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July 16, 2021

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 and A-2019-3008652**

Dear Secretary Chiavetta:

Attached for filing are the Replies to Exceptions on behalf of Duquesne Light Company in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Garrett P. Lent

GPL/kl
Attachment

cc: Honorable Mary D. Long
Office of Special Assistants (*via email*)
Certificate of Service

CERTIFICATE OF SERVICE

(A-2019-3008589 & A-2019-3008652)

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Date: July 16, 2021



Garrett P. Lent

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Duquesne Light Company filed	:	Docket Nos. A-2019-3008589
Pursuant to 52 Pa. Code Chapter 57,	:	A-2019-3008652
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.	:	

**DUQUESNE LIGHT COMPANY'S
REPLIES TO EXCEPTIONS**

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Date: July 16, 2021

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I. INTRODUCTION

Duquesne Light Company (“Duquesne Light” or the “Company”) hereby files these Replies to the Exceptions of Richard I. Gable (“Mr. Gable”). On June 16, 2016, the Pennsylvania Public Utility Commission (“Commission”) issued the Initial Decision (“I.D.”) of Administrative Law Judge Mary D. Long (the “ALJ”). In the I.D., the ALJ approved the “Amended 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,” filed on August 10, 2020, at Docket No. A-2019-3008589 (the “Amended BI-Crescent Application”).¹ The ALJ also approved the “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 BI-Crescent Project is Necessary or Proper for the Service, Accommodation, Convenience or Safety of the Public,” at Docket No. A-2019-3008652 (the “Schaefer Condemnation Application”).²

¹ The Amended BI-Crescent Application was filed in response to the input Duquesne Light received from its customers through multiple channels and forums, including the feedback received at the public input hearing on October 9, 2019. Amended BI-Crescent Application at 3. As a part of the Amended BI-Crescent Application, the Company re-engineered the initial BI-Crescent Project to remove the initial proposal to increase the voltage of the second circuit to 345 kV standards. *See* Duquesne Light St. 1A at 7; Duquesne Light St. 3A at 4. The Amended BI-Crescent Project maintains the double-circuit 138 kV voltage configuration that exists today.

² Mr. Gable does not except to the I.D.’s approval of the Schaefer Condemnation Application.

In his Exceptions, Mr. Gable re-raises several of the concerns he noted during the course of this proceeding, which were correctly addressed in the I.D.³ He also excepts to several of the ALJ's FoF, based upon a misunderstanding of the evidence presented in this case and/or statements that are extrajudicial in nature and not part of the record. Contrary to Mr. Gable's arguments, the ALJ correctly addressed and dismissed the protests filed in this case, including the protest of Mr. Gable, and approved the Amended BI-Crescent Application. For the reasons explained below, and those set forth in the I.D., Mr. Gable's Exceptions should be denied.

³ Although Mr. Gable has not explicitly numbered his Exceptions consistent with 52 Pa. Code § 5.533(b), his Exceptions identify specific Findings of Fact ("FoF") in the I.D., and appear to group his arguments based upon the referenced FoF. As such, Duquesne Light has numbered Mr. Gable's Exceptions for reference purposes.

II. REPLIES TO EXCEPTIONS

A. **REPLY TO GABLE EXCEPTION NO. 1 – THE ALJ CORRECTLY FOUND THAT THE TOWER STRUCTURES AND CONDUCTORS PROPOSED IN THE AMENDED BI-CRESCENT APPLICATION ARE NOT DESIGNED TO OPERATE AT 345 KV. I.D. AT 7 (FOF ¶ 5).**

Mr. Gable’s first exception argues that the “Brunot Island and Crescent Stations are 345 kV.” Gable Exceptions at 2. Mr. Gable references the ALJ’s finding that the Amended BI-Crescent Project set forth in the Amended BI-Crescent Application “does not involve facilities designed to operate at 345 kV.” I.D. at 7 (FoF ¶ 5) (citing Tr. 385).

The ALJ’s FoF is correct. The Amended BI-Crescent Application “involves the rebuild of the double-circuit BI – Crescent 138 kV Transmission Line that will extend approximately 14.5 miles between the Brunot Island Substation...and the Crescent Substation...” Amended BI-Crescent Application at 2 (emphasis added). The facilities that are being rebuilt are the facilities that operate at 138 kV between the two substations. As such, Mr. Gable’s claim that the Brunot Island and Crescent Substations “are 345 kV” is irrelevant and should be denied.

