



October 14, 2009

James J. McNulty  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

BURNS LAW FIRM, LLC  
390 OAK SPRING ROAD  
MARIANNA, PA 15345  
(412) 693-3035 *Phone*  
(412) 291-1498 *Fax*

*e-mail:* WBURNS@BURNSLEGAL.NET  
*website:* WWW.BURNSLEGAL.NET

RE: 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 No. A-2009-2082652, A-2009-2082382, al.

Dear Mr. McNulty:

On this date the Energy Conservation Council of Pennsylvania ("ECC") is electronically filing its Reply Brief in the above-referenced matter. The brief and cover letter are contemporaneously being served on all parties per the attached certificate of service, and the brief is being posted on the website for this matter, per Judge Colwell's Briefing Order.

Very truly yours,

Willard R. Burns

WRB/bw  
Enclosure  
cc: Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of PPL Electric Utilities Corporation :  
Filed Pursuant to 52 Pa. Code Chapter 57, : A-2009-2082652  
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 :

Petition of PPL Electric Utilities Corporation :  
For A Finding That A Building To Shelter : A-2009-2082832  
Equipment At The 500-230 kV Substation To :  
Be Constructed In The Borough of Blakely, :  
Lackawanna County, Pennsylvania is :  
Reasonably Necessary For the Convenience :  
Or Welfare Of the Public :

Application of PPL Electric Utilities Corporation :  
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 Right-Of-Way And Easement Over And Across : A-2009-2088297  
The Lands Of Chaudari Family Limited Partner- :  
Ship, David Murphy, and Marguerite T. Kranick :  
In South Canaan Township, Wayne County For :  
The Proposed Susquehanna-Roseland 500 kV :  
Transmission Line in Portions of Lackawanna, :  
Luzerne, Monroe, Pike and Wayne Counties, :  
Pennsylvania Is Necessary or Proper For The :  
Service, Accommodation, Convenience Or :  
Safety Of The Public :

Application of PPL Electric Utilities Corporation :  
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 Right-Of-Way And Easement Over And Across :  
The Lands Of The Property Owners Listed Below :  
For The Proposed Susquehanna-Roseland 500 kV :  
Transmission Line in Portions of Lackawanna, :

Luzerne, Monroe, Pike and Wayne Counties, :  
Pennsylvania Is Necessary or Proper For The :  
Service, Accommodation, Convenience Or :  
Safety Of The Public: :

HaRa Corporation in Middle : A-2009-2088337  
Richard Coccodrilli, Jr., Jeffrey J. : A-2009-2088327  
Coccodrilli, Ryan T. Coccodrilli, and Joseph :  
Williams :  
D&L Realty Company : A-2009-2088340  
Rudolph Saporito and Maria Saporito : A-2009-2088312  
David Murphy : A-2009-2088360

**THE ENERGY CONSERVATION COUNSEL OF PENNSYLVANIA'S  
REPLY BRIEF**

Willard R. Burns  
Burns Law Firm, LLC  
390 Oak Spring Road  
Marianna, PA 15345  
Phone: (412) 693-3035  
Fax: (412)291-1498  
wburns@burnslegal.net

Edmund "Tad" Berger  
Berger Law Firm, P.C.  
2104 Market Street  
Camp Hill, PA 17011  
Phone: (717) 920-8900  
Fax: (717) 920-8901  
publicutilitylaw@bergerlawfirm.net

Dated: October 14, 2009

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**CONSTITUTIONAL PROVISIONS**

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The Energy Conservation Council of Pennsylvania (“Energy Conservation Council” or “ECC”) hereby files its Reply Brief in the above-captioned consolidated proceedings in accordance with Judge Colwell’s September 14, 2009 Order and the requirements of 52 Pa. Code §§ 5.501 and 5.502.

The brief filed by PPL Electric Utilities Corporation (“PPL”) contains an inaccurate discussion of the applicable legal standards. It does not discuss holdings from a number of critical cases, including some cases where PPL was a party. For example, PPL’s brief attempts to shift the burden of proof to other parties. It also does not mention PPL’s legal obligations to evaluate “alternatives” to the proposed facilities, to choose a project that is “reasonably responsive to the need that exists”, and ignores the *Gilchrist* decision, *infra*, which requires the Company to obtain a permit from the National Park Service before any construction can begin on any segment of the proposed facilities.

