	
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
	:	
NLMS, Inc.	:	A-2013-2341239
	:	
Duke Realty L.P.	:	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
	:	
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	:	C-2012-227 6713
	:	
v.	:	
	:	
PPL Electric Utilities Corporation	:	

MAIN BRIEF
OF THE OFFICE OF CONSUMER ADVOCATE

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I. STATEMENT OF THE CASE

A. Introduction.

On December 28, 2012, PPL filed an Application pursuant to 52 Pa. Code Chapter 57, Subchapter G, for approval to site and construct transmission lines associated with the Northeast-Pocono Reliability Project in portions of Luzerne, Lackawanna, Monroe and Wayne Counties, and two petitions for authorization to build two new substations. The OCA intervened in this matter in order to protect the interests of PPL's ratepayers. The OCA's focus in this matter has been to ascertain whether or not there is a need for reinforcement of the transmission system in the subject area. PPL claims that several reliability violations will occur in its service territory in the near future that will need to be addressed through upgrades to the transmission system.

The Company's filing consisted of the Siting Application; Executive Summary; Attachment 1: Commission Regulation Cross Reference Matrix; Attachment 2: Necessity Statement; Attachment 3: Environmental Assessment; Attachment 4: Alternatives and Siting Analysis; Attachment 5: Design and Engineering Description; Attachment 6: Right of Way Property Owners; Attachment 7: Local, State, and Federal Regulatory Requirements; Attachment 8: List of Governmental Agencies, Municipalities, and other Public Entities Receiving the Application; Attachment 9: List of Governmental Agencies, Municipalities, and other Public Entities Contacted; Attachment 10: List of Public Locations where Application can be examined; Attachment 11: Magnetic Field Management Plan; Attachment 12: Vegetation Management; Attachment 13: PPL Design & Safety Rules and Guidance; Attachment 14: Agency Coordination (PNDI/Wetlands); Attachment 15: Cultural Resource Report; and Attachment 16: Public Notice Requirements. Also attached to the Application were the written direct testimonies of the following PPL witnesses: Doug L. Haupt (PPL St. 1); Lisa R. Krizenoskas (PPL St. 2); Richard

A. Woodyka (PPL St. 3); Barry A. Baker (PPL St. 4); Kyle J. Supinski (PPL St. 5); and Colleen Kester (PPL St. 6). Also on December 28, 2012, PPL filed thirty-two applications requesting approval to exercise eminent domain. On January 18, 2013, PPL filed five additional applications seeking approval to exercise eminent domain.

PPL's Application identified seven violations of PPL's Reliability Principles & Practices, with five of the violations projected to occur by the winter of 2014-2015. PPL Exh. 1, Attachment 2 at 2. To resolve these violations, PPL proposes to build a 230 kV network of transmission facilities, hereinafter referred to as the 230 kV Project. Id. The 230 kV Project consists of the building of two new transmission substations and 58-miles of new 230 kV HV lines on new right of way (ROW). Id. at 3. Construction of this project is scheduled to begin Spring 2014, with a projected in-service date of November 2017. Id. at 4.

As this proceeding progressed, PPL performed an updated needs analysis. OCA St. 1 at 2-3. The results of this updated study showed that only four of the original seven projected reliability violations were still confirmed and being projected to occur. PPL St. 2-R at 5. Of these four, one of the violations was only being projected to occur during the 2024/2025 time frame. OCA St. 1 at 8.

OCA witness Peter J. Lanzalotta¹ reviewed PPL's Application and supporting information and concurred that reinforcement is needed to the current transmission system in the area, even considering the changes in the number of projected reliability violations. OCA St. 1

¹ Peter J. Lanzalotta is a registered professional engineer. Mr. Lanzalotta has more than thirty-five years experience in electric utility system planning, power pool operations, distribution operations, electric service reliability, load and price forecasting, and market analysis and development. Mr. Lanzalotta has appeared as an expert witness on utility reliability, planning, operation, and rate matters in more than 100 proceedings in 25 states, the District of Columbia, the Provinces of Alberta and Ontario, before the Federal Energy Regulatory Commission, and before U. S. District Court. He has developed evaluations of electric utility system cost, system value, reliability planning, transmission and distribution maintenance practices, and reliability of service. Exhibits PJJ-1 and PJJ-2, attached to OCA Statement 1, contain a detailed description of Mr. Lanzalotta's extensive education and experience in this area.

at 10. However, based on PPL's information, Mr. Lanzalotta identified an alternative to the 230 KV project, called the 138 kV Alternative.² The 138 kV Alternative consists of converting existing single circuit 69 kV lines into double circuit 138 kV lines, building two new substations, and replacing thirty-seven (37) distribution transformers. OCA St. 1 at 13. The 138 kV Alternative would utilize existing right-of-ways (ROW), and would include rebuilding the aged 69 kV lines on these ROWs. There is no dispute that both the 230 kV Project and the 138 kV Alternative would resolve the reliability issues identified by PPL.

Cost estimates for the 230 kV Project and the 138 kV Alternative have been analyzed and updated throughout this proceeding. OCA St. 1 at 14-16. As of the filing of the OCA's Direct Testimony, projected costs for the 230 kV Option stood at \$157 million and the 138 kV Alternative was estimated at \$150 million. OCA St. 1 at 19. As additional analysis and discovery continued, updated costs were developed for both projects. The revised estimate for the 138 kV Alternative is now \$249 million. OCA St. 1SR at 4. The updated cost estimate for the 230 kV Project is now \$247 million. PPL St. 5-RJ at 4. Both of these estimates are subject to change and potential escalation. PPL St. 5-RJ at 4.

As discussed above, the OCA has focused on the need aspect of this matter, but recognizes that environmental and land-related concerns have been raised by other parties. Such factors are an important part of the Commission's deliberative process pursuant to its transmission siting Regulations. Intricately related to the environmental and land-use concerns is the potential taking of private property through the exercise of eminent domain. The North Pocono Citizens Alert Regarding the Environment (NP CARE) intervenors in this matter have devoted their analyses of and testimony about the Company's proposed 230 kV Project to

² The 138 kV Alternative was originally identified by PPL in its initial study as part of its Transmission Planning analysis, but ultimately was rejected by PPL. See PPL St. 2-R at 20.

environmental and land-use concerns. See, e.g., NP CARE Statements 1, 2, 3 and 4. The public input testimony also presented numerous issues of concern with the Company's proposal regarding the environment and land use.

The OCA respectfully submits that the record here shows that some reinforcement of the transmission system is needed in the North East Pocono region. Two possible alternatives exist to remedy the projected reliability violations, each with its own benefits and detriments, and each at a fairly comparable cost. Through this Brief, the OCA will present the record evidence as to these alternatives developed by the OCA. The OCA would also note that extensive testimony was developed through this hearing process as to the environmental, land use and safety concerns of PPL's proposed 230 KV project. This evidence must be weighed in the consideration of PPL's request.

B. Procedural History

This matter was assigned to the Office of Administrative Law Judge and subsequently assigned to Administrative Law Judge (ALJ) David A. Salapa. Through Prehearing Order No. 1, entered on January 8, 2013, ALJ Salapa consolidated the initial Application and two Petitions. Through Prehearing Order No. 2, entered on January 29, 2013, the ALJ consolidated the thirty-seven eminent domain applications and two complaint dockets with the first three consolidated dockets.

