



Trustee of the Residuary Trust of James C. Arthur	:	
	:	
Anthony J. Lupas, Jr. and Lillian Lupas	:	A-2012-2341118
John Lupas and Judy Lupas,	:	
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 Corporation	:	A-2013-2341208
	:	
William Petrouleas and Joanna Petrouleas	:	A-2013-2341209
	:	
Peter Palermo and Francine Palermo	:	A-2013-2341211
	:	
Dianna 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
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Dietrich Hunting Club	:	A-2013-2341237
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NLMS, Inc.	:	A-2013-2341239
	:	
Duke Realty 400 First Avenue Gouldsboro Holding, LLC	:	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	:	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
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Chris and Melinda Maros	:	
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v.	:	C-2012-2305047
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PPL Electric Utilities Corporation	:	
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Joe and Vanessa Caparo	:	
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v.	:	C-2012-2276713
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PPL Electric Utilities Corporation	:	

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**RESPONSE BRIEF  
OF  
TRANSCONTINENTAL GAS PIPE LINE COMPANY, LLC**

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Transcontinental Gas Pipe Line Company, LLC (“Transco”), by and through its undersigned attorneys, SAUL EWING LLP, hereby files this Response Brief in the above-captioned proceedings, and specifically the Eminent Domain proceedings against Transco, pursuant to the Rules of Practice and Procedure promulgated by the Pennsylvania Public Utility Commission, 52 Pa. Code §§5.501 and 5.502, and in accordance with Prehearing Order #3 issued by Administrative Law Judge David A. Salapa on March 13, 2013.

**I. INTRODUCTION**

On December 28, 2012, PPL Electric Utilities Corporation (“PPL” or “applicant”) filed an Application at Docket No. A-2012-2340872 (the “Siting Application”) with the Pennsylvania Public Utility Commission (the “Commission”) requesting authority to locate and construct the Pennsylvania portion of transmission lines associated with the proposed Northeast-Pocono Reliability Project (“Northeast Pocono Line”).

Also, PPL filed 37 separate Applications (the “Eminent Domain Applications”) relating to the proposed exercise of the power of eminent domain arising from the project, and as of the filing of its Initial Brief was continuing to prosecute 29 of those Eminent Domain Applications. Specifically, the Application at Docket No. A-2013-2341208 seeks authorization to utilize eminent domain to take very broad aerial and subsurface easements, together with unfettered rights of access and the right to remove improvements, from Transco on a property it owns which contains federally regulated natural gas transmission facilities, and the Siting Application

also seeks to locate new High Voltage (“HV”) electric lines near existing operating high pressure natural gas transmission facilities, without providing any mitigation for damage to those facilities.

## **II. COUNTERSTATEMENT OF CASE**

PPL has the burden of proof in this proceeding. 66 Pa.C.S.A. §332(a). PPL may not condemn property in the Courts of Common Pleas under the Business Corporation Law, 15 Pa.C.S.A. §1511, unless it first receives the authority to condemn from this Commission. 15 Pa. C.S.A. §1511(c). “The estate in property condemned and taken by a public utility corporation shall be in fee simple absolute unless the resolution of condemnation specifies a lesser estate.” 15 Pa.C.S.A. §1511(d). Before a public utility may seek to exercise its statutorily granted authority to condemn property for the purposes of constructing aerial transmission or distribution facilities, it must obtain a finding from the Commission that the taking is “necessary”:

(c) The powers conferred by subsection (a) [for the running of aerial electric facilities] may be exercised to condemn property ... only after the Pennsylvania Utility Public Commission, upon application of the public utility corporation, has found and determined ... that the service to be furnished by the corporation through the exercise of those powers is necessary for the service, accommodation, convenience or safety of the public.

