**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

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|  | Public Meeting held February 8, 2018 |
| Commissioners Present:  Gladys M. Brown, Chairman, Statement  Andrew G. Place, Vice Chairman  Norman J. Kennard  David W. Sweet  John F. Coleman, Jr. | |
| Application of Pennsylvania Electric Company Seeking Approval to Locate, Construct, Operate and Maintain a High-Voltage Transmission Line Referred to as the Bedford North-Central City West 115 kV HV Transmission Line Project | A-2016-2565296, *et al.* |
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**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Recommended Decision (R.D.) of Administrative Law Judge (ALJ) Jeffrey A. Watson, issued on November 29, 2017, in the above-captioned proceeding. Exceptions have not been filed. For the reasons stated below, we shall adopt the ALJ’s Recommended Decision as modified.

**History of the Proceeding**

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 52 Pa. Code Chapter 57, Subchapter G.1, seeking 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).[[1]](#footnote-1) 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 Project proposes to rebuild a section of the existing Penelec-owned Bedford North-New Baltimore 115 kV Transmission Line 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 nineteen separate Applications to exercise the power of eminent domain (Eminent Domain Applications) to obtain property rights for the construction and operation of the Project.[[2]](#footnote-2) 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*. 46 *Pa. B.* 6094. The notice specified that formal protests and petitions to intervene in response to the Penelec Applications must be filed and served by November 23, 2016. On November 23, 2016, Nancy K. MacRae, a landowner whose property was the subject of an Eminent Domain Application at Docket No. A-2016-2565364 filed a protest. During a prehearing conference held on December 5, 2016, Penelec moved to consolidate the Siting Application proceeding with the Eminent Domain Applications. No objection was made to the consolidation request and by prehearing order dated January 31, 2017, the Siting Application proceeding was consolidated with the Eminent Domain Applications.

Pursuant to agreements between the Applicant and various landowners, Penelec filed petitions for leave to withdraw and terminate several of the Eminent Domain Applications (petitions to withdraw), pursuant to 52 Pa. Code §§ 1.82 and 5.94(c). The petitions for withdraw pertained to the Eminent Domain Applications 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); A-2016-2565644 (property of Brian C. Jones and Traci A. Jones); A-2016-2565369 (property of Wilmore Coal Company); A-2016-2565543 (property of Scott M. Andrews and Audrey A. Andrews); A-2016-2565549 (property of the Berwind Corporation); A-2016-2565502 (property of Dick B. Lohr and Karen G. Lohr) and A-2016-2565547 (property of Kathy R. Kelley and Jeffrey Kelly); A-2016-2565364 (property of James B. MacRae, Jr. and Nancy MacRae); and A-2016-2565509 (property of Robindale Energy Services, Inc.). There being no objections to the petitions for withdraw, the Commission issued several interim orders dismissing the Eminent Domain Applications pertaining these dockets. Thus, of the original nineteen Eminent Domain Applications, eleven were withdrawn pursuant to the interim orders.

An evidentiary hearing was convened on May 24, 2017, at which counsel for the Applicant appeared. Counsel also 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. Nancy MacRae, the sole protestant, did not attend the hearing.

Thereafter, on July 26, 2017, the Applicant filed its Main Brief. 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 filed their Brief in opposition to the Application on July 27, 2017. The Applicant filed a Reply Brief on August 31, 2017, after which the record was closed.

By Recommended Decision issued on November 29, 2017, the ALJ recommended that the Commission grant the Application for the approval of the siting and construction of the transmission line associated with the Project. Additionally, the ALJ recommended findings that the service to be furnished by the Applicant through its proposed exercise of the power of eminent domain – to acquire portions of land of eight property owners – is necessary or proper for the service, accommodation, convenience or safety of the public. The ALJ further recommended the dismissal of the protest of Nancy K. MacRae at Docket No. A-2016-2565364.

As noted previously, no Exceptions were filed.

**Discussion**

Initially, we note that any issue or argument that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the Parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *also see, generally*, *University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

The ALJ made 163 Findings of Fact and reached twenty-seven Conclusions of Law. R.D. at 9-43, 140-146. We shall adopt and incorporate herein by reference the ALJ’s Findings of Fact and Conclusions of Law, unless they are reversed or modified by this Opinion and Order, either expressly or by necessary implication.

**Legal Standards**

As the Applicant in this proceeding, MAIT bears the burden of proof pursuant to Section 332(a) of the Public Utility Code (Code), 66 Pa. C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, the Applicant must establish that it is entitled to the relief it is seeking by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied,* 529 Pa. 654, 602 A.2d 863 (1992). That is, the Applicant’s evidence must be more convincing, by even the smallest amount, than that presented by any opposing Party. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). Additionally, this Commission’s decision must be supported by substantial evidence in the record. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC,* 489 Pa. 109, 413 A.2d 1037 (1980).