On February 27, 2013, the OCA filed a Notice of Intervention and Public Statement. Petitions to Intervene were also filed by the following: Bradley D. Hummel; Blue Ridge Real Estate Company (Blue Ridge); Covington Township³ (Covington); North Pocono Citizen Alert

³ Covington also filed a request for waiver to file answer and new matter to PPL's Petitions. On February 28, 2013, PPL filed a response requesting that Covington's request for waiver be denied as any party wishing to become a party must file a petition to intervene or a protest. ALJ Salapa denied Covington's request in Prehearing

(NP CARE); Transcontinental Gas Pipe Line Company, LLC (Transco); US Industrial REIT II (US Industrial); FR E2 Property Holdings, LP (FR E2); FR First Avenue Property Holding, LP (FR First); and Pennsylvania Glacial Till, LLC (Glacial Till). On February 27, 2013, John C. Justice and Linda S. Justice, and Ronald G. Sidovar and Gloria Sidovar filed protests in this proceeding.

A prehearing conference was convened on March 6, 2013, and the Prehearing Order was subsequently entered on March 13, 2013 (Prehearing Order No. 3). Prehearing Order No. 3 granted the Petitions to Intervene and protests of Bradley D. Hummel, NP CARES, Blue Ridge, Transco, US Industrial, FR E2, FR First, Glacial Till, Covington, John C. Justice and Linda S. Justice, and Ronald G. Sidovar and Gloria Sidovar. This Order also granted PPL's petitions to withdraw its applications in several eminent domain proceedings.

On March 20, 2013, ALJ Salapa issued Prehearing Order No. 4 creating a Protective Order which established the requirements for the treatment of confidential information and Critical Infrastructure Information.

On April 1, 2013, NP CARE requested an on-site hearing to allow the ALJ and parties to view the location of the proposed line. On April 3, 2013, PPL opposed the request. Prehearing Order No. 6, issued April 9, 2013, denied NP CARE's request.⁴

On April 25, 2013, Prehearing Order No. 7 was entered granting PPL's Petition to withdraw its Eminent Domain Application regarding the property of Art Mortgage.

Two public input hearings were held in Thornhurst, PA, on May 2, 2013, at 2:00 p.m. and 6:00 p.m. Approximately 50 witnesses testified at the two public input hearings.

Order No. 3, but stated that since Covington properly filed a petition to intervene, an answer to PPL's Petition was unnecessary.

⁴ Prehearing Order No. 5, issued March 28, 2013, established the publication requirements for PPL for the two public input hearings.

On May 17, 2013, Prehearing Order No. 8 was entered granting PPL's Petition to withdraw its Eminent Domain Application regarding the property of Mark M. Mack, J. Dean Mack and Heather K. Mack.

On June 5, 2013, counsel for US Industrial informed the ALJ and parties that Duke Realty Limited Partnership (Duke) had purchased the property of US Industrial subject to PPL's Eminent Domain Application, and requested an extension to file direct testimony. ALJ Salapa entered Prehearing Order No. 10 on June 6, 2013, requiring Duke to file a motion requesting to be substituted as a party for US Industrial on or before June 14, 2013, and extended its direct testimony and surrebuttal testimony to be filed by June 14, 2013, and July 22, 2013, respectively. Duke filed its Motion to Substitute on June 28, 2013.

Direct testimony and exhibits of other parties were submitted on June 5, 2013, by OCA witness Peter J. Lanzalotta (OCA St. 1, Exh. PJJ-1 through PJJ-3); FR First and FR E2 witness Jeffrey Thomas (FR St. 1, FR St. 2); Transco witness Douglas Anderson (Transco St. 1, Exh. Anderson-1) and Carol Peabody (Transco St. 2, Exh. Peabody-1); and Covington witness Katherine Tierney (Covington St. 1, Exh. A through E). On June 13, 2013, NP CARE filed direct testimony and exhibits of Donna Alker (NP CARE St. 1), Barbara L. Smith (NP CARE St. 2), Richard L. Koval (NP CARE St. 3), and William H. Eldridge (NP CARE St. 4).⁵

On July 8, 2013, PPL submitted the rebuttal testimony and exhibits of Haupt (PPL St. 1-R, Exh. DLH-1 through DLH-4), Krizenoskas (PPL St. 2-R, Exh. LRK-1 through LRK-7), Baker (PPL St. 4-R, Exh. BAB-1 through BAB-4), Supinski (PPL St. 5-R), and Kester (PPL St. 6-R). On July 15, 2013, PPL submitted rebuttal testimony of Douglas L. Haupt (PPL St. 1-R-2, Exh.

⁵ On June 4, 2013, NP CARE requested an extension of time to serve its direct and surrebuttal testimony. Prehearing Order No. 9, issued June 5, 2013, granted NP CARE's request and directed NP CARE to file its direct testimony by June 14, 2013, its surrebuttal testimony by July 22, 2013, and extended PPL's deadline to serve its rebuttal testimony to NP CARE's direct testimony to July 15, 2013.

DLH-5 through DLH-7), Barry Baker (PPL St. 4-R-2), Stephen J. Dahl (PPL St. 7-R), Peter S. Foote (PPL St. 8-R), and Richard Mellon (PPL St. 9-R).

Surrebuttal testimony and exhibits were submitted on July 17, 2013, by OCA witness Lanzalotta (OCA St. 1 SR, Exh. PJJ-4); FR E2 and FR First witness Thomas (FR St. 1-SR, Exh. 1, 2); and Transco witness Anderson (Transco St. 1-R). NP CARE submitted its surrebuttal testimony and exhibits on July 22, 2013, of NP CARE witnesses Alker (NP CARE St. 1-R, Exh. DA-1-R), Smith (NP CARE St. 2-R), Koval (NP CARE St. 3-R), and Eldridge (NP CARE St. 4-R).

On July 23, 2013, PPL submitted rejoinder testimony of Haupt (PPL St. 1-RJ), Krizenoskas (PPL St. 2-RJ), Supinski (PPL St. 5-RJ, Exh. KJS-1, KJS-2), Kester (PPL St. 6-RJ). On July 25, PPL submitted the rejoinder testimony of Haupt (PPL St. 1-RJ-2, Exh. DLH-8), Baker (PPL St. 4-RJ), Dahl (PPL St. 7-RJ), Foote (PPL St. 8-RJ), and Mellon (PPL St. 9-RJ).

Technical evidentiary hearings were held at the Public Utility Commission in Harrisburg on July 24 and 26, 2013, at which the above mentioned Applications, Attachments, testimonies and exhibits were entered into evidence. In accord with the procedural schedule established in this matter, the OCA submits this Main Brief.

II. LEGAL STANDARDS

A. Burden of Proof

Under Section 332 of the Public Utility Code, the proponent of a rule or order in any Commission proceeding has the burden of proof. 66 Pa. C.S. § 332. As it seeks an order approving an application, PPL has the burden of proof in the instant case. Moreover, PPL must demonstrate that it has met all of the requirements set forth in the Commission's transmission line siting regulations and in all other applicable statutes and regulations. 66 Pa. C.S. §§ 1101, 1102(a)(1), 1103; 52 Pa. Code §§ 57.75, 57.76. The Pennsylvania Supreme Court has held that the party with the "burden of proof" has a duty to establish material facts by a preponderance of the evidence. Se-Ling Hosiery, Inc. v. Margulies, 364 Pa. 45, 70 A.2d 854 (1950). The "preponderance of the evidence" means that one party has presented evidence which is more convincing than the evidence presented by the other party. Id. at 48-49, Id. at 856.