Mr. Gable’s Exceptions continue to attempt to dispute a design feature that is not relevant to the Amended BI-Crescent Project, *i.e.*, the Company’s initial proposal to design one circuit to 345 kV standards. Duquesne Light’s witnesses clearly explained that the Amended BI-Crescent Application no longer includes a proposal to design one circuit to 345 kV standards. *See, e.g.*, Duquesne Light St. 1A at 7; Duquesne Light St. 3A at 4. Based upon this change, the ALJ correctly explained that Duquesne Light and the Amended BI-Crescent Application “abandoned its proposal to engineer the line structures to accommodate a future 345 kV transmission line” and that the amended filing “revises the proposal to design the facilities solely for a 138 kV transmission line, which results in revised engineering for the poles and line configurations.” I.D. at 30.

For these reasons, and the reasons more fully explained in Duquesne Light's Main Brief and testimony, the Commission should deny Mr. Gable's Exception No. 1 and affirm the I.D.'s approval of the Amended BI-Crescent Application.

B. REPLY TO GABLE EXCEPTION NO. 2 – THE ALJ CORRECTLY FOUND THAT THE AVERAGE HEIGHT OF THE TOWER STRUCTURES PROPOSED IN THE AMENDED BI-CRESCENT APPLICATION IS APPROXIMATELY 155 FEET. I.D. AT 10 (FOF ¶ 27), 11 (FOF ¶¶ 31, 33, 34).

Mr. Gable next asserts that “Duquesne Light plans to use 176 & 195 FT poles which are capable of 345 kV. Rather than the 155 FT poles described to the court.” Gable Exceptions at 2. Mr. Gable's second exception reflects a misunderstanding of evidence and, therefore, should be denied.

The ALJ correctly concluded that “[t]he average height of all structures in the Project will be 155 feet.” I.D. at 10 (emphasis added). This determination was based on the testimony of Duquesne Light witness Ms. Meenah Shyu, who explained that “[t]he steel structures will largely consist of tubular steel monopole structures that will range from 100 to 199 feet in height, with an average height of approximately 155 feet.” Duquesne Light St. 3A at 5 (emphasis added). Although the structure height may differ to ensure that Duquesne Light maintains clearances that conform to the NESC (Duquesne Light St. 4-5), Ms. Shyu explicitly affirmed that “[t]he amended Brunot Island – Crescent 138 kV Transmission Line Project, will be designed, constructed, and operated as a double-circuit 138 kV transmission line.” *Id.* at 4.

Mr. Gable's exception also ignores the fact that Ms. Shyu explained that the 155 ft. figure represented the “average height of all of the new...[monopoles] on the project” in response to Mr. Gable's questions on cross examination. Tr. at 386. In response to his questions, Ms. Shyu clearly stated that the pole heights for poles on Mr. Gable's property would not be adequate to support 345 kV design. Tr. at 385 (“Q. [MR. GABLE] I am trying to find out, Ms. Shyu, if the pole heights

that you put on my property will be adequate to support the 345? A. [MS. SHYU] No. That is not correct.”).

Furthermore, the ALJ correctly referenced Ms. Shyu’s amended rebuttal testimony, which explained why increased heights were required for the Amended BI-Crescent Project, even though both circuits would be designed and operated at 138 kV as they are today. *See* I.D. at 11 (FoF ¶¶ 30-34). Specifically, Ms. Shyu explained:

The existing BI-Crescent transmission line was built in 1914 as a 69kV line and upgraded as 138kV in 1964. The lines were built according to the NESC in effect at that time. However, the NESC Code has changed and increased its requirements over the years. Because of these changes, all heights and clearances must be increased for Duquesne Light to meet the requirements of [the] newest edition of the National Electric Safety Code. Replacing the existing structure with a monopole of the same height would create violations in the NESC Code, newest edition.

Duquesne Light St. 3A-R at 20 (emphasis added). Ms. Shyu then went on to summarize various of the NESC requirements that would be violated by maintaining the tower structures at their existing heights, despite the fact that they would continue to be designed and operated at 138 kV. Duquesne Light St. 3A-R at 20.

For these reasons, the ALJ correctly found that the average height of the structures proposed in the Amended BI-Crescent Application are approximately 155 ft., and that the proposed design, which includes an increase in structure height, will not create an unreasonable risk of danger to the health and safety of the public. *See* I.D. at 10-11, 30. Therefore, the Commission should deny Mr. Gable’s Exception No. 2 and affirm the I.D.’s approval of the Amended BI-Crescent Application.