The Commission has promulgated Regulations regarding the siting and construction of high voltage transmission lines at 52 Pa. Code §§ 57.71-57.77. These Regulations provide that a public utility must obtain Commission approval to locate and construct a high voltage transmission line. 52 Pa. Code § 57.71. The siting Regulations set forth what the Commission must consider when deciding to approve or deny an application for the siting of a high voltage transmission line. 52 Pa. Code § 57.76. The Commission Regulation at 52 Pa. Code § 57.76 states the following:

**§ 57.76.  Determination and order.**

(a) The Commission will issue its order, with its opinion, if any, either granting or denying the application, in whole or in part, as filed or upon the terms, conditions or modifications, of the location, construction, operation or maintenance of the line as the Commission may deem appropriate. The Commission will not grant the application, either as proposed or as modified, unless it finds and determines as to the proposed HV line:

(1) That there is a need for it.

(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 applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth.

(4) That it will have minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and the available alternatives.

(b) A Commission order granting a siting application will be deemed to include a grant of authority, subject to the provisions of law, 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 unless the applicant requests and the Commission approves a corridor of a different size. A proposed HV transmission line may not be constructed outside the corridor, except upon petition to and approval by the Commission.

The four prongs in Section 57.76 provide the structure for the Commission’s evaluation. In determining whether the Applicant has satisfied the four prongs, the Commission will consider evidence on the matters set forth in Section 57.75 of the Commission’s Regulations, as follows:

**§ 57.75.  Hearing and notice.**

**\* \* \***

(e) At hearings held under this section, the Commission will accept evidence upon, and in its determination of the application it will consider, *inter alia*, the following matters:

(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) 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 § 57.75(e).

Section 57.75(e) of our Regulations enumerates the information which is relevant in evaluating the standard set forth in 52 Pa. Code § 57.76(a). Furthermore, the Commission’s siting Regulations meet the requirements for a consideration of the environmental impacts mandated by Article I, Section 27 of the Pennsylvania Constitution.[[3]](#footnote-3)

**ALJ’s Recommended Decision**

In his Recommended Decision, the ALJ analyzed the following standards: (1) the need for the proposed facilities, pursuant to 52 Pa. Code § 57.76(a)(1); (2) whether the Project will create an unreasonable risk of danger to the health and safety of the public; (3) the Applicant’s compliance with applicable statutes and regulations providing for the protection of the natural resources of the Commonwealth; (4) whether the Project will have minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and the available alternatives, pursuant to 52 Pa. Code § 57.76(a)(4); (5) whether the Applicant has selected an appropriate route for the Project that minimizes adverse environmental and other impacts; and (6) whether the Applicant has met the statutory requirements of the Business Corporation Law of 1988 (BCL) and the Code for the approval of the Eminent Domain Applications.

Regarding the need for the proposed facilities, the ALJ determined that the Applicant had established need for the Project to mitigate thermal and voltage reliability criteria violations identified in the Regional Transmission Expansion Project analysis of PJM Interconnection, LLC. The ALJ explained that the Project is necessary to address violations of thermal and voltage criteria identified under North American Electric Reliability Corporation (NERC) Category C conditions and to provide adequate transmission capacity to meet current and expected customer needs for electric service in and around Bedford County, Pennsylvania. R.D. at 17, 62-69 (citing, in part, Stmt. No. 2 at 4-7).

Moving to the analysis of unreasonable risk of danger to the health and safety of the public, the ALJ considered the arguments pertaining to electric magnetic fields (EMFs) and the application of herbicides in rights of way (ROWs). According to the ALJ, the Commission has concluded in line siting cases that EMFs from transmission lines similar to the Project do no not pose an unreasonable risk of harm. R.D. at 80 (citing *Application of Pennsylvania Electric Company for Approval to Locate and Construct the Bedford North-Osterburg East 115 kV Transmission Line Project Situated in Bedford and East St. Clair Townships, Bedford County, Pa.*, Docket Nos. A‑2011-2247862, *et al.* (Order entered June 7, 2012)). Additionally, the ALJ reviewed the evidence pertaining to the registration of herbicides, the application procedures of the chemicals, and the proposed coordination with property owners to identify and avoid application of herbicides near water sources, wells and springs. Upon review of the evidence, the ALJ concluded that the Applicant met its burden of establishing that the Project would not create an unreasonable risk of danger to the health and safety of the public. R.D. at 80-81.