The Company also has the burden of demonstrating that it has minimized the adverse impacts the proposed transmission lines would have on the public and the environment. Re West Penn Power Co., 54 Pa. PUC 319, 328-330 (1980).⁶ In the siting regulations, the Commission addressed the importance of protecting the environment as well as Pennsylvania citizens. The Commission imposed a burden on any applicant to demonstrate the effects of the proposed transmission line on the environment, public health and safety and that it has minimized adverse effects. Re Proposed Electric Regulation, 49 Pa. PUC 709-710 (1976); *see also* Re Overhead Electric Transmission Lines, 51 Pa. PUC 682 (1978) (Final Order). The Commission stated that

⁶ The Commission's siting regulations became final in 1978. Re Overhead Electric Transmission Lines at 682 (1978). The Commission did not apply the regulations in Re West Penn Power Co. because the regulations were not final when the application initiating that case was filed.

transmission lines “cannot be constructed without substantially affecting the environment and without impacting upon the public health and safety.” Re Proposed Electric Regulation at 709. In its Final Order, the Commission stated that “in every siting proceeding the environmental impact will be an issue which the applicant must address affirmatively and completely in order to be granted a siting certificate.” Re Overhead Electric Transmission Lines at 687.

B. Legal Standards for Siting and Construction of Transmission Lines

In any application for a certificate of public convenience and necessity to construct a high-voltage (HV) transmission line, the applicant must show not simply that some kind of additional transmission facilities are needed to continue to provide reliable service, but rather whether the specific facilities proposed are necessary or proper for the service, accommodation, convenience or safety of the public. Re Pennsylvania Power & Light Co., 50 Pa. PUC 480, 484 (1977); Re West Penn, 54 Pa. PUC at 327.

In addition, the Company must meet the Commission’s substantive requirements in the transmission line siting regulations. 52 Pa. Code §§ 57.75, 57.76. The regulations require that the Commission consider the following factors when determining whether a siting application should be granted:

- (1) The present and future necessity of the proposed HV line in furnishing service to the public.
- (2) The safety of the proposed HV line.
- (3) The impact and the efforts which have been and will be made to minimize the impact, if any, of the proposed HV line upon the following:
 - (i) Land use
 - (ii) Soil and sedimentation
 - (iii) Plant and wildlife habitats
 - (iv) Terrain
 - (v) Hydrology
 - (vi) Landscape
 - (vii) Archaeological areas

- (viii) Geologic areas
- (ix) Historic areas
- (x) Scenic areas
- (xi) Wilderness areas
- (xii) Scenic rivers.

(4) The availability of reasonable alternative routes.

52 Pa. Code § 57.75(1)-(4).

Further, Section 57.76 requires that the Commission find and determine that the following four factors exist for the approval of a proposed transmission line: (1) that the line is needed; (2) that it will not create an “unreasonable risk of danger to the health and safety of the public”; (3) that it is in compliance with statutory and regulatory requirements for the protection of Pennsylvania’s natural resources; and (4) that it will “have a minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and the available alternatives.” 52 Pa. Code § 57.76(a)(1)-(4). The Commission’s approval of the siting application would also include a grant of authority to use the power of eminent domain “to locate and construct the proposed HV transmission line within a corridor consisting of the area of 500 feet on each side of the centerline of the proposed HV transmission line.” 52 Pa. Code § 57.76(b); *see also* 52 Pa. Code § 57.75(i) (eminent domain siting application requirements).

The genesis of the Commission’s high voltage line siting regulations was the adoption by the General Assembly of Article 1, Section 27 of the Pennsylvania Constitution, which states that the public has the right to clean air, pure water and the preservation of the environment.⁷ Pa. Const., Art. 1, § 27. The adoption of Article 1, Section 27 of the Pennsylvania Constitution

⁷ Article 1, Section 27 states in full:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania’s public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

Pa. Const., Art. 1, § 27.

obligates the Commonwealth of Pennsylvania to protect and preserve its natural resources for future generations. The Commonwealth's obligations in preserving the environment were further expressed in a three-part test by the Commonwealth Court in the case of Payne v. Kassab, in which the Court stated:

The court's role must be to test the decision under review by a threefold standard: (1) Was there compliance with all applicable statutes and regulations relevant to the protection of the Commonwealth's public natural resources? (2) Does the record demonstrate a reasonable effort to reduce the environmental incursion to a minimum? (3) Does the environmental harm which will result from the challenged decision or action so clearly outweigh the benefits to be derived therefrom that to proceed further would be an abuse of discretion?

11 Pa. Commw. 14, 29-30, 312 A.2d 86, 94 (Pa. Commw. Ct. 1973).

The Order proposing the regulations specifically stated that the Commission, when considering the exercise of eminent domain, "has a constitutional responsibility pursuant to Article I, Section 27 of the Constitution of Pennsylvania to ensure the protection of the environment whenever the issue of damage to the environment is raised." Re Proposed Electric Regulation, 49 Pa. PUC at 712. The Commission also stated that "overhead electric transmission lines cannot be constructed without some adverse effect upon the environment. Therefore, the review required by Article I, Section 27 is being incorporated into our siting regulation." Id.; see also Re West Penn Power Co., 54 Pa. PUC at 328-30; Re Pennsylvania Power & Light Co., 50 Pa. PUC 480, 491 (1977) (citing Payne v. Kassab, 312 A.2d at 94). The 1978 final Commission transmission siting regulations include an articulation of the Payne v. Kassab three-part standard. Re Overhead Electric Transmission Lines, 51 Pa. PUC at 687; 52 Pa. Code §§ 57.75, 57.76. Thus, pursuant to the Pennsylvania Constitution and applicable Commission regulations, the impact of PPL's proposed 230 kV transmission line on the environment must be considered in conjunction with need.

In order to be able to construct transmission lines if approved by this Commission, public utilities may exercise the power of eminent domain to take, occupy and condemn property under Section 1511 of the Business Corporations Code. 15 Pa. C.S. § 1511(a). Section 1511 places the burden of proving that the “service to be furnished by the corporation through the exercise of those powers is necessary or proper for the service, accommodation, convenience or safety of the public.” 15 Pa. C.S. § 1511(c). Thus, in order to exercise the power of eminent domain, PPL must prove, by a preponderance of the evidence, that it has met every element of the applicable statutes and regulations of this Commission.

In conclusion, PPL must demonstrate by a preponderance of the evidence that its proposed facilities are reasonably responsive to the public need that exists and that it has met the requirements of the siting regulations, as noted above. PPL must also show that the benefits to the public outweigh the burdens of its proposed facilities. If PPL fails to meet these legal and regulatory standards, the Application cannot be approved.

III. THE RECORD EVIDENCE AS TO THE NEED FOR NEW INFRASTRUCTURE

A. Either The 230 kV Or 138 kV Projects Would Resolve The Identified Reliability Violations.

As filed, the Company's Application materials identified seven (7) separate reliability violations that were projected to occur in the subject area. Some of these reliability violations were projected to occur in the near future, winter of 2014/2015, and others were projected to occur as far distant as the 2026/2027 timeframe. See OCA St. 1 at 7. Specifically, the Company's original Application listed five separate projected reliability violations that would occur by the winter of 2014/2015, as follows:

- i) a double-circuit outage of the Blooming Grove - Jackson and Peckville - Jackson 69 kV transmission lines;
- ii) a single-circuit outage of the Peckville - Jackson 69 kV circuit on the Blooming Grove - Jackson and Peckville - Jackson 69 kV transmission lines;
- iii) a single-circuit outage of the Blooming Grove - Jackson 69 kV circuit on the Blooming Grove - Jackson and Peckville - Jackson 69 kV transmission lines;
- iv) a double-circuit of the East Palmerton - Wagners #1 & #2 69 kV transmission lines; and
- v) a single-circuit outage of the East Palmerton - Wagners #2 138/69 kV circuit on the East Palmerton-Wagners #1 & #2 transmission lines.

OCA St. 1 at 7. Additionally, as Mr. Lanzalotta explained:

In addition to these violations, the Company also projected that, i) by the winter of 2015-2016, the normal loading on both the Blooming Grove - Jackson and Peckville-Jackson 138/69 kV circuits will violate PPL's transmission planning guidelines, and that ii) by the winter of 2026-2027, the loss of one of the transformers at the Jackson 138-69 kV Substation could overload the remaining transformer in excess of the level permitted by PPL's transmission planning guidelines.