If the applicable law is applied, PPL’s application must be denied. Among other reasons, (1) neither PPL nor PJM have analyzed whether any alternatives to the proposed facilities can address the issues identified in the latest modeling tests (the “March 2009 retool”); and (2) neither PPL nor PJM have evaluated the effect of current load forecasts or expected peak load reductions from demand response and energy efficiency programs that have “cleared” in the latest PJM “auction.” As a result, this Commission *cannot find* that (i) the proposed facilities are a reasonable solution after considering the available alternatives, (ii) that the proposed project

will have minimum adverse environmental impact, or (iii) that the proposed facilities are “reasonably responsive to the need that exists.”<sup>1</sup>

PPL has failed to meet its burden of proving that its proposed Susquehanna-Roseland 500 kV facilities are necessary and proper for the accommodation, convenience and safety of the public, pursuant to the Public Utility Code and the Commission’s Regulations. Thus, PPL’s application must be denied.

### **I. Burden of Proof**

As PPL admits in its brief, PPL has the burden of proof. PPL brief at 16. But PPL seems to believe that it only has the burden of proof “temporarily”. PPL argues, based on a 1940 case, that: “[i]f the applicant sets forth a *prima facie* case, then the burden shifts to the opponent.” See PPL brief at 17 citing *McDonald V. Pennsylvania Railroad Co.*, 348 Pa. 558, 36 A.2d 492 (1940). PPL further claims that “Establishing a *prima facie* case requires either evidence sufficient to make a finding of fact permissible or evidence to create a presumption against an opponent which, if not met, results in an obligatory decision for the proponent. Once a *prima facie* case on a point has been established, if contrary evidence is not presented, there is no requirement that the applicant produce additional evidence in order to sustain its burden of proof.” PPL Brief at 17. In support of this proposition, PPL cites *District of Columbia's Appeal*, 343 Pa. 65, 21 A.2d 883 (1941) and *Application of Pennsylvania Power & Light Co.*, Doc. Nos. A-110500F0196, *et al.*; 1994 Pa. PUC LEXIS 65 (Oct. 21 1994).

However, as the PUC held in the recent “TrAILCo” decision, the Company has the burden of proof on all issues: “[a]s the proponent of a rule or order, TrAILCo bears the burden of

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<sup>1</sup> See, e.g. *Re Pennsylvania Power & Light Co.*, 50 Pa. P.U.C. 480, 484 (1977); *Re West Penn Power Co.*, 54 Pa. P.U.C. 319, 320-327 (1980) (to keep the environmental incursion to a minimum, the proposed facilities must be reasonably responsive to the need that exists)(emphasis supplied).

proof pursuant to Section 332(a) of the Public Utility Code (Code), 66 Pa. C.S. § 332(a).”

*Application of Trans-Allegheny Interstate Line Co. (“TrAILCo”)* Docket Nos. A-110172 et. al, slip op. (Pa. P.U.C. December 12, 2008) at 9-10<sup>2</sup>.

It is clear from prior Pennsylvania decisions that, even if a Company’s assertion of “need” for high voltage facilities is unopposed by expert testimony, a Company must still satisfy its burden of proof that proposed facilities are needed. Thus, even if no contrary evidence is presented on an issue, there is not an “obligatory decision for the proponent”. *The burden of proof does not shift.*

In a case decided after adoption of the siting regulations, the Pennsylvania Commission examined the five justifications for proposed transmission lines in detail, and concluded that the record did not support the alleged justifications of need. *Re West Penn Power Company*, 54 Pa. PUC 319 (Pa. PUC 1980). The Commission concluded that the Applicant had failed to carry its burden of proof despite the fact that no expert testimony was offered by any other party to rebut the Company’s assertions of “need.” *Id*<sup>3</sup>.