15 Pa.C.S. § 1511(c).

It therefore falls to the Commission to review and determine whether PPL has met its burden of proof in providing evidence that the estate sought to be condemned is necessary for the public convenience. PPL does not discuss in its Initial Brief or in its Findings of Fact the resolutions of condemnation submitted in conjunction with its initial applications. Those extremely broad resolutions are the same but for the name of the property owner. The resolution attached to the Application for Transco is Exhibit CK – Transcontinental Gas-5 and provides for the condemnation of:

...appropriate rights-of-way and easements on, over, across or under the Lands to the extent required for rights-of-way to be presently used for the overhead or underground construction, operation and maintenance of the new 230 kV transmission lines associated with the Northeast Pocono Reliability Project, for the transmission and/or distribution of electric light, heat and power, or any of them, including such poles, wires, conduits, cables, manholes and all other facilities, fixtures and apparatus as may be necessary for the proper and efficient construction, operation and maintenance of such line...together with (1) the right of ingress and egress to, from, upon and over the subject properties to access the Easement Area and Electric Facilities at all times for the construction, operation, maintenance, replacement and reconstruction of the Electric Facilities and for any of the purpose aforesaid; (2) the right to cut down, trim, remove and to keep cut down and trimmed by mechanical means or otherwise, any and all trees, brush or other undergrowth now or hereafter growing on or within the Easement Area, as well as the right to cut down, trim and remove any and all trees adjoining or outside of the Easement Area which in the judgment of PPL Electric, its successors, assigns and lessees may at any time interfere with the construction, reconstruction, maintenance or operation of the Electric Facilities or menace the same....and (3) a prohibition against any buildings, swimming pools, or other improvements or structures whatsoever being built, constructed or placed within the Easement Area, as well as any inflammable or explosive materials being stored within the Easement Area, as well as the right of the Company to remove any buildings, structures or other Improvements from the Easement Area....

PPL fails to meet its burden of proof on the Eminent Domain Application against Transco. The route chosen was not studied for the impact it would have on existing operating natural gas transmission lines, which can have dangerous interactions with HV transmission lines. In the alternative, any Order approving the Siting Application should be conditioned not only upon the funding by PPL of a mitigation study of the effects of the HV line on Transco's adjacent existing high pressure natural gas pipelines, but also on the funding of the mitigation that is necessary, as measured by recognized engineering standards and recommended practices, to allow the two utilities to coexist as proposed by PPL.

### **III. SUMMARY OF ARGUMENT**

The evidence submitted by PPL does not support the grant of the easements sought in the resolution and Application submitted by PPL for Transco's property. Further, the Siting Application fails to take into account the physical impact the location of new HV lines will have on existing operating natural gas transmission lines.

PPL has failed to meet its burden of proof, or in the alternative must fund an impact study to determine what measures will be needed to mitigate the impact of the HV line on Transco's existing natural gas transmission facilities, and must also fund those mitigation measures to the extent required by the applicable standards of the Institute of Electrical and Electronics Engineers and the National Association of Corrosion Engineers International recommended practices.

### **IV. ARGUMENT**

PPL has failed to meet its burden of proof, and the easement sought across Transco's property must take into account the limitation of the existing federally regulated natural gas transmission lines, as must the Siting Application. In order to grant the right to PPL to be able to condemn rights of way under the Business Corporation Law ("BCL"), 15 Pa.C.S.A. §1511, the Commission must find that the taking is "necessary":

(c) The powers conferred by subsection (a) [for the running of aerial electric facilities] may be exercised to condemn property ... only after the Pennsylvania Utility Public Commission, upon application of the public utility corporation, has found and determined ... that the service to be furnished by the corporation through the exercise of those powers is necessary for the service, accommodation, convenience or safety of the public.

15 Pa.C.S. § 1511(c).

In a siting application for HV lines, the Commission must consider, among other factors:

(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) Archeologic 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 52.75(e).

