**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Pennsylvania Electric Company : A-2016-2565296

Robin F. Miller and Tammy J. Miller : A-2016-2565326

Katherine L. Ziegler : A-2016-2565344

Fritz Land Holdings LP : A-2016-2565360

James B. MacRae, Jr. and Nancy K. MacRae : A-2016-2565364

Michael C. Long : A-2016-2565368

Wilmore Coal Company : A-2016-2565369

Frank J. Shenigo, Trustee of Frank J. Shenigo : A-2016-2565377

Kenneth J. Skone and Karen Jane Skone : A-2016-2565378

Shirley J. Huston and Gary E. Lambert : A-2016-2565472

Martha Lorraine Anderson and John S. Anderson : A-2016-2565480

Dick B. Lohr and Karen G. Lohr : A-2016-2565502

Keith A. Lohr : A-2016-2565504

Robindale Energy Services, Inc. : A-2016-2565509

Scott M. Andrews and Audrey A. Andrews : A-2016-2565543

Albert Stiles : A-2016-2565545

Kathy R. Kelley and Jeffrey Kelley : A-2016-2565547

Berwind Corporation : A-2016-2565549

Vincent Beal : A-2016-2565635

Brian C. Jones and Traci A. Jones : A-2016-2565644

**INTERIM ORDER**

**GRANTING CONTINUANCE REQUEST AND CONVERTING HEARING TO A TELEPHONIC PREHEARING CONFERENCE**

On September 1, 2016, Pennsylvania Electric Company (Penelec or Applicant) filed an application at Docket No. A-2016-2565296 (application or siting application) pursuant to the regulations of the Pennsylvania Public Utility Commission (PUC or Commission) at 52 Pa. Code Chapter 57, Subchapter G. The application seeks siting approval for Penelec to locate, construct, operate and maintain a high-voltage (HV) transmission line referred to as the Bedford North-Central City West 115 kV HV Transmission Line Project (Project). The proposed Project involves constructing a new 115 kV transmission line from the existing Penelec-owned Bedford North substation, located in Bedford Township, Bedford County, Pennsylvania, to the existing Penelec-owned Central City West substation, located in Central City Borough, Somerset County, Pennsylvania. A portion of the proposed Project will involve rebuilding a section of the existing Penelec-owned Bedford North-New Baltimore 115 kV Transmission Line which is located in Napier, East St. Clair, and Bedford Townships, Bedford County, Pennsylvania. Penelec has requested that the Commission approve the Project as a double-circuit, 115 kV transmission line.

On September 1, 2016, Penelec also filed 19 separate applications to exercise the power of eminent domain (eminent domain applications) to obtain property rights for the construction and operation of the Project. The 19 eminent domain applications were captioned and docketed as set forth in the caption of this order.

On September 1, 2016, Penelec also filed a certificate of service along with its application which indicated that a copy of the application or a notice of filing, as applicable, was served upon the persons and in the manner specified in 52 Pa.Code § 57.74.

On September 15, 2016, the Commission served on Penelec its notice that an initial prehearing conference was scheduled before the undersigned presiding officer, to be held on December 5, 2016. In addition, on September 15, 2016, a prehearing conference order was entered and served upon the parties as well as the individuals and entities identified on the Parties List attached to the September 15, 2016 prehearing conference order. By prehearing conference order, the parties were notified that the proceeding was assigned to the undersigned Administrative Law Judge (ALJ or Presiding Officer) for a prehearing conference on December 5, 2016, at 10:00 a.m.

On September 24, 2016, a notice of the filing of the siting application and of the eminent domain applications was published in the *Pennsylvania Bulletin*. The notice specified that formal protests and petitions to intervene in response to the Penelec applications must be filed and served on or before Wednesday, November 23, 2016. The *Pennsylvania Bulletin* notice specified that a prehearing conference was scheduled for Monday, December 5, 2016 at 2nd Floor Hearing Room, Piatt Place, Suite 220, 301 Fifth Avenue, Pittsburgh, Pennsylvania 15222.

A protest was filed on November 23, 2016, by landowner Nancy K. MacRae. Ms. MacRae’s property is also the subject of an eminent domain application of Penelec at Docket No. A-2016-2565364.

The prehearing conference proceeded as scheduled on December 5, 2016. John L. Munsch, Esquire participated at the prehearing conference on behalf of Penelec. Calvin J. Webb II, Esquire appeared on behalf of Kathy R. Kelley and Jeffrey Kelley. Peter J. Carfley, Esquire appeared on behalf of Katherine L. Ziegler, Fritz Land Holdings LP, Shirley Huston and Gary E. Lambert, Martha Lorraine Anderson and John S. Anderson, Keith A. Lohr, and Albert Stiles. Dick B. Lohr and Karen G. Lohr also attended the prehearing conference.