OCA St. 1 at 7 (footnote omitted), see also the Direct Testimony of PPL witness Krizenoskas, PPL St. 2 at 13-15. As the Company's original Application materials provided, PPL initially

projected that seven separate reliability violations were driving the need for some type of transmission reinforcement in the subject area.

As OCA witness Lanzalotta testified, however, the OCA obtained updated information from PPL during the discovery process that many of the original, projected reliability violations that formed the basis of the Company's original Application had been eliminated or delayed in time. Mr. Lanzalotta explained that:

In an updated data response to OCA-I-8, received from the Company in early May, the Company reported that, in reviewing the need for the NERP during the discovery process, it had determined that the timing of certain violations had changed. In fact, most of the violations described in the Company's filing have been either eliminated or pushed back to ten years or more into the future.

OCA St. 1 at 8.

Further review of this updated information revealed that while many of the original projected reliability violations had either been eliminated or pushed well out into the future, other violations were essentially the same. As Mr. Lanzalotta testified:

The violation due to the double circuit outage of the Blooming Grove – Jackson and Peckville – Jackson 69 kV transmission lines was confirmed for the winter of 2014 – 2015. And, the updated analysis confirmed that line loadings with no outages will cause violations on the Blooming Grove – Jackson 69 kV circuit by the winter of 2015 - 2016 and on the Peckville – Jackson 69 kV circuit by the winter of 2014 – 2015 (which is one year earlier than initially).

OCA St. 1 at 9. In rebuttal testimony, PPL witness Krizenoskas re-stated the remaining projected reliability violations, after the updated needs analysis was done, as follows:

The updated analysis also confirmed that the need and timing of four of the violations has not changed. The updated analysis confirmed that a double-circuit outage of the Blooming Grove-Jackson and Peckville-Jackson 138/69 kV Transmission Line will result in a violation by winter 2014-2015. The updated analysis further confirmed that a double-circuit outage of the East PalmertonWagners #1 & #2 138/kV Transmission Line will result in a violation by the winter of 2024-2025. Finally, the updated analysis confirmed that the projected normal line loadings on the Blooming Grove-Jackson and Peckville-

Jackson 138/69 kV circuits will result in a violation by winter 2015-2016 and winter 2014-2015, respectively.

PPL St. 2-R at 5.⁸ A review of the remaining violations as described by Mr. Lanzalotta and Ms. Krizenoskas shows that both witnesses' descriptions of the near-term violations, those projected to occur in the 2014-2016 time frame, are identical. Ms. Krizenoskas, however, also includes the potential East Palmerton Wagners violation, projected to occur winter of 2024/2025. This description is entirely consistent with Mr. Lanzalotta's testimony where he described this violation as being "pushed back to ten years or more into the future." OCA St. 1 at 8.

Based on his study and review of the reliability violations, and the updated information, Mr. Lanzalotta concluded that:

It is clear that potential switching operations on these 69 kV circuit configurations are complex to analyze, even for the Company. While most of the violations of transmission planning requirements that were offered in the Company's Application as justification for the NERP have been eliminated or deferred beyond the need for current concern, there are still reliability concerns remaining in the near term.

OCA St. 1 at 9. Mr. Lanzalotta concluded that out of the seven original reliability violations, three remained that were projected to occur within the next few years. Mr. Lanzalotta went on to conclude further that there is some level of reinforcement needed to the transmission system in the subject area based on these three projected reliability violations. OCA St. 1 at 10.

Having concluded that some level of reinforcement was necessary, Mr. Lanzalotta went on to explain the potential alternatives that either he or PPL had explored. Mr. Lanzalotta testified that:

The Company considered a 69 kV alternative and an alternate 230 kV alternative. Both the Company and myself considered 138 kV alternatives. The Company

⁸ During cross examination, Ms. Krizenoskas confirmed her description of the remaining four potential reliability violations in her Rebuttal testimony, exactly as set out above. Tr. at 303.

concluded and I confirmed that the 69 kV alternative did not address all of the planning violations.

The alternate 230 kV alternative considered by the Company is about \$10 million more expensive than the NERP, and requires construction of a 500 kV substation along an in-service 500 kV transmission line that connects to the Susquehanna nuclear plant. This raises the need to coordinate line outage to facilitate construction with the operation of the nuclear plant, which is less desirable than alternatives without this need.

OCA St. 1 at 12-13 (footnote omitted). After ruling out the 69 kV alternative and the 230 kV alternative involving the Susquehanna nuclear plant, Mr. Lanzalotta explained his reasoning for further study of the 138 kV alternative, as follows:

I found the idea of a 138 kV alternative to be of interest, since the 69 kV transmission lines in the area were originally built for operation at both 138 kV and at 69 kV. Since their last modifications, however, transmission construction standards for 138 kV have changed so as to require rebuilding some of the 69 kV circuits before they could now be operated at 138 kV.

OCA St. 1 at 13.

Mr. Lanzalotta testified as to the process for the evaluation of this 138 kV Alternative, as follows:

I have reviewed the Company's Application to the Pennsylvania Public Utility Commission ("PUC") and its related attachments and statements. I have prepared discovery requests to address i) the physical capabilities of the existing transmission facilities, ii) the ages of the components of the existing transmission system, iii) the historical and projected loadings of the transmission facilities serving the regional area, iv) the Company's planning transmission criteria, v) load flow studies of the existing and proposed transmission facilities, vi) the transmission facilities proposed by the Company and the alternatives considered by the Company, and vii) other relevant topics. On April 26, 2013, the Company revised an earlier response to an interrogatory, and eliminated the majority of the transmission planning reliability violations that were projected to occur in the absence of the NERP, as discussed in the Company's initial filing. One week after that, on May 3, 2013, the Company revised two more of its earlier responses and changed the composition of and the cost of facilities needed for the 138 kV reinforcement alternative, which is discussed later in my testimony. After these changes, additional discovery was required, the answers to some of which were not received until May 23, 2013, less than two weeks prior to our filing date. Based on the Company's responses to discovery questions submitted by OCA and

others in this case, and the information to date, I analyzed the need for and the alternatives to the transmission facilities proposed by the Company in the time available for this testimony.

OCA St. 1 at 2-3 (footnotes omitted). As to his conclusions about the viability of the 138 kV Alternative, consistent with the facts discussed above, Mr. Lanzalotta testified that:

My conclusion is that reinforcement of the transmission system in Northeast Pennsylvania is required, although much of the justification initially presented by the Company has been eliminated or deferred. The remaining transmission planning violations and heavy facilities loading still indicate a need for reinforcement. I considered i) the proposed NERP 230 kV transmission line and related facilities and ii) an alternative 138 kV solution. Based on the data available to date, *either of these projects could potentially be reasonable solutions to the identified reliability violations.*

OCA St. 1 at 3 (emphasis added). As the evidence provides, either Project is viable as to resolving the identified reliability violations.

B. The Commission Should Consider The Total Costs Of Either Project.

1. The Evolution of Estimates for the 230 kV and the 138 kV Projects.

The best estimates of cost to build either project currently stand at \$247 million for the 230 kV Project, and \$249 million for the 138 kV Alternative. OCA St. 1SR at 4; PPL St. 5-RJ at 4. It is also clear from the evidence, however, that both of these estimates are subject to change and likely escalation. PPL St. 5-RJ at 4. Further, the evidence shows that PPL's cost estimate for the 230 kV Project includes no provisions for upgrade or rehabilitation of the existing transmission lines in the subject area that are at or near the end of their useful service lives. OCA St. 1SR at 7. The 138 kV Alternative would include a substantial rebuild of these existing, aged transmission lines in the subject area. Id. In this section, the OCA will discuss and describe the evidence as to the cost estimates and also the scope of what the estimates are intended to address.