Next, the ALJ reviewed the evidence regarding compliance with applicable statutes and regulations providing for the protection of natural resources of the Commonwealth. The ALJ considered the Applicant’s proposed timeline for obtaining required permits and licenses, the agreement to address concerns about the endangered status of the Indiana bat with the U.S. Fish and Wildlife Service, the Project’s use of existing ROWs and the resulting reductions in environmental and landowner impacts, and the Applicant’s commitment to obtain all necessary environmental permits and to comply with those permits during construction. Accordingly, the ALJ concluded that the proposed Project complies with applicable statutes and regulations, pursuant to 52 Pa. Code § 57.76(a)(3). R.D. at 89.

Under his analysis of whether the Project will have minimum adverse environmental impacts, the ALJ applied the factors under 52 Pa. Code § 57.75(e)(3). Specifically, the ALJ addressed the impact and efforts made by the Applicant to minimize the impact of the proposed line in each of the following areas: land use, soil and sedimentation, plant and wildlife habitats, terrain, hydrology, landscape, archeologic areas, geologic areas, historic areas, scenic areas, wilderness areas, and scenic rivers. R.D. at 102-109. After reviewing the evidence, the ALJ concluded that the Applicant had established by a preponderance of the evidence that the proposed Project will have a minimum adverse environmental impact, considering the electric needs of the public, the state of available technology, and the available alternatives. *Id.* at 109-112.

In the next stage of the analysis, the ALJ examined whether the Applicant had selected an appropriate route for the Project that minimizes adverse and other environmental factors. The ALJ determined that the Applicant conducted a reasonable and thorough study of alternative routes for the Project that included all the factors and analyses required by the Commission’s siting Regulations at 52 Pa. Code Ch. 57, Subchapter G, and recommended in the Commission’s Interim Guidelines for the Filing of Electric Transmission Line Siting Applications at 52 Pa. Code § 69.3101, *et seq*. Upon review of the evidence, the ALJ concluded that the Applicant had satisfied its burden that the proposed Project and the selected route are necessary and proper for the accommodation, convenience and safety of MAIT’s patrons and employees and the public. Moreover, the ALJ found that the Applicant had selected an appropriate route for the Project that minimizes adverse environmental and other impacts. R.D. at 128‑132.

Moving to the final factor of his analysis, the ALJ explained that the Applicant had filed its Eminent Domain Applications pursuant to Section 1511 of the BCL, 15 Pa. C.S. § 1511, which grants a public utility the authority to condemn property to provide electricity to the public. The ALJ further noted that the requirements of Section 1511 of the BCL are satisfied where an applicant has determined that the route selected for a transmission line is reasonable, made in good faith, and not capricious or wantonly injurious. Here, the ALJ found that the Applicant through its Application, testimony and exhibits has established a clear need for the Project to provide safe and reliable electric service to the public. Additionally, the ALJ determined that the Applicant had satisfied the Commission’s criteria for approval to site, construct and operate the proposed transmission line and had satisfied the criteria for authority to exercise the power of eminent domain upon the proposed parcels of land for the Project. R.D. at 135-137.

Moreover, the ALJ concluded that the Applicant did not act in an unreasonable, improper or arbitrary manner in the route selection process utilized. Rather, in its selection process, the Applicant considered topography, land use, safety, costs, environmental impacts and alternative routes, as well as other relevant and germane factors. According to the ALJ, the Applicant’s proposed exercise of the power of eminent domain to acquire a right-of-way and easement for construction, operation and maintenance of the Project over the lands of the identified property owners is necessary for the service, accommodation, convenience, or safety of the public. Accordingly, the ALJ found that the Applicant’s proposed eminent domain power for the Project over the remaining eight properties is necessary and should be approved. *Id.* at 137-139.

**Disposition**

Upon review of the evidentiary record, we agree with the ALJ’s determination that the Applicant submitted substantial evidence to warrant a recommendation that the Application be approved. While we support the approval of the Application, a few aspects of the Recommended Decision require modification.

In accordance with the provisions of the Code and our Regulations at 52 Pa. Code §§ 57.71-57.77, regarding the siting and construction of high voltage transmission lines, the ALJ analyzed the Application in a thorough manner. However, the ALJ included case precedent references to the test articulated by the Commonwealth Court in *Payne v. Kassab*,312 A.2d 86 (Pa. Cmwlth. 1973), *aff’d*, 468 Pa. 226, 361 A.2d 263 (1976) (*Payne*), which is no longer valid and should be stricken.[[4]](#footnote-4) Recently, the Pennsylvania Supreme Court in *Pa. Environmental Defense Foundation v. Com. of Pa.*, 161 A.3d 911 (Pa. 2017) (*PEDF*), invalidated the *Payne* test.[[5]](#footnote-5) Therefore, the Commission will no longer apply the three-part *Payne* test in transmission line cases.