Even if the Commission finds that an HV line is “necessary” it is not required to approve a route for the line simply because it is proposed by the applicant. “It is readily apparent that the service to be furnished by a proposed power line might be necessary or proper in the public interest, but that the route selected for the line should so offend the fundamental purposes of the statute as to warrant the withholding of approval by the Commission.” *West Penn Power Co. v. Pa. Public Utility Comm’n*, 199 Pa. Super. 25, 31, 184 A.2d 143, 146 (1962). In *West Penn*, the proposed route ran near irrigation lines, and the evidence was that those lines could fail and cause water and/or pieces of pipe to be ejected onto or near the HV lines, causing dangerous conditions. There was an alternate route which did not involve the potential for a dangerous conflict between irrigation lines and the proposed HV line. Here, the proposed route for the HV lines is close to, and in at least one case, crosses over existing and proposed high pressure natural

gas pipelines. Statement Transco-1; Statement Transco-2. There can be dangerous conflicts caused by the proximity of HV lines to natural gas transmission lines:

First, a magnetic field can be created by the high voltage lines and induce voltage on the pipeline and create a shock hazard for anyone who touches an exposed part of the pipeline, such as a valve or other above ground appurtenance of the pipeline. . . . Second, the AC current generated by high voltage lines can be transmitted through the soil and cause accelerated external corrosion damage to a buried pipeline. Transco already uses a system to mitigate corrosion of its pipeline, called a cathodic protection system, but that system can be compromise by the electromagnetic interference from the high voltage lines. These hazards can be mitigated with mitigation systems, and there are standards and recommended practices specified by the Institute of Electrical and Electronics Engineers Standard IEEE-80 and the National Association of Corrosion Engineers International Recommended Practice SP0177-2000 for systems to mitigate this impact.

Testimony of Douglas Anderson, Statement Transco-1, p. 3, lines 6-18.

The testimony submitted by PPL relating to the impact of HV lines on natural gas transmission lines is written testimony by Kyle J. Supinski, Statement 5-RJ (Rejoinder Testimony of Kyle J. Supinski), and live testimony of Mr. Supinski on cross examination (TR 337-343). Mr. Supinski does not dispute that there can be an effect on natural gas transmission lines due to the proximity of HV lines, and he admits that the potential effects were not studied in PPL's selection of the route. PPL therefore offers to fund an "impact study" to determine what "impact the proposed transmission lines may have on Transco's natural gas pipelines." Statement 5-RJ, p. 5, lines 7-8. PPL refuses, however, to commit to providing any mitigation should a study determine that mitigation is required. Statement 5-RJ, p. 5, lines 13-19.

Contrary to the statements in PPL's Initial Brief, p. 88, Transco is not seeking a "blank check." Transco has cited the engineering standards which apply to the mitigation of effects between HV lines and natural gas transmission lines: Standard IEEE-80 and NACEI Recommended Practice SP0177-2000. PPL does not address these standards or dispute their

existence. Further, PPL's statement in its Initial Brief, p. 86, that there "simply is no basis to suggest any conflicts or issues between electric facilities and pipeline facilities" is simply untrue. There are professional engineering standards designed to address the conflicts between the two types of utilities, and PPL itself has acknowledged that it "understands the importance of ensuring that HV transmission lines and natural gas pipelines can safely coexist in close proximity when required to do so." Initial Brief, p. 87. The only reason that the two utilities are "required" to coexist is because PPL seeks to locate its facilities near Transco's facilities. PPL should not only fund a study to determine if the route chosen by PPL will cause conflicts between the utilities but should be required to mitigate any of those conflicts to the extent required by the applicable standards of the IEEE and the National Association of Corrosion Engineers International recommended practices.

In addition to the potential electromagnetic conflicts, there is a potential for actual construction conflicts between this project, as proposed, and Transco's Leidy Southeast Project, which is currently the subject of review by the Federal Energy Regulatory Commission ("FERC"), and which crosses a parcel owned by PPL on which both the project before this Commission and the Leidy Southeast Project would be located.. Statement Transco-2, Statement Transco SR-1. The Leidy Southeast Project was publically announced on August 1, 2012, and formal filing was made with FERC on January 14, 2013. In response to PPL's refusal to slightly offset its proposed route on the PPL property in order to accommodate the Leidy Southeast Project, Transco has now adjusted its entire alignment across PPL's property so that the two will not conflict during construction, except for one area where there is a necessary crossing of the easement under consideration by this Commission and the Leidy Southeast Project easement corridor. Statement Transco SR-1, p. 2. PPL has agreed in its Initial Brief to provide a

temporary easement to accommodate construction of the Leidy Southeast Project. Initial Brief, p. 90.