In his Direct Testimony, OCA witness Lanzalotta testified that the original estimate to construct the NERP was \$154 million. OCA St. 1 at 11. Through initial discovery the OCA obtained PPL's preliminary cost estimate as of early 2011 for the 138 kV Alternative, \$218 million. In updates to OCA's cost estimate requests, PPL subsequently substantially revised the initial estimates for both Projects. Mr. Lanzalotta testified that:

The Company addressed the revised cost for the subset of the 138 kV alternative in its updated response to OCA II-16:

[Updated Response] As explained in PPL Electric's updated response to OCA Set I, Question 12, PPL Electric initially conducted a 138 kV study to resolve reliability and planning criteria violations identified in both the Blooming Grove and the Northeast Pocono areas. The approximate cost for this 138 kV alternative was \$218 M in early 2011.

Subsequently, PPL Electric filed and received PUC approval for three separate transmission line projects related to the Paupack Substation that are designed to resolve the reliability and planning criteria violations identified in the Blooming Grove area. Because the Paupack-related projects are currently being implemented, PPL Electric needs only a subset of the initial 138 kV conversion option to address the remaining violations in the Northeast Pocono area. The approximate cost for the subset of the 138 kV conversion option to address the remaining violations in the Northeast Pocono area was \$141 M in early 2011.

Note that these costs were developed in early 2011 and would need to be updated. For example, the estimated cost for the Northeast-Pocono Reliability Project in early 2011 was approximately \$139 M, whereas the cost estimated in late 2012 was approximately \$157 M. PPL Electric is in the process of updating the \$141 M cost estimate for the subset of the 138 kV conversion option. This updated cost estimate will be provided upon completion.

OCA St. 1 at 15-16. As this updated discovery response indicates, the original 138 kV option explored by PPL was much larger in scope and purpose than the 138 kV Alternative we are now discussing. Accordingly, the updated estimate for the 138 kV Alternative was provided as \$141 million, down from the original estimate of \$218 million. It is also important to note here that

for the same timeframe, early 2011, the NERP was estimated at \$139 million, but the updated estimate, done in late 2012, came in at \$157 million. OCA St. 1 at 15-16.

As PPL did not have a comparable, updated cost estimate for the 138 kV Alternative included in its response, Mr. Lanzalotta provided the following update:

Using the Handy Whitman index of public utility construction costs for total transmission plant, there is about a 6.5% cost escalation from January 2011 to January 2013. This level of cost escalation increases the cost of the subset of 138 kV alternative from \$141 million to about \$150 million. This compares with about \$157 million for the NERP.

OCA St. 1 at 16. At the time that the OCA's Direct Testimony was being prepared, these estimates represented the most current data available, although an updated estimate for the 138 kV Alternative was expected from PPL as such information became available.

Updated estimates for the 138 kV Alternative were received, and subsequently discussed in Mr. Lanzalotta's Surrebuttal Testimony, as follows:

The Company did produce an updated cost that increased the cost of the 138 kV alternative from \$141 million to \$249 million, with the potential to increase further to \$443 million, if additional 138/69 kV transmission lines need rebuilding. A review of the makeup of this increased cost estimate, however, revealed that components of this estimate were assumed to increase by more than a factor of four times for some elements, by more than a factor of three times for other elements, while other major components, such as substations and breakers showed increases of 40% and 230 kV substation breakers showed increases of up to 60%. These increases are difficult to understand, given that they were updating costs from 2011 to a 2013 timeframe. In my direct testimony, I used typical industry cost increases for replicating transmission plant, as published in the Handy-Whitman Index, to estimate the typical cost increase between 2011 and 2013 and got an increase of about 6.5 % for the two year period. Obviously, these increases are reflecting much more than just price increases over time.

OCA St. 1-SR at 4-5 (footnotes omitted). As Mr. Lanzalotta discussed, the dramatic price increase for the 138 kV Alternative, from \$141 million to \$249 million, and possibly extending to \$443 million, was indeed difficult to understand. And, considering that PPL had previously

provided an updated cost estimate for the NERP, covering roughly the same time period, and there the costs rose from \$139 to \$157 million.

Mr. Lanzalotta continued his discussion of this revised 138 kV Alternative cost estimate, as follows:

When questioned, the Company responded to discovery, attributing the biggest percentage increases to unexpected changes in system design, and many of the rest to changes in market conditions. For example, the 40% increase mentioned above for building a substation are attributed to changes in design and construction standards since the 1970's and 1980's, as well as increases in costs since 2011. It's not clear why these changes in standards were supposedly unknown in 2011, when the original estimate was prepared. And, as pointed out above, cost increases for electric transmission plant costs from 2011 to 2013 are less than 10%. The 60% increase for 230 kV substation breakers mentioned above is attributed solely to costs increases since 2011.

Other questionable price level increases include i) an increase in the cost of 138 kV LSAB switches which are projected to increase from \$35,000 each to \$150,000 each, an increase by a factor of more than 4.2 times, is attributed to a design change, as well as to cost increases since 2011, ii) an increase in the cost of 138 kV substation breakers from \$75,000 to \$225,000 each, an increase by a factor of three times, is attributed to cost increases since 2011, and iii) an increase in the cost of rebuilding 138/69 kV transmission lines, which is projected to increase from \$994,000 per mile to \$3.2 million per mile, an increase by a factor of more than 3.3 times, is attributed to changes design and construction standards in the 1970's and 1980's, as well as to cost increases since 2011.

OCA St. 1-SR at 5-6. As Mr. Lanzalotta discussed, some of the costs included in this revised estimate are surprising. Some of the component costs have increased from 2011, when the original estimate was created, until mid-2013, at a rate of 300-400%. Further, the cost to rebuild 69/138 kV lines per mile, originally estimated at \$994,000 in 2011, are now projected to cost \$3.2 million per mile.

Mr. Lanzalotta, after a complete review of the revised estimates, testified as follows:

The level of the Company's estimated costs for the 138 kV alternative have increased from \$141 million to \$249 million since 2011, an increase of more than 76%, with the potential of being further increased to \$443 million, which would be an increase by more than a factor of three times over the 2011 estimate. This

raises questions as to the accuracy of the Company's estimating process used to develop costs for its preferred 230 kV alternative, currently estimated at \$154 million.

OCA St. 1-SR at 6. As Mr. Lanzalotta noted, PPL's revised estimate of \$154 million for the 230 kV Project, completed in late 2012, was certainly questionable after seeing the dramatic price increases for the 138 kV Alternative. At the time that Written Rejoinder was served by PPL, these concerns as to the accuracy of the updated NERP estimate were confirmed.

In rejoinder, Mr. Supinski testified for PPL that the updated cost of the 230 kV Project was now being estimated at \$247 million. PPL St. 5-RJ at 4. PPL witness Supinski went on to testify that neither the NERP nor 138 kV Alternative estimates were final, and both could be subject to substantial variations going forward. Id. At least one fact is clear from this discussion, from late 2012 until mid-2013, or about six months, PPL's own estimate for the NERP increased by almost \$100 million.

As the evidence currently stands, PPL's best estimates are \$249 million for the 138 kV Alternative and \$247 million for NERP. The OCA recognizes that cost alone should not be determinative here, but has attempted to understand the quantum of costs that PPL will be passing on to its ratepayers as a result of this proceeding. The question of costs, however, does not end here. OCA witness Lanzalotta testified as to additional costs for the NERP that PPL has not reflected in any of their various estimates. As such costs could be substantial, the OCA submits that the Commission should consider the evidence as to this issue, discussed next.