C. REPLY TO GABLE EXCEPTION NO. 3 – THE ALJ CORRECTLY FOUND THE STRUCTURES THAT WILL BE ADDRESSED BY THE AMENDED BI-CRESCENT APPLICATION ARE SOME OF THE OLDEST IN-SERVICE TOWERS IN THE DUQUESNE LIGHT SYSTEM. I.D. AT 8 (FOF ¶ 8).

Mr. Gable next excepts to the ALJ’s finding that the Amended BI-Crescent Application will replace some of the oldest structures in the Duquesne Light system, and claims that “[t]he 1914 build has been upgraded at least 3 times.” Gable Exceptions at 2. He further argues that “The tower on my property was built in the early 1950’s, and is in good stable condition with solid footings.” Gable Exceptions at 2. Both arguments should be denied.

Duquesne Light first notes that Mr. Gable cites no record evidence to support his assertion that the structures addressed by the Amended BI-Crescent Application have “been upgraded at least 3 times.” Gable Exceptions at 2. Rather, record evidence shows that the “[s]tructures associated with the Project were originally constructed in 1914,” and that “[t]he Brunot Island-Crescent corridor has some of Duquesne Light’s oldest in-service steel lattice towers.” Duquesne Light St. 1A at 5; Duquesne Light Exh. 3, Attachment 2 at 5-6. Furthermore, the record shows that the structural evaluations and inspections of the subject facilities were completed by an independent engineering firm with experience in transmission tower design. Duquesne Light St. 1A at 5. As such, the ALJ correctly concluded that “the facilities associated with the transmission line must be replaced because they have reached the end of their useful life and can no longer be efficiently repaired.” I.D. at 26-27.

Furthermore, Mr. Gable cites no record evidence to support his contention that “the tower on my property was built in the early 1950s.” Gable Exceptions at 2.⁴ Rather, with respect to the structure located on Mr. Gable’s property, Ms. Shyu explained that “[t]he existing four foundations

⁴ Mr. Gable indicated at the December 21, 2020 evidentiary hearing that he “[t]he type of structure that is there now has been there since 1947 I believe...” Tr. at 354.

were constructed in 1936 as concrete pier foundations.” Duquesne Light St. 3A-R at 17. Although these foundations may be suitable for the current structure, Duquesne Light demonstrated that the design of the foundation for the proposed structure “will consist of one reinforced concrete foundation, which will be able to withstand any surface movement and will be embedded in rock.” Duquesne Light St. 3A-R at 17.

The ALJ correctly relied upon Ms. Shyu’s testimony, in contrast to Mr. Gable’s claims, because “[h]e did not offer expert engineer testimony in support of his claims.” I.D. at 28. Ms. Shyu’s testimony was based upon her expertise as the Manager of the Civil and Transmission Engineering Line Group at Duquesne Light and upon data provided by expert geologists that took samples of the soil where the proposed monopole would be located. *See* I.D. at 28.

For these reasons, the Commission should deny Mr. Gable’s Exception No. 3 and affirm the I.D.’s approval of the Amended BI-Crescent Application.

D. REPLY TO GABLE EXCEPTION NO. 4 – THE ALJ CORRECTLY FOUND THAT THE PROPOSED FACILITIES WILL BE DESIGNED AND CONSTRUCTED TO WITHSTAND LANDSLIDES AND SURFACE MOVEMENT, INCLUDING THE FACILITIES LOCATED ON MR. GABLE’S PROPERTY. I.D. AT 9 (FOF ¶¶ 18, 19, 20), 10 (FOF ¶¶ 22, 23, 24).

Mr. Gable further asserts that the “Duquesne Light building site on my property is on a partial shelf of exposed rock & shale.” Gable Exceptions at 2. In addition, he asserts that “No core samples have been taken for this site. They core drilled for a road only.” Gable Exceptions at 2. Both assertions should be denied.

The ALJ correctly concluded that “Ms. Shyu’s testimony and supporting exhibits demonstrates that the poles for the proposed project will be adequately engineered to avoid damage from landslides.” I.D. at 29. As previously noted, Mr. Gable did not offer expert engineer testimony in support of his claim regarding the integrity of the ground where Duquesne Light proposed to locate a pole on his property. I.D. at 28. On the other hand, Duquesne Light presented

substantial testimony and evidence from both its internal engineering witness, Ms. Shyu, as well as evidence and data from outside expert geologists that sampled the soil at Mr. Gable's property. *See* I.D. at 28 (summarizing the testimony and evidence presented by Ms. Shyu).