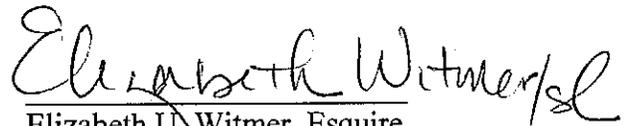
**V. CONCLUSION**

PPL acknowledges that it failed to study the potential impacts of the proposed route of its HV lines on Transco's existing natural gas transmission facilities. It is undisputed that conflicts can exist between the two types of facilities, and that there are recognized engineering standards and practices to address mitigation of the conflicts. PPL's proposed route parallel to Transco's facilities and on Transco's fee-owned property should not be approved unless PPL is required to fund an impact study to determine if any mitigation will be needed due to the placement of PPL's HV lines near Transco's natural gas transmission lines and unless PPL is required to fund any mitigation required by the applicable engineering standards.

Respectfully submitted,

**SAUL EWING LLP**

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Elizabeth U. Witmer, Esquire  
PA Attorney ID No. 55808  
Saul Ewing LLP  
1200 Liberty Ridge Drive, Suite 200  
Wayne, PA 19087-5569  
(610) 251-5062  
(610) 408-4400 (fax)  
[ewitmer@saul.com](mailto:ewitmer@saul.com)

APPENDIX A

COUNTER STATEMENT OF PROPOSED FINDINGS OF FACT

**EMINENT DOMAIN APPLICATION - Docket No. A-2013-2341208**

1. The proposed route for the HV lines is close to, and in at least one case, crosses over existing and proposed high pressure natural gas pipelines. Statement Transco-1; Statement Transco-2.

2. There can be dangerous conflicts caused by the proximity of HV lines to natural gas transmission lines:

First, a magnetic field can be created by the high voltage lines and induce voltage on the pipeline and create a shock hazard for anyone who touches an exposed part of the pipeline, such as a valve or other above ground appurtenance of the pipeline. . . . Second, the AC current generated by high voltage lines can be transmitted through the soil and cause accelerated external corrosion damage to a buried pipeline. Transco already uses a system to mitigate corrosion of its pipeline, called a cathodic protection system, but that system can be compromise by the electromagnetic interference from the high voltage lines. These hazards can be mitigated with mitigation systems, and there are standards and recommended practices specified by the Institute of Electrical and Electronics Engineers Standard IEEE-80 and the National Association of Corrosion Engineers International Recommended Practice SP0177-2000 for systems to mitigate this impact.

Testimony of Douglas Anderson, Statement Transco-1, p. 3, lines 6-18.

3. The testimony submitted by PPL relating to the impact of HV lines on natural gas transmission lines is written testimony by Kyle J. Supinski, Statement 5-RJ (Rejoinder Testimony of Kyle J. Supinski), and live testimony of Mr. Supinski on cross examination (TR 337-343). Mr. Supinski does not dispute that there can be an effect on natural gas transmission lines due to the proximity of HV lines, and he admits that the potential effects were not studied in PPL's selection of the route.

4. PPL offers to fund an “impact study” to determine what “impact the proposed transmission lines may have on Transco’s natural gas pipelines.” Statement 5-RJ, p. 5, lines 7-8. PPL refuses, however, to commit to providing any mitigation should a study determine that mitigation is required. Statement 5-RJ, p.5, lines 13-19.

5. Transco has cited the engineering standards which apply to the mitigation of effects between HV lines and natural gas transmission lines: Standard IEEE-80 and NACEI Recommended Practice SP0177-2000. PPL does not address these standards or dispute their existence.