2. The \$247 Million Estimate for the 230 kV Project does not include any Rehabilitation of the Existing Transmission Lines in the Subject Area.

In his Surrebuttal Testimony, Mr. Lanzalotta discussed the current state of the existing 69 kV lines in the subject area. These existing lines would be substantially rebuilt to current, 138 kV standards under the 138 kV Alternative. Under PPL's proposed NERP, however, the

evidence indicated that little to no repairs/upgrades/rehabilitation to these aged lines was included in the NERP cost estimate. As Mr. Lanzalotta testified:

The current \$154 million [now \$247 million] estimate for the Company's preferred 230 kV alternative reflects little or no limited rebuilding of the existing 138/69 kV transmission lines. Table 1S below reflects the age of 138/69 kV transmission lines running from Peckville, Jackson, Blooming Grove, and East Palmerton substations.

Table 1S

Transmission Substation	69 kV Line Name	Age Since Last Update	Age Since Original Installation
Peckville	Peckville-Jackson	44	52
Blooming Grove	Blooming Grove-Jackson	41	43
Jackson	Blooming Grove-Jackson	41	59
Jackson	Peckville-Jackson	44	52
East Palmerton	East Palmerton-Wagners #1	41	60
East Palmerton	East Palmerton-Wagners #2	41	60

Some of these lines are 60 years old, while all but one are over 50 years old. The Company's 230 kV alternative does not include an estimate of what it would cost to rebuild these transmission lines as they reach the end of their reliable service lives. Typically, 40-50 years is the normal service life for electric transmission overhead facilities. It is likely that, over the next ten years, some or all of these transmission lines will need rebuilding. The 138 kV alternative provides for rebuilding a substantial portion of these transmission lines. The estimated costs for the 230 kV alternative do not. The 230 kV alternative does not avoid the cost of rebuilding the 138/69 transmission lines, and these costs will increase the actual costs of the 230 kV alternative.

OCA St. 1SR at 6-7 (footnotes omitted). As Table 1S provides, the existing transmission lines in the subject area are aged, have not seen any major updates or rehabilitation efforts for at least 40 years, and are very likely at or near the end of their useful service life.

In rejoinder, Ms. Krizenoskas briefly addressed the comments of Mr. Lanzalotta on this issue, in relevant part as follows:

Unlike the 138 kV subset option, the proposed Northeast-Pocono Reliability Project does not require the conversion or rebuilding of the existing 69 kV transmission lines running from Peckville, Jackson, Blooming Grove, and East Palmerton Substations to 138 kV operation. Rather, the existing lines only need to be tied into the proposed 230-69 kV substations with short lengths of new 69 kV lines and operated at 69 kV.

PPL St. 2-RJ at 4-5. During cross examination, Ms. Krizenoskas was asked to clarify this statement and the scope of the \$247 million estimate for the NERP, and specifically whether any of those costs included upgrades or rehabilitation efforts to the existing transmission lines in the subject area, as follows:

Q. Now, does that updated cost estimate, and I believe it's \$247 million, does that include rehabilitation or rebuilding of any of this existing 69 kV transmission system?

...

A. This is referring to the 230 kV proposed option. We wouldn't be rebuilding any of the existing 69 kV lines. It's not part of the scope and it's not required. The rebuilds are associated with the new 138 kV design standards that are required to operate a line at 138 kV.

...

The 247 does not include any rebuilds, any 69 kV line rebuilds of existing lines for the 230 kV option.

Tr. at 307-309. As Ms. Krizenoskas testified, the updated \$247 million estimate for the 230 kV Project includes no cost component for rebuilds of any of the existing transmission lines in the subject area. Considering the age of the existing 69 kV lines in the subject area, and the last time major updates were performed (over 40 years ago), as Mr. Lanzalotta testified, the continued ability of this existing infrastructure to provide reliable service with no planned upgrades/rehabilitation efforts must be considered. OCA St. 1SR at 6-7.

In conclusion, the record evidence in this matter provides that either Project will resolve the reliability violations that PPL has identified, and will do so for at least ten years into the

future. As to the cost factors involved here, estimates for either Project are substantially similar as to total cost – \$247 million for the 230 kV Project and \$249 million for the 138 kV Project. Both estimates are a work in progress, and subject to substantial variations going forward. Unlike the lack of certainty as to the estimating process, however, several facts are clear in this area. The 138 kV Project would include a substantial rebuild of the existing transmission lines in the subject area, all of which are at least 50 years old and have not had any major upgrades performed in at least the last 40 years. The 230 kV Project includes no provisions for any upgrade to these lines.

C. Other Operational, Constructability And Safety Factors of The Two Alternatives Were Developed On The Record.

In reviewing the two alternative proposals for resolving the projected reliability violations identified in the region, it is also important to consider operational, constructability, and safety factors. First, it is important to recognize that neither the 230 kV Project nor the 138 kV Alternative could be completed and put in service in time to resolve the three reliability violations that are projected to occur over the next few years. As PPL witness Krizenoskas testified, the 230 kV Project is not scheduled for completion until November, 2017. See PPL St. 2-R at 6-7. PPL, however, is still projecting that several reliability violations will occur starting winter, 2014. PPL St. 2-R at 4-6. Neither the 230 kV Project nor the 138 kV Alternative could be constructed and put in service in order to address these near-term violations. Accordingly, no advantage should accrue to either project as to timeliness.⁹

⁹ Although PPL witness Krizenoskas agrees that the NERP could only be completed somewhere around winter, 2017, and that reliability violations are projected to occur starting winter, 2014, in her Rebuttal Testimony she states that:

Because transmission projects of this size require from 3 to 5 years to design and build, the Northeast-Pocono Reliability Project must move ahead at this time *in order to be completed by the time the violations are expected to occur.*

Construction of the 138 kV Alternative, on existing ROWs, would include the replacement of the aged 69 kV lines in the subject area with new 138 kV components. OCA St. 1 at 13-14. PPL's proposed 230 kV Project would leave the existing, aged 69 kV infrastructure in the subject area largely untouched. Tr. at 307-309. PPL's proposed 230 kV Project would also include the need for 58 miles of new ROW, with all of the attendant environmental and land-use concerns that would accompany such a large-scale construction project. OCA St. 1 at 17.

Operationally, the 138 kV Alternative has some disadvantages compared to the 230 kV Project. As OCA witness Mr. Lanzalotta testified:

The Company has raised the point, and I concur, that there are some operational shortcomings for the 138 kV alternative, compared to the NERP, where somewhat more customers experience momentary outages when a fault occurs on a 138 kV line. The Company also has concerns about transient voltage performance during substation bus faults on the 138 kV system, but does not indicate that this performance violates mandatory planning standards.

OCA St. 1 at 17.

As to potential safety concerns, Transco raised concern regarding the 230 kV Project. As proposed, the 230 kV Project would cross or be parallel to buried natural gas pipelines. Transco St. 1 at 1. Transco witness Douglas Anderson testified that potential electromagnetic interference between the natural gas pipelines and the proposed HV lines could present safety issues in the way of shock hazards and external corrosion of the pipelines. Id. at 2. It would appear that if PPL's 230 kV Project is approved, some mitigation measures would be required in order for the HV line and the natural gas pipeline to safely coexist. The record does not provide any definitive cost estimates for such mitigation, or who would be responsible for such costs.

PPL St. 2-R at 13 (emphasis added).

D. The Environmental and Land Use Impacts Of The 230 kV Project Must Be Considered Under the Commission's Siting Regulations.

