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File #: 166407

July 8, 2019

***VIA ELECTRONIC FILING***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Application of Duquesne Light Company filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 138 kV Transmission Lines Associated with the Brunot Island-Crescent Project in the City of Pittsburgh, McKees Rocks Borough, Kennedy Township, Robinson Township, Moon Township, and Crescent Township, Allegheny County, Pennsylvania  
Docket No. A-2019-3008589**

Dear Secretary Chiavetta:

Enclosed for filing is the Answer with New Matter of Duquesne Light Company to the Protest of Victoria A. Adams.

Copies are being provided per the attached Certificate of Service.

Sincerely,



Garrett P. Lent

GPL/ks  
Enclosures

cc: Certificate of Service

ALLENTOWN HARRISBURG LANCASTER PHILADELPHIA PITTSBURGH PRINCETON WASHINGTON, D.C.

A PENNSYLVANIA PROFESSIONAL CORPORATION

18942954v1

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Duquesne Light Company :  
filed Pursuant to 52 Pa. Code Chapter 57, :  
Subchapter G, for Approval of the Siting and :           Docket No. A-2019-3008589  
Construction of the 138 kV Transmission :  
Lines Associated with the **Brunot Island –** :  
**Crescent Project** in the City of Pittsburgh, :  
McKees Rocks Borough, Kennedy :  
Township, Robinson Township, Moon :  
Township, and Crescent Township, :  
Allegheny County, Pennsylvania :  
:  
:  
:  
Protest of Victoria A. Adams :

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**ANSWER AND NEW MATTER OF DUQUESNE LIGHT COMPANY  
TO THE PROTEST OF VICTORIA A. ADAMS**

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**TO THE HONORABLE ADMINISTRATIVE LAW JUDGE MARY D. LONG:**

Duquesne Light Company (“Duquesne Light” or the “Company”) files this Answer to Protest filed by Victoria A. Adams (“Protestant”)<sup>1</sup> pursuant to Section 5.61 of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code § 5.61. Although the Commission’s regulations do not require an answer to a Protest, Duquesne Light responds to each of the separately-numbered paragraphs of the Adams Protest as follows:

**ANSWER**

1. Admitted.
2. Admitted.
3. Admitted.

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<sup>1</sup> Duquesne Light received a Formal Complaint from the Protestant on June 18, 2019. No docket number has been assigned to the pleading. As the pleading contests and opposes the electric transmission line siting application at Docket No. A-2019-3008589, Duquesne Light is treating the pleading as a Protest to the Application.

4. Admitted in part and denied in part. It is admitted Duquesne Light recently filed: (1) “Application of Duquesne Light Company filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 138 kV Transmission Lines Associated with the Brunot Island – Crescent Project in the City of Pittsburgh, McKees Rocks Borough, Kennedy Township, Robinson Township, Moon Township, and Crescent Township, Allegheny County, Pennsylvania,” at Docket No. A-2019-3008589 (“BI-Crescent Full Siting Application”); and (2) “Application of Duquesne Light Company 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 George N. Schaefer of Moon Township, Allegheny County, Pennsylvania for the Siting and Construction of Transmission Lines Associated with the Proposed Brunot Island – Crescent Project is Necessary or Proper for the Service, Accommodation, Convenience, or Safety of the Public,” at Docket No. A-2019-3008652 (“Schaefer Condemnation Application”).<sup>2</sup>

It is denied that Duquesne Light Company has trespassed onto 306 Konter Road. Protest ¶ 4 (attachment page 1, numbered paragraph 1). By way of further response, the Commission is without jurisdiction over other real property issues such as trespass and the location of utility facilities pursuant to valid easements. *See Shedlosky v. Pennsylvania Electric Co.*, Docket No. C-20066937 (Order entered May 28, 2008); *see also Anne E. Perrige v. Metropolitan Edison Co.*, Docket No. C-00004110 (Order entered July 11, 2003) (Commission had no jurisdiction to interpret the meaning of a written right-of-way agreement); *Samuel Messina v. Bell Atlantic-Pennsylvania, Inc.*, Docket No. C-00968225 (Order entered Sept. 23, 1998) (“The Commission

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<sup>2</sup> While the Protest references the Schaefer Condemnation Application and/or its docket number, Duquesne Light denies that the Protestant is a property owner of record for the subject property.

has clearly stated in prior decisions that it is without subject matter jurisdiction to adjudicate questions involving trespass and whether or not utility facilities are located pursuant to valid easements or rights-of-way.” (citation omitted)). It is further denied that Duquesne Light has failed in its obligation to acquire land to support its infrastructure or that the Company has used or is using insufficient right-of-way to support its transmission line projects.