6. There are professional engineering standards designed to address the conflicts between electric and natural gas pipeline utilities, and PPL itself has acknowledged that it “understands the importance of ensuring that high voltage transmission lines and natural gas pipelines can safely coexist in close proximity when required to do so.” Initial Brief, p. 87.

7. The only reason that the two utilities would be “required” to coexist is because PPL seeks to locate its facilities near Transco’s facilities.

8. In addition to the potential electromagnetic conflicts, there is a potential for actual construction conflicts between this project, as proposed, and Transco’s Leidy Southeast Project, which is currently the subject of review by the Federal Energy Regulatory Commission, and which crosses a parcel owned by PPL on which both the project before this Commission and the Leidy Southeast Project would be located. Statement Transco-2, Statement Transco SR-1.

9. The Leidy Southeast Project was publically announced on August 1, 2012, and formal filing was made with FERC on January 14, 2013. In response to PPL’s refusal to slightly offset

its proposed route on the PPL property in order to accommodate the Leidy Southeast Project, Transco has now adjusted its entire alignment across PPL's property so that the two will not conflict during construction, except for one area where there is a necessary crossing of the easement under consideration by this Commission and the Leidy Southeast Project easement corridor. Statement Transco SR-1, p. 2.

10. PPL has agreed in its Initial Brief to provide a temporary easement to accommodate construction of the Leidy Southeast Project. Initial Brief, p. 90.

**APPENDIX B**  
**COUNTERSTATEMENT OF CONCLUSIONS OF LAW**

**EMINENT DOMAIN APPLICATION - Docket Nos. A-2013-2341208**

1. PPL has the burden of proof in this proceeding. 66 Pa.C.S.A. §332(a).
2. PPL may not condemn property in the Courts of Common Pleas under the Business Corporation Law, 15 Pa.C.S.A. §1511, unless it first receives the authority to condemn from this Commission. 15 Pa. C.S.A. §1511(c).
3. “The estate in property condemned and taken by a public utility corporation shall be in fee simple absolute unless the resolution of condemnation specifies a lesser estate.” 15 Pa.C.S.A. §1511(d).
4. Before a public utility may seek to exercise its statutorily granted authority to condemn property for the purposes of constructing aerial transmission or distribution facilities, it must obtain a finding from the Commission that the taking is “necessary”:

(c) The powers conferred by subsection (a) [for the running of aerial electric facilities] may be exercised to condemn property ... only after the Pennsylvania Utility Public Commission, upon application of the public utility corporation, has found and determined ... that the service to be furnished by the corporation through the exercise of those powers is necessary for the service, accommodation, convenience or safety of the public.

15 Pa.C.S. § 1511(c).

5. In a siting application for HV lines, the Commission must consider, among other things:
  - (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) Archeologic 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 52.75(e).

6. “It is readily apparent that the service to be furnished by a proposed power line might be necessary or proper in the public interest, but that the route selected for the line should so offend the fundamental purposes of the statute as to warrant the withholding of approval by the Commission.” *West Penn Power Co. v. Pa. Public Utility Comm’n*, 199 Pa. Super. 25, 31, 184 A.2d 143, 146 (1962).

7. The evidence does not support the grant of the right to condemn easements sought across the property owned by Transco and the properties on which the proposed HV line closely parallels Transco’s existing natural gas transmission line, because the HV lines and the natural gas transmission line can interact and cause danger both to the public and to the employees of Transco and its property.

8. It is undisputed that engineering standards of the Institute of Electrical and Electronics Engineers and the National Association of Corrosion Engineers International exist and prescribe the systems necessary to mitigate impacts caused by the coexistence of HV lines and natural gas transmission lines.

9. In the alternative, PPL must mitigate the impacts caused by its proposed route by funding a mitigation study of the impacts which will be caused by PPL’s HV lines on Transco’s natural gas transmission pipelines, funding any mitigation required by the standards of the Institute of Electric and Electronic Engineers and the National Association of Corrosion Engineers International, and providing the temporary workspace necessary for Transco to safely construct its Leidy Southeast Project on PPL’s fee owned property, if both this project and the Leidy Southeast Project are approved.