In *PEDF*, the Supreme Court addressed the contours of the trust created by the Environmental Rights Amendment, which placed Pennsylvania’s public natural resources in trust, and named the Commonwealth as its trustee, to conserve and maintain those resources for the benefit of all people, including future generations. *PEDF* replaced the *Payne* test with instructions to apply the text of Article I, Section 27 itself and the underlying principles of Pennsylvania trust law, as they relate to the Commonwealth’s public natural resources. The Court also noted that the individual rights of citizens to clean air, pure water, and to the preservation of natural, scenic, historic, and esthetic values of the environment may be subject to reasonable regulation. *PEDF*, 161 A.3d at 931. Our siting Regulations are in accord with the Environmental Rights Amendment by requiring that the environmental impact of the proposed transmission siting route be minimized. *See* 52 Pa. Code §§ 57.75 and 57.76.

Specifically, the Commission’s Regulations provide for the review of evidence regarding the necessity and safety of the proposed line, and the impact on, and mitigation of effects on several criteria including land use, soil and sedimentation, plant and wildlife habitats, terrain, hydrology, landscape, scenic rivers and archaeologic, geologic, historic, scenic and wilderness areas. In addition, the Commission will consider evidence regarding reasonable alternative routes. Our Regulations require, that after review of the evidence, no order will be issued granting an application unless the Commission finds that there is a need for the line, that it will not create an unreasonable risk of danger to the health and safety of the public, that it is in compliance with applicable law for the protection of the natural resources of this Commonwealth, and that it will have a minimum environmental impact.

The Commission’s regulatory scheme for high-voltage line transmission siting cases, therefore, provides for a robust, evidence-based deliberative process that provides due process for all interested parties. The Commission, consistent with our role as a fiduciary responsible for the preservation of the Commonwealth’s natural resources, and consistent with *PEDF*, acts with prudence, loyalty and impartiality when adhering to these regulations. In this manner, we fulfill our responsibility to protect the public’s natural resources from depletion or degradation, while also allowing legitimate development that improves the lot of Pennsylvania’s citizenry, as the Pennsylvania Supreme Court recognized in *Robinson Township v.*  *Com. of Pa.*, 623 Pa. 564, 658, 83 A.3d 901, 958 (2013).

We conclude that the evidentiary record in this proceeding, the process used to evaluate it, and the approval of this project are fully consistent with the Environmental Rights Amendment and the Supreme Court’s opinion in *PEDF*.

Having addressed the main point of concern, the Recommended Decision requires two other modifications. First, the reference to “PPL” on page 86 of the Recommended Decision is incorrect and should be replaced with “Applicant.” Second, approval of the Application should be conditioned on requiring MAIT, as successor in interest to Penelec, to comply with any and all permit requirements received from any agency or entity from which a permit is required in order to construct the project.[[6]](#footnote-6)

**Conclusion**

Based upon the foregoing discussion, we shall adopt the ALJ’s recommendations, as modified, to the extent consistent with this Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

1. That the Recommended Decision of Administrative Law Judge Jeffrey A. Watson, issued on November 29, 2017, is adopted, as modified, consistent with this Opinion and Order.

2. That the Application of Mid-Atlantic Transmission, LLC, successor in interest to Pennsylvania Electric Company, filed pursuant to 52 Pa. Code Chapter 57, Subchapter G, for approval to site, construct and operate the proposed Bedford North-Central City West 115 kV HV Transmission Line, at Docket No. A-2016-2565296, is granted, consistent with this Opinion and Order.

3. That the Application of Mid-Atlantic Transmission, LLC, successor in interest to Pennsylvania Electric Company, filed with the Commission and docketed as follows, for findings and determinations under Section 1511 of the Business Corporation Law of 1988, 15 Pa. C.S. § 1511, that the service to be furnished by Applicant through its proposed exercise of the power of eminent domain to acquire rights of way for the construction, operation and maintenance of an electric transmission line and related facilities is necessary or proper for the service, accommodation, convenience or safety of the public, is hereby approved, consistent with this Opinion and Order:

A-2016-2565326. Application of [Mid-Atlantic Transmission, LLC as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Robin F. Miller & Tammy J. Miller in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565344. Application of [Mid-Atlantic Transmission, LLC as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Katherine L. Ziegler in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565360. Application of [Mid-Atlantic Transmission, LLC as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Fritz Land Holdings LP in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West115 kV HV Transmission Line Project.