1. Introduction.

Section 57.76 requires that the Commission find and determine that the following four factors exist for the approval of a proposed transmission line: (1) that the line is needed; (2) that it will not create an “unreasonable risk of danger to the health and safety of the public”; (3) that it is in compliance with statutory and regulatory requirements for the protection of Pennsylvania’s natural resources; and (4) that it will “have a minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and the available alternatives.” 52 Pa. Code § 57.76(a) (1)-(4). In making the determination, the Commission must consider: (1) the present and future necessity of the proposed HV line in furnishing service to the public; (2) the safety of the proposed HV line; (3) the impact on the environment and the efforts which have been and will be made to minimize the impact on the environment; and (4) the availability of reasonable alternative routes. 52 Pa. Code § 57.75(1)-(4).

The OCA concurs that there is a need for some type of reinforcement to the existing transmission system in the subject area. The evidence provides that either the 138 kV Alternative or the 230 kV Project would satisfy that need at a comparable cost. The Commission’s Regulations, however, require a more thorough analysis and balancing of all stakeholder interests than merely reaching an engineering solution.

2. The Commission Must Consider Whether PPL’s 230 kV Project is Consistent with the Intent and Goals of the Siting Regulations.

PPL supports its proposed 230 kV Project as technically superior to the 138 kV Alternative to resolving the identified reliability violations. See PPL St. 2 at 41. However, as

explained above, the need for a proposed HV line is not the only factor that must be considered in determining whether a specific HV line proposal should be authorized as filed. Further, the OCA submits that where two alternatives exist that would correct the reliability violations, all other factors must be weighed to determine which alternative would best serve the public interest.

In this case, a significant distinguishing factor between the two proposed HV lines is the extent to which the environment would be impacted. The construction of PPL's proposed 230 kV Project requires 58 miles of new right of way (ROW). PPL Exh. 1, Application at 22, ¶ 72. The 230 kV Project would require vegetation clearing and management along the 58 miles of new ROW, the route would cross 27 "exceptional value" streams and 33 "high quality" streams, and the scenic landscape will have visible transmission lines and towers on them. See OCA St. 1 at 19. In contrast, the 138 kV Alternative involves the rebuilding of existing lines on existing ROW, significantly reducing the environmental impact of correcting the reliability violations. See OCA St. 1 at 19. PPL witness Krizenoskas testified that potential ROW concerns could arise once construction of the 138 kV Alternative began. See PPL St. 2-R at 34. However, even when recognizing that ROW expansion activities could develop with the 138 kV Alternative, the new land needed for this project would be very limited compared to the 230 kV Project. The engineering specifics of the 230 kV Project should be weighed against the magnitude of its environmental impacts, while recognizing that these impacts would be mitigated if the 138 kV Alternative was constructed instead.

In the 1980 West Penn Application, the ALJ's decision dismissing the application stated that transmission lines "cannot be constructed without substantially affecting the environment

and without impacting the public health and safety.”¹⁰ Initial Decision, Docket No. 100200 at 19 (quoting the Commission’s Order in Re Proposed Electric Regulation, 49 Pa. PUC at 709). In that case, witnesses at public hearings expressed concerns regarding impact to land use and development, the displacement of wildlife, impact on clean streams and watershed pollution, damage to trees due to herbicide spraying, the proximity of the line to towns and residences, electrical interference, electric shocks, collapse of towers and danger of fire or other harm to animals or humans near the proposed line. Id. at 8-9; West Penn, 54 Pa. PUC at 328-30. The ALJ’s Initial Decision stated “[t]he cumulative effect of all these legitimate concerns is that a high-voltage line is, minimally, an offensive intrusion in our environment, in many cases a nuisance, and, in foreseeable instances, a real danger.” Initial Decision, at 9; *see also* West Penn, 54 Pa. PUC at 328-30.

In this case approximately 50 witnesses expressed substantially similar concerns with the construction of the 230 kV Project. For example, witness Sandra Bensinger testified as follows:

I am deeply concerned that the construction and the maintenance of this 150 foot right-of-way and its multiple stream crossings, endanger the exceptional value waterways and the wetlands in its path and beyond. Siltration, brush control, warming of the waterways and changes to stream flows could permanently damage our exceptional value waterways and the wetlands and our fisheries.

As we all know, repairing environmental damage is difficult and expensive. The project could cost Pennsylvania and its residents a precious resource, one of the last great places, something future generations cannot afford.

Tr. at 86-87. Joseph Grab testified in detail as to the local community’s considerable efforts to protect the Lehigh River from past construction efforts that could have irreparably damaged this pristine trout stream. Tr. at 66-68. Many of the witnesses at the public input hearings echoed the

¹⁰ Although the ALJ and the Commission did not specifically apply the regulations, the principles on which they relied are completely consistent with the letter and spirit of the regulations.

concerns of Mr. Grab. Another common theme was illustrated by the testimony of Alex Sponza, in relevant part:

PPL can secure power reliability by rebuilding more old lines and tree trimming. Most power failures are caused by falling trees from high winds and storms.

Tr. at 113.

The testimony from the public input hearing of Ms. Bensinger and other witnesses indicates that the Pocono community has strong concerns regarding the 230 kV Project's impacts on the environment. Substantial evidence was also provided by NP CARE regarding the harm to the environment of the 230 kV Project due to its location and the use of new ROW.

The OCA submits that the environmental factors in this case should be given particular attention, as an alternative solution exists that would avoid the need for 58-miles of new ROW, and would tend to mitigate the associated environmental impacts that would occur from such a large-scale project.

IV. CONCLUSION

The OCA concurs that there is some reinforcement needed in the subject area to address the projected reliability violations. The three near-term violations, as described by Mr. Lanzalotta and Ms. Krizenoskas, are projected to occur in the 2014 through 2016 time frame. OCA St. 1 at 9; PPL St. 2-R at 5. As Mr. Lanzalotta testified, in relevant part:

The Company's projection of reliability planning violations has those violations starting in the winter of 2014-2015. That's barely 18 months from now. The Company projects that its 230 kV alternative would take until the winter of 2017-2018 to be completed. Neither alternative can be completed by the winter of 2014-2105.

OCA St. 1SR at 7-8. PPL's proposal to address these concerns, the 230 kV Project, currently has an estimated in-service date of November, 2017. PPL St. 2-R at 6-7. The evidence appears clear on this point that PPL's proposal will not be able to be implemented in time to address these near-term projected reliability violations.

As to the issue of timeliness, and the considerable land-use concerns that have been raised in this proceeding, Mr. Lanzalotta testified that:

[T]he Company's proposal requires construction of a 58 mile 230 kV transmission line along a path with few existing transmission facilities, while most of the 138 kV alternative confines itself to transmission routes already in use, and, for the most part, requires rebuilds of existing transmission lines rather than construction of new lines. The procurement of new right of way also introduces the possibility of siting delays that could make the NERP alternative take longer than currently estimated.

OCA St. 1 at 17. As Mr. Lanzalotta described, the issue of acquiring new ROW not only touches on the land-use concerns expressed by many of the public input hearing witnesses, but also presents practical considerations as to the possibility of substantial delays in the construction of the 230 kV Project.

As Mr. Lanzalotta further testified as to the pros and cons of either Project, he noted that:

Each alternative has benefits and detriments in terms of costs, constructability, operability, land use, and other factors. I am aware that the Commission regulations also require the Commission to consider impacts on safety, land use, plant and wildlife, and on numerous other interests. I anticipate that, through this process, additional information on the impact of the NERP will be developed that will need to be weighed in the consideration of these two projects.

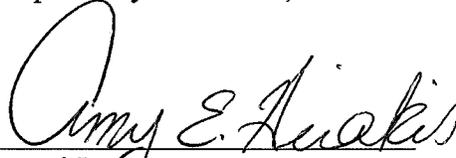
OCA St. 1 at 18.