Furthermore, Mr. Gable's claim that "no core samples have been taken for this site" is not correct. Ms. Shyu provided soil boring data that was collected to design and locate the proposed facilities on Mr. Gable's property. *See* Duquesne Light Exhibits MS-3 and MS-4. These samples provided "detailed information in order to design a suitable foundation for the proposed facility." Duquesne Light St. 3A-R at 19. Based on this information, Ms. Shyu testified that "[t]he proposed foundation will be embedded deep into the soil and affixed to rock, providing a stable design." Duquesne Light St. 3A-R at 19.

For these reasons, the Commission should deny Mr. Gable's Exception No. 4 and affirm the I.D.'s approval of the Amended BI-Crescent Application.

E. REPLY TO GABLE EXCEPTION NO. 5 – THE ALJ CORRECTLY FOUND THAT DUQUESNE LIGHT DESCRIBED ITS EMF MITIGATION PROCEDURES CONSISTENT WITH 52 PA. CODE § 69.3107(B). I.D. AT 11 (¶¶ 35, 36).

Mr. Gable next disputes the ALJ's findings regarding Duquesne Light's Magnetic Field Management Program and claims that "Duquesne Light has made no base number for EMF ratings safe for humans & wildlife." Gable Exceptions at 2 (referencing I.D. at 11 (FoF ¶¶ 35-36)). Mr. Gable's exception ignores the evidence and should be denied.

The ALJ correctly found that "[t]he Commission has concluded that EMFs do not pose an unreasonable risk of harm from transmission lines similar to the proposed line here." I.D. at 29 (citing authorities). Mr. Gable's exception should be denied on this ground alone.

Nevertheless, Section 69.3107(b) of the Commission's regulations states that "Transmission siting applications should include...A description of the EMF mitigation

procedures that the utility proposes to utilize along the transmission line route.” 52 Pa. Code § 69.3107(b). The ALJ explained that Duquesne Light has adopted a Magnetic Field Management Program, and that a description of this program was contained in the Application. *See* I.D. at 11 (referencing Duquesne Light Exhibit 3, Attachment 11 at 2-4). As such, the Amended BI-Crescent Application complies with 52 Pa. Code § 69.3107(b).

Furthermore, the ALJ explained the additional steps that Duquesne Light took with respect to EMF associated with the Amended BI-Crescent Project, which included conducting an EMF study at the points in the new line with the highest potential for EMF exposure. I.D. at 30. The study “confirmed that the BI-Crescent Project has EMF levels that are under the acceptable limit of the standards and guidelines of its Magnetic Field Management Program.” I.D. at 30.

For these reasons, the Commission should deny Mr. Gable’s Exception No. 5 and affirm the I.D.’s approval of the Amended BI-Crescent Application.

F. REPLY TO GABLE EXCEPTION NO. 6 – THE ALJ CORRECTLY FOUND THAT DUQUESNE LIGHT HAS WORKED WITH LANDOWNERS TO ROUTE ACCESS ROADS. I.D. AT 18 (FOF ¶ 88).

Finally, Mr. Gable claims that “Duquesne Light is designing access roads without landowners[’] input or permission.” Gable Exceptions at 2. Contrary to his claim, the ALJ fully and correctly addressed the protestant landowners’ claims regarding access to their respective properties.

The ALJ initially noted that “[t]he Commission does not have jurisdiction to resolve disputes in trespass.” I.D. at 37. The ALJ went on to explain that the claims of various landowners regarding the construction of access roads were mistaken. I.D. at 37. As noted by the ALJ, Duquesne Light witness Ms. Lesley Gannon:

explained that Mrs. Adams and Mrs. Crowe are mistaken about alleged plans to widen Konter Road as a part of this project; although there are ruts and holes in the road that Duquesne Light

will need to repair in order to drive construction vehicles on the road, there are no plans to widen Konter Road.

I.D. at 38 (citing Duquesne Light St. 4-R at 6-7). With respect to other claims of trespass or inadequate easements, the ALJ further explained that either (a) no Duquesne Light facilities were located or would be located upon certain protestants' properties or (b) Duquesne Light already possesses easements for transmission facilities upon certain protestants' properties. *See* I.D. at 37-38. As such, the ALJ correctly concluded that Duquesne Light does not need and does not intend to acquire rights of way with respect to these properties.

For these reasons, the Commission should deny Mr. Gable's Exception No. 6 and affirm the I.D.'s approval of the Amended BI-Crescent Application.

III. CONCLUSION

WHEREFORE, Duquesne Light Company respectfully requests that the Pennsylvania Public Utility Commission deny the Exceptions of Richard I. Gable.

Respectfully submitted,



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Date: July 16, 2021