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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 of Duquesne Light Company to the Protest of Cynthia Wilson (f/k/a Cynthia Chamberlin) and Patrick Wilson.

Copies are being provided per the attached Certificate of Service.

Sincerely,



Garrett P. Lent

GPL/kls
Enclosures

cc: Certificate of Service

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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Patrick Wilson
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Joseph G. and Suzanne L. Rabosky
104 Wynview Drive
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Dated: July 8, 2019



Garrett P. Lent

**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 Cynthia Wilson (f/k/a Cynthia :
Chamberlin) and Patrick Wilson :

**ANSWER OF DUQUESNE LIGHT COMPANY
TO THE PROTEST OF CYNTHIA WILSON (F/K/A CYNTHIA CHAMBERLAIN) AND
PATRICK WILSON**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE MARY D. LONG:

Duquesne Light Company (“Duquesne Light” or the “Company”) files this Answer to the Protest of Cynthia Wilson (f/k/a Cynthia Chamberlin) and Patrick Wilson (“Protestants”)¹ 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 Wilson Protest as follows:

ANSWER

1. Admitted.
2. Admitted.

¹ The Protestants filed the above-captioned pleading as a Formal Complaint on June 20, 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.

3. Admitted.

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”).²

It is also admitted that Duquesne Light possesses a valid easement through the property now known as 9 McGovern Blvd., Crescent, PA 15108. Any characterization of the language of the right-of-way or Duquesne Light’s rights thereunder is denied. By way of further response, the Commission is without authority to interpret the language of easements and lacks jurisdiction over property disputes, including disputes related to proper use of easements. *Fairview Water Company. v. Pa. Pub. Util. Comm’n*, 502 A.2d 162 (Pa. 1985) (“...the PUC does not have

² 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.

jurisdiction to determine the scope and validity of an easement. Once there has been a determination by the PUC that the proposed service is necessary and proper, the issues of scope and validity and damages must be determined by a Court of Common Pleas exercising equity jurisdiction.”); *see also* *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 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 admitted that Attachment B contains a copy of a depiction of the right-of-way traversing the Protestants’ property. It is further admitted that Tom Gretok contacted the Protestants several times regarding the project between May 7 and May 30, 2017. *See* Protest ¶ 4 (paragraph 1 under “Reason for Complaint” attachment).

It is admitted that Attachment C contains a copy of a letter counsel for Duquesne Light to counsel for the Protestants. It is denied that Duquesne Light requires additional easement rights from the Protestants. *See* Protest ¶ 4 (paragraph 2 under “Reason for Complaint” attachment). By way of further response, it is denied that the Commission has the authority to hear disputes

regarding easement negotiations. Any characterization of the Protestants' understanding regarding the status of the BI-Crescent Project in approximately November 2017 is denied. *See* Protest ¶ 4 (paragraph 3 under "Reason for Complaint" attachment).

It is admitted that Duquesne Light provided the Protestants with the legally required notices regarding the BI-Crescent Project by mail. Any characterization of Duquesne Light's motivation for not obtaining additional right-of-way from the Protestants is denied. 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. *See* Protest ¶ 4 (paragraph 2 under "Reason for Complaint" attachment).

It is denied that Duquesne Light's existing right-of-way at or near the Protestants' address is insufficient. *See* Protest ¶ 4 (paragraphs 1-2 under "*Complaint*" attachment). By way of further response, it is denied that the Commission has the authority to interpret the relevant easement or determine whether Duquesne Light has acted inconsistent with its rights under the easement. It is denied that the current or intended future operation of Duquesne Light's facilities within the existing right-of-way are unreasonable or unsafe. Duquesne Light designs, installs and operates its transmission facilities in compliance with all applicable National Electric Safety Code ("NESC") standards. By way of further response, Duquesne Light incorporates by reference Attachment 11 – Design Criteria and Safety Practices and Duquesne Light St. No. 3, the direct testimony of Meenah Shyu, both of which were attached to the BI-Crescent Full Siting Application.

It is denied that Duquesne Light's Vegetation Management plan is unreasonable, or will otherwise adversely impact the Protestants' property. See Protest ¶ 4 (paragraph 1 under "Complaint" attachment). By way of further response, Duquesne Light makes reference to and incorporates herein Attachment 12 – Duquesne Light's Vegetation Management Practices, which was attached to the BI-Crescent Full Siting Application. Any characterization of the rights or obligations set forth in the easement agreement regarding vegetation management are denied. By way of further response, the Commission is without authority to interpret the language of easements and lacks jurisdiction over property disputes, including disputes related to proper use of easements.

It is also denied the erection of a new monopole will impact the Protestants' water well.

5. Denied. The averments contained in Paragraph 5 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. By way of further response, Duquesne Light has attempted to be responsive to all contacts and communications from the Protestants and has treated the Protestants in the same respectful and fair manner that it treats all other customers.

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

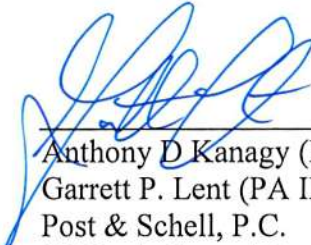
9. Paragraph 9 sets forth the verification and signature, to which no responsive pleading is required.

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 Cynthia Wilson (f/k/a Cynthia Chamberlin) and Patrick Wilson, be denied and with prejudice as against Duquesne Light.

Respectfully submitted,

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Date: July 8, 2019

Attorneys for Duquesne Light Company

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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:
:
:
:
Protest of Cynthia Wilson (f/k/a Cynthia :
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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