At the prehearing conference on December 5, 2016, Penelec moved to consolidate the siting application proceeding with the 19 eminent domain applications. No objection was made to the request to consolidate these proceedings. An interim order was entered on January 31, 2017 granting Penelec’s motionto consolidate the siting application proceeding filed at Docket No. A-2016-2565296 with the 19 eminent domain applications filed at Docket Nos. A‑2016-2565326, A-2016-2565344, A-2016-2565360, A-2016-2565364, A‑2016-2565368, A‑2016-2565369, A-2016-2565377, A-2016-2565378, A-2016-2565472, A‑2016-2565480, A‑2016-2565502, A-2016-2565504, A-2016-2565509, A-2016-2565543, A‑2016-2565545, A‑2016-2565547, A-2016-2565549, A-2016-2565635, and A-2016-2565644.

At the prehearing conference, Penelec reported that it resolved four of its eminent domain proceedings. On October 7, 2016, Penelec filed three separate petitions for leave to withdraw and terminate the three above-captioned applications of Penelec to exercise the power of eminent domain to acquire an easement and right-of-way, namely the Frank J. Shenigo, Trustee of the Frank J. Shenigo Revocable Living Trust application, the Kenneth J. Skone and Karen Jane Skone application, and the Brian C. Jones and Traci A. Jones application, pursuant to 52 Pa.Code §§ 1.82 and 5.94(c), and requested that the undersigned presiding officer approve the petitions of Penelec to withdraw eminent domain proceedings pursuant to Sections 1.82 and 5.94(c) of the Commission’s regulations.

On November 16, 2016, Penelec filed an additional petition, namely the Michael C. Long petition, pursuant to 52 Pa.Code §§ 1.82 and 5.94(c), for leave to withdraw and terminate the Michael C. Long application of Penelec to exercise the power of eminent domain to acquire an easement and right-of-way. Penelec requested approval of the petitions of Penelec to withdraw the four eminent domain proceedings referenced above.

No objections were filed and no objections were raised at the prehearing conference to the four petitions to withdraw eminent domain applications of Penelec filed at Docket Nos.:

* + - A-2016-2565368 (property of Michael C. Long);
    - A-2016-2565377(property of Frank J. Shenigo, Trustee of the Frank J. Shenigo Revocable Living Trust);
    - A-2016-2565378 (property of Kenneth J. Skone and Karen Jane Skone); and
    - A-2016-2565644 (property of Brian C. Jones and Traci A. Jones).

In its petitions to withdraweminent domain applications, Penelec averred that the subject property owners entered into agreements with Penelec for the grant of rights-of-way and easements over and across their land or an option therefor, thereby rendering the four subject condemnation applications unnecessary. Accordingly, thepetitions to withdraw eminent domain applications of Penelec filed at Docket Nos. A-2016-2565368 (property of Michael C. Long); A‑2016-2565377(property of Frank J. Shenigo, Trustee of the Frank J. Shenigo Revocable Living Trust); A-2016-2565378 (property of Kenneth J. Skone and Karen Jane Skone); and A‑2016-2565644 (property of Brian C. Jones and Traci A. Jones) were granted and the applications filed at those four enumerated Docket Numbers were dismissed by interim order entered on January 31, 2017.

At the prehearing conference the individuals in attendance agreed upon a litigation schedule and that the hearing in this proceeding will be held in Pittsburgh, Pennsylvania, on April 4-5, 2017, with testimony beginning each day at 10:00 a.m.

The Applicant, Pennsylvania Electric Company, and Nancy K. MacRae, who filed a protest, are parties to this proceeding. No individuals or entities filed a petition to intervene.

On March 7, 2017 a corrected hearing notice was issued which scheduled the hearing in this matter for April 4-5, 2017 in Pittsburgh, beginning each day at 10:00 a.m.[[1]](#footnote-1)

On March 7, 2017, a first supplemental prehearing order was entered. In that order the parties were advised that the owners of property subject to eminent domain applications have automatic standing pursuant to 52 Pa.Code § 57.75(i)(3) and are also parties to this proceeding.

In addition, the March 7, 2017 order provided that any other individuals or entities that fail to file a petition to intervene or a protest will be removed from the Parties List unless they notified the undersigned presiding officer in writing by the close of business on Friday, March 17, 2017, that they wished to remain on the Parties List. Such individuals and entities were advised that if they were removed from the Parties List they would not receive further notices or documents from the Commission in this proceeding.

Such individuals and entities were also reminded that if they remain on the Parties List they will be served with all of the pleadings, filings, discovery requests, written testimony, orders and decisions served and issued in this proceeding and that they would be required to serve a copy of anything that they fileupon the presiding officer and each party appearing on the Parties List, as modified after the March 17, 2017 deadline set forth in the March 7, 2017 order.