The OCA notes that through this process, the record has been developed on the impact of NERP in safety, land use, plant and wildlife, as well as other issues. The public input hearing witnesses put on substantial evidence in this area. In addition, NP CARE witnesses concentrated their testimonies in this matter on land use and potential environmental impacts associated with a large-scale transmission project on new ROWs. See, e.g., NP CARE Statements 1, 2, 3 and 4. Rebuilding on existing ROWs would serve to mitigate these impacts.

The OCA's focus in this matter has been to ascertain whether or not there is a need for reinforcement of the transmission system in the subject area. Throughout this proceeding, the OCA has sought to compile a record for the Commission to review in order for such deliberations to result in decision that accomplishes the balancing that the law and the Commission's Regulations require. In closing, the OCA provides the following chart which contains updated information reflective of the evidentiary record herein that compares some of the key features of the alternatives.

Comparison of Identified Solutions		
	230 kV Project	138 kV Alternative
Resolves Reliability Issues?	YES	YES
Longevity for resolution of all identified reliability violations	At least 10 years	At least 10 years
Cost	\$157 Million UPDATE: \$247 Million PPL St. 5-RJ at 4	\$150 Million UPDATE: \$249 Million OCA St. 1SR at 6
Continued Outages	Minimal	Higher incidents of momentary outages
Operability	Minimal	Transient voltage swings
Time	Finish by Winter of 2017? UPDATE: Confirmed as November 2017. PPL St. 2-R at 6-7.	Potentially, twice as long as 230 kV project
Constructability/New Right of Ways	58 miles of new ROWs	0 miles (Rebuilding on existing ROW) UPDATE: Potential ROW concerns could arise. PPL St. 2-RJ at 33
Environmental Impacts	Vegetation clearing and management will be required along the new 58 mile ROW. Route crosses 27 “exceptional value” streams and 33 “high quality” streams. Scenic landscape will have visible transmission lines and towers on them.	Existing ROW is already being managed by Company
Eminent Domain	Requires Company to acquire ROW along the 58 mile path either through agreements with landowners or through eminent domain proceedings	Does not require any new land UPDATE: Two new substations would be required, presumably on land that PPL would need to acquire. OCA St. 1 at 13.

Respectfully Submitted,



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August 26, 2013

APPENDIX A

PROPOSED FINDINGS OF FACT

I. Background

1. PPL Electric Utilities Corporation is a Pennsylvania corporation which supplies electric distribution and provider of last resort electric supply services pursuant to the regulatory jurisdiction of the Pennsylvania Public Utility Commission to approximately 1.4 million customers. PPL Exh. 1, Application at 1, ¶4.
2. Currently, the Northeast Pocono region's only source of electric power is provided by 138/69 kV transmission lines. PPL Exh. 1, App. at 13, ¶ 36.
3. There are approximately 128,000 customers in the Northeast Pocono region. PPL Exh. 1, App. at 9, ¶ 22.
4. PPL performed an analysis of the existing 138/69 kV transmission system and determined that the existing system needs to be reinforced. PPL Exh. 1, App. at 8, ¶ 18.
5. PPL proposed the Northeast-Pocono Reliability Project (230 kV Project) to reinforce the existing 138/69 kV transmission system. PPL Exh. 1, App. at 8, ¶ 18.
6. The proposed 230 kV Project requires the construction of two new substations- the West Pocono Substation and North Pocono Substation. PPL Exh. 1, App. at 20, ¶ 68.
7. The new West Pocono and North Pocono substations will be connected to an existing 230 kV transmission system by a new 58-mile 230 kV transmission line. PPL Exh. 1, App. at 22, ¶ 72.

II. Need for the Project

8. The Company initially listed five potential reliability violations that were projected to occur starting by the winter of 2014-2015, one potential violation that was projected to occur by the winter of 2015-2016, and one potential violation that was projected to occur by the winter of 2026-2027. PPL Exh. 1, Attachment 1 at 2.
9. The Company's updated analysis of the need to reinforce the existing transmission system determined that out of the original seven violations, two have been deferred, and one has been resolved through alternate switching methods. PPL St. 2-R at 4.
10. The transmission system in the Northeast Pocono region requires reinforcement. PPL Exh. 1, App. at 8, ¶ 18; OCA St. 1 at 3.
11. An alternative to the 230 kV Project, referred to as the 138 kV Alternative, also resolves the identified violations. OCA St. 1 at 3. PPL St. 2-R at 21.

12. The 138 kV Alternative requires the rebuilding of the existing 138/69 kV transmission system and the construction of two new substations. OCA St. 1 at 13.

III. Costs

13. Initially, PPL estimated that the 230 kV Project would cost approximately \$150 million to construct. PPL Exh. 1, App. at 5, ¶ 8.
14. PPL's most current cost estimate for the 230 kV Project is \$247 million. PPL St. 5-RJ at 4.
15. PPL current estimate for the 138 kV Alternative is \$249 million. PPL St. 5-RJ, Exh. KJS-1.

IV. Environmental Factors

16. The proposed 230 kV Project will require 58-miles of new land on which to build. PPL Exh. 1, App. at 22, ¶ 72.
17. The proposed 230 kV Project will impact existing and future land use, including clearing of forest areas and reducing potential areas for residential and commercial development. PPL Exh. 1, App. at 36, ¶ 129.
18. The proposed 230 kV Project will cross 27 Exceptional Value designated streams and 33 High Quality designated streams. PPL Exh. 1, App. at 38, ¶ 134.
19. The 138 kV Alternative will mitigate the environmental impacts associated with reinforcing the existing 138/69 kV transmission system. OCA St. 1 at 19.
20. The 138 kV Alternative requires no new right-of-ways. OCA St. 1 at 19.
21. Potential right-of-way concerns could arise during construction of the 138 kV Alternative. PPL St. 2-RJ at 33.

APPENDIX B

PROPOSED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and the parties to this proceeding by virtue of Chapter 11 of the Public Utility Code, 66 Pa.C.S. §§ 1101, *et seq.*, and 15 Pa. §1511(c).
2. The Applicant, PPL Electric Utilities Corporation, has the burden of proving, pursuant to Section 332(a) of the Public Utility Code that the Application for a Certificate of Public Convenience and Authority to exercise the power of eminent domain for the construction and installation of the high-voltage transmission line known as the Northeast-Reliability Project is necessary or proper for the service, accommodation, convenience or safety of the public. 66 Pa. C.S. § 332(a); 66 Pa. C. S. § 1101, *et seq.*
3. The Applicant, PPL Electric Utilities Corporation, has the burden of proving that the proposed facility known as the Northeast-Reliability Project is needed, pursuant to 52 Pa. Code § 57.76(a)(1).
4. The Applicant, PPL Electric Utilities Corporation, has the burden of proving that the proposed facility known as the Northeast-Reliability Project would not create an unreasonable risk of danger to the health and safety of the public, pursuant to relevant Commission siting regulations. 52 Pa. Code § 57.76(a)(2).
5. The Applicant, PPL Electric Utilities Corporation, has the burden of proving that the proposed facility known as the Northeast-Reliability Project is in compliance with applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth. 52 Pa. Code § 57.76(a)(3).

6. The Applicant, PPL Electric Utilities Corporation, has the burden of proving that the proposed facility known as the Northeast-Reliability Project would have a minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and the available alternatives. 52 Pa. Code § 57.76(a)(4)

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CERTIFICATE OF SERVICE

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

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

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

I hereby certify that I have this day served a true copy of the Man Brief of the Office of Consumer Advocate upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 26th day of August 2013.

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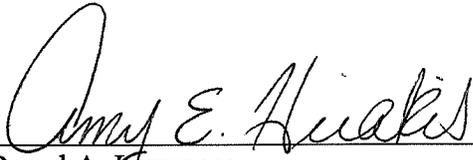
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