A-2016-2565472. Application of [Mid-Atlantic Transmission, LLC as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Shirley Huston & Gary E Lambert in the Shade Township, Somerset County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565480. Application of [Mid-Atlantic Transmission, LLC as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Martha Lorraine Anderson & John S. Anderson in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565504. Application of [Mid-Atlantic Transmission, LLC as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Keith A. Lohr in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565545. Application of [Mid-Atlantic Transmission, LLC as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Albert Stiles in Shade Township, Somerset County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565635. Application of [Mid-Atlantic Transmission, LLC as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Vincent Beal in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

4. That Mid-Atlantic Transmission, LLC, successor in interest to Pennsylvania Electric Company, shall comply with any and all permit requirements received from any agency or entity from which a permit is required in order to site and construct the high-voltage transmission line referred to as the Bedford North-Central City West 115 kV HV transmission line project.

5. That the dockets at Docket Nos. A-2016-2565296, 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 be marked closed.

6. That the protest of Nancy K. MacRae filed at Docket No. A-2016-2565364 is dismissed.

**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: February 8, 2018

ORDER ENTERED: March 8, 2018

1. Mid-Atlantic Interstate Transmission Line, LLC (MAIT) became the successor in interest to Penelec, as Applicant in this proceeding pursuant to *Joint Application of Mid-Atlantic Interstate Transmission, LLC, et al.*, Docket Nos. A-2015-2488903, *et al.* (Order entered August 24, 2016) (*MAIT Order*). MAIT and Penelec are both subsidiaries of FirstEnergy Corporation (FirstEnergy). On March 16, 2017, Penelec filed Amendments to the Siting and Eminent Domain Applications to formally change the name of the Applicant from Penelec to MAIT. Accordingly, we use the term “Applicant” to refer generally to Penelec and MAIT. [↑](#footnote-ref-1)
2. The Eminent Domain Applications were captioned and docketed as follows: Robin F. Miller and Tammy J. Miller, Docket No. A-2016-2565326; Katherine L. Ziegler, Docket No. A-2016-2565344; Fritz Land Holdings LP, Docket No. A-2016-2565360; James B. MacRae, Jr. and Nancy K. MacRae, Docket No. A-2016-2565364; Michael C. Long, Docket No. A-2016-2565368; Wilmore Coal Company, Docket No. A-2016-2565369; Frank J. Shenigo, Trustee of Frank J. Shenigo Revocable Living Trust, Docket No. A-2016-2565377; Kenneth J. Skone and Karen Jane Skone, Docket No. A-2016-2565378; Shirley J. Huston and Gary E. Lambert, Docket No. A-2016-2565472; Martha Lorraine Anderson and John S. Anderson, Docket No. A-2016-2565480; Dick B. Lohr and Karen G. Lohr, Docket No. A-2016-2565502; Keith A. Lohr, Docket No. A-2016-2565504; Robindale Energy Services, Inc., Docket No. A-2016-2565509; Scott M. Andrews and Audrey A. Andrews, Docket No. A-2016-2565543; Albert Stiles, Docket No. A-2016-2565545; Kathy R. Kelley and Jeffrey Kelley, Docket No. A-2016-2565547; Berwind Corporation, Docket No. A-2016-2565549; Vincent Beal, A-2016-2565635; and Brian C. Jones and Traci A. Jones, Docket No. A-2016-2565644. [↑](#footnote-ref-2)
3. Article I, Section 27 of the Pennsylvania Constitution, also known as the Environmental Rights Amendment, provides:

   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. [↑](#footnote-ref-3)
4. *See* R.D. at 51. [↑](#footnote-ref-4)
5. The decision in *PEDF* was issued after the evidentiary record in this proceeding had closed. Neither the Applicant nor any of the other parties to this proceeding were parties to that appeal. As that matter did not involve the regulation of public utilities, it is understandable that the parties did not appreciate the implication of the decision and bring this case to the attention of the presiding ALJ. [↑](#footnote-ref-5)
6. This condition is similar to a provision required in *Application of PPL Electric Utilities Corporation Filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the Pennsylvania Portion of The Proposed Susquehanna-Roseland 500 kV Transmission Line in Portions of Lackawanna, Luzerne, Monroe, Pike and Wayne Counties, Pennsylvania*, Docket Nos. A-2009-2082652, *et al*. (Order entered February 12, 2010) at 141, Ordering Paragraph 7.B. [↑](#footnote-ref-6)