On March 13, 2017, Applicant filed three additional petitions for leave to withdraw and terminate the three above-captioned applications of Penelec to exercise the power of eminent domain to acquire an easement and right-of-way, namely the Wilmore Coal Company application filed at Docket No. A-2016-2565369; the Scott M. Andrews and Audrey A. Andrews application filed at Docket No. A-2016-2565543; and the Berwind Corporation application filed at Docket No. A-2016-2565549, pursuant to 52 Pa.Code §§ 1.82 and 5.94(c), and requested that the undersigned presiding officer approve the petitions of Penelec to withdraw eminent domain proceedings pursuant to Sections 1.82 and 5.94(c) of the Commission’s regulations.

No objections were filed since the service of those petitions.

In its petitions to withdraweminent domain applications, Penelec averred that the subject property owners entered into agreements with Penelec for the grant of rights-of-way and easements over and across their land or an option therefor, thereby rendering the four subject condemnation applications unnecessary. Accordingly, an interim order was entered on March 20, 2017 which granted thepetitions to withdraw eminent domain applications of Wilmore Coal Company application filed at Docket No. A-2016-2565369; the Scott M. Andrews and Audrey A. Andrews application filed at Docket No. A-2016-2565543; and the Berwind Corporation application filed at Docket No. A-2016-2565549.

In addition, as no individuals or entities requested to remain on the Parties List pursuant to the order entered on March 7, 2017, the interim order entered on March 20, 2017 provided that all individuals who did not file a protest or petition to intervene, who are not owners of property subject to eminent domain applications as referenced in the caption of this proceeding, or who are not attorneys who have entered their appearance in this proceeding, were removed from the Parties List and will not receive further notices or documents from the Commission in this proceeding.

On March 16, 2017, Applicant filed Amendments to Applications for Siting Approval and for Authorization to Exercise Power of Eminent Domain Substituting Mid-Atlantic Interstate Transmission, LLC, Successor in Interest to Pennsylvania Electric Company, as Applicant, Pursuant to the Final Order entered August 24, 2016 at Docket Nos. A-2015-2488903, *et al*.

On March 21, 2017, a Joint Motion for Continuance of Hearing was filed by Martha Lorraine Anderson and John S. Anderson, Keith A. Lohr, Shirley Huston and Gary E. Lambert, Albert Stiles, Kathy R. Kelley and Jeffrey Kelley, and Fritz Land Holdings LP. The hearing has been scheduled in this matter for April 4-5, 2017. The motion for continuance averred, *inter alia*, that the landowners have hired an appraiser who needed additional information from Applicant to complete her report, which was not provided to some of the landowners until February 24, 2017 and to one on March 14, 2017, causing prejudice to the landowners’ ability to prepare their defense and to complete their appraisal report. In addition, supplemental and rebuttal/expert testimony and reports were due on February 28, 2017, which landowners averred could not be accomplished under the circumstances. Landowners further averred that landowner Fritz Land Holdings, LP has just been made aware of a potential “threatened” species of wildlife, the Allegheny Woodrat, that may be present on several of the affected properties, which could potentially force Applicant to re-route its line. Landowners also averred that the information sought was necessary for effective settlement negotiations.

An interim order was issued on March 23, 2017, directing Applicant to file a response to the Joint Motion for Continuance of Hearing no later than 2:00 p.m. on Monday, March 27, 2017. Applicant filed its response in opposition to the joint motion for continuance on March 23, 2017. Applicant averred that it is not required to identify the specific locations of the transmission structures and that the purported emergence of the Allegheny Woodrat should not be a key consideration in this proceeding. Applicant requested that the continuance request be denied, or in the alternative, that the continuance be of a minimal duration less than 60 days and that the April 4, 2017 hearing be converted to a procedural conference.

THEREFORE,

IT IS ORDERED:

1. That the hearing scheduled for April 4, 2017 is hereby converted to a telephonic prehearing conference.
2. That the hearing scheduled for April 5, 2017 is hereby cancelled.
3. That the parties shall confer prior to the telephonic prehearing conference and stipulate to a new hearing date which shall consist of two consecutive days and a revised litigation schedule.
4. That in the event the parties are able to enter into a written stipulation regarding a new hearing date, litigation schedule and any other appropriate matters, the parties may jointly request cancellation of the April 4, 2017 telephonic prehearing conference. Otherwise, the telephonic prehearing conference shall commence promptly at 10:00 a.m. on April 4, 2017.

Date: March 27, 2017 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Jeffrey A. Watson

Administrative Law Judge

**A-2016-2565296 APPLICATION OF PENNSYLVANIA ELECTRIC COMPANY**

*(Revised 3/23/17)*

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1. An initial hearing notice was generated on March 1, 2017. The corrected hearing notice indicates that the purpose of the corrected notice was to correct the Service List attached to the corrected notice. [↑](#footnote-ref-1)