It is denied that Duquesne Light’s or its contracted vendors’ access to the subject property has damaged the property. Protest ¶ 4 (attachment page 1, numbered paragraph 2). By way of further response, the Commission has recognized that the assessment of damages resulting from a line’s impact or individual land use was properly adjudicable in another forum. *See Re Philadelphia Electric Company*, 1992 Pa. PUC LEXIS 160 (Initial Decision dated June 29, 1992); *see also Re Philadelphia Electric Company*, 52 Pa. P.U.C. 198, 1978 Pa. PUC LEXIS 141 (Order dated May 17, 1978) and *Re West Penn Power Company*, 68 Pa. P.U.C. 262, 268, 1988 Pa. PUC LEXIS 462 (Order dated Oct. 3, 1988). Accordingly, determination of damages is not within the Commission's jurisdiction to hear and determine.

It is denied that Duquesne Light’s or its contracted vendors’ actions will result in an unreasonable “increase of noise, wear and tear of private road condition and decrease in resident’s Privacy.” Protest ¶ 4 (attachment page 1, numbered paragraph 3). By way of further response, the Commission is without jurisdiction over other real property issues or damages.

It is denied that Duquesne Light’s or its contracted vendors’ actions will result in “Free-roaming domestic animals on the property – liability of pet owner to secure domestic Animals.” Protest ¶ 4 (attachment page 1, numbered paragraph 4). By way of further response, the Commission is without jurisdiction over other real property issues or damages. It is also denied

that Duquesne Light or its contracted vendors are responsible for securing any domestic animals located in or around the Protestants' property.

It is denied that Duquesne Light's or its contracted vendors' actions will result in "Property's owner's liability relating to any injuries that may occur to Duquesne Light Company and/or contracted vendor personnel while performing assigned responsibilities." Protest ¶ 4 (attachment page 1, numbered paragraph 5). By way of further response, the Commission is without jurisdiction over other real property issues or damages.

It is denied that Duquesne Light's or its contracted vendors' actions will "Increase of both potential physical/medical and absolute emotional (stress/anxiety) Related as a result of the Brunot Island-Crescent Project." Protest ¶ 4 (attachment page 1, numbered paragraph 5). By way of further response, the Commission is without jurisdiction over other real property issues or damages. By way of further response, Duquesne Light Company references Attachment 11 – Design Criteria and Safety Practices to the BI-Crescent Full Siting Application and incorporates the information contained therein into this Answer.

5. Denied. The averments contained in Paragraph 5 (referencing the requests for relief on page 2 of 2 of the attachment to the Protest) of the Protest are requests for relief to which no responsive pleading is required. To the extent a response is deemed necessary, Duquesne Light denies that the Protestants are entitled to the relief requested.

By way of further response, Duquesne Light incorporates Paragraphs 2 through 4, *supra*, as though fully set forth herein.

6. Paragraph 6 of the Protest relates to Protection from Abuse orders, to which no responsive pleading is required.

7. Admitted in part and denied in part. It is admitted that the Protest is not an appeal from a decision of the Commission's Bureau of Consumer Services. It is denied that the Protestant has not spoken to a utility representative regarding the Protest. By way of further response, Duquesne Light has attempted to be responsive to all contacts and communications from the Protestant and has treated the Protestant in the same respectful and fair manner that it treats all other customers.

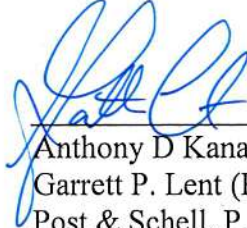
8. Paragraph 8 of the Protest pertains to the Protestant's legal representation, to which no responsive pleading is required.

9. Paragraph 9 sets forth the verification and signature, to which no responsive pleading is required.

10. Paragraph 10 sets forth the instructions for filing the Protest, to which no responsive pleading is required.

WHEREFORE, Duquesne Light Company respectfully requests that the Protest of Victoria A. Adams, be denied and with prejudice as against Duquesne Light.

Respectfully submitted,



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Date: July 8, 2019

Attorneys for Duquesne Light Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Duquesne Light Company :  
filed Pursuant to 52 Pa. Code Chapter 57, :  
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Lines Associated with the **Brunot Island –** :  
**Crescent Project** in the City of Pittsburgh, :  
McKees Rocks Borough, Kennedy Township, :  
Robinson Township, Moon Township, and :  
Crescent Township, Allegheny County, :  
Pennsylvania :  
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Protest of Victoria A. Adams :

**VERIFICATION**

I, MEENAH SHYU, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).



Dated: 7/8/2019



**CERTIFICATE OF SERVICE**  
**(A-2019-3008589 and A-2019-3008652)**

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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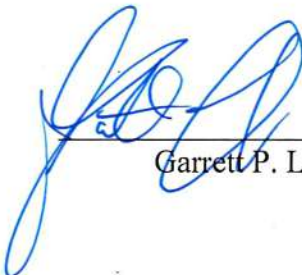
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Dated: July 8, 2019

  
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