In addition, the cases PPL cites from the 1940s clearly predate the current regulations (adopted in 1978 and amended in 1983) for high voltage transmission lines. The cases have no applicability to the current law regarding high voltage power facilities. The Company has also

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<sup>2</sup> The Commission also has consistently held that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Id.*, citing *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). A preponderance of the evidence is established by presenting evidence that is more convincing, by even the smallest amount, than that presented by the other parties to the case. *Id.*; *Se-Ling Hosiery v. Marquies*, 364 Pa. 45, 70 A.2d 854 (1950). In addition, “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.” *Id.*, citing *Norfolk & Western Ry. Co. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (1980).

<sup>3</sup> See also *TrAILCo*. at 9-10, 34, 41. In the *TrAIL* proceeding, the PUC did not indicate that the burden of proof shifted to other parties at any time.

not presented evidence of “need” that is “unopposed” by other experts – the testimony of the OCA’s experts Fagan and Lanzalotta clearly indicates that the current evidentiary record does not support a finding of “need” for the proposed facilities. Finally, the Company has not presented any evidence that it considered any alternatives to the currently-identified issues. Thus, the Company has presented no evidence – not even *prima facie* evidence – that (1) it considered alternatives to the *currently-identified* issues or (2) that the proposed facilities are “reasonably responsive to the need” that exists.

## **II. Legal Standards Applicable to Applications For High Voltage Facilities**

Our Commission recently discussed the applicable legal standards for proposed high voltage facilities in the *TrAILCo* proceeding, holding that the “ALJs applied the appropriate statutory and regulatory standards in their consideration of matter” including:

The ALJs stated that their focus was to determine, “for planning and policy purposes, whether a proposed transmission project is ultimately necessary or proper for the accommodation, convenience and safety of patrons, employees and the public.” R.D. at 111... The ALJs relied on the decision in *Pennsylvania Power & Light Company v. Pa. PUC*, 696 A.2d 248 (Pa.Cmwlt. 1997), to provide guidance on transmission line applications. The ALJs emphasized that *Pennsylvania Power & Light* requires the consideration of whether the proposed transmission line will have a minimum environmental impact “*considering the electric power needs of the public, the state of the available technology and the available alternatives.*” R.D. at 111-112, citing, *Pennsylvania Power & Light* at 250 (emphasis in R.D.).

*Application of Trans-Allegheny Interstate Line Co. (“TrAILCo”)* Docket Nos. A-110172 et. al, slip op. (Pa. P.U.C. December 12, 2008) at 25 and 33.

But PPL, in its brief, fails to accurately discuss *Pennsylvania Power & Light Company v. Pa. PUC*, 696 A.2d 248 (Pa.Cmwlt. 1997), a case in which it was a party. In its brief, PPL argues that the 1997 PPL decision stands for the following proposition:

With respect to need issues, the Commonwealth Court has determined that a transmission line should not be approved unless the electric utility demonstrates that

the line is "necessary or proper for the accommodation, convenience and safety of its patrons, employees and the public." *Pa. Power & Light Co. v. Pa. P.U.C.*, 696 A.2d 248, 250 (Pa. Cmwlth. 1997) (quoting 66 Pa.C.S. § 1501). In applying this standard, the Commonwealth Court held that the Commission should consider the "electric power needs of the public, the state of the available technology and the available alternatives." *Id.* (quoting 52 Pa. Code § 57.76).

PPL Brief at 18-19.

PPL then argues that the PUC's "environmental review is properly limited to the impacts at the site of the proposed facilities." See PPL's Brief at 19-20.

However, PPL fails to point out that "*Pennsylvania Power & Light* requires the consideration of whether the proposed transmission line will have a **minimum environmental impact** 'considering the electric power needs of the public, the state of the available technology and the available alternatives.'" *TRAILCO* at 25 and 33 (emphasis supplied).

Another significant omission is PPL's failure to mention that it is axiomatic that the proposed facilities must be *commensurate to the extent of the need*. *Re West Penn Power Company*, 54 Pa. PUC 319 (Pa. PUC 1980); *see also, Re Pennsylvania Power & Light Co.*, 50 Pa. P.U.C. 480, 484 (1977); *Modern Transfer Co. v. Pa. P.U.C.*, 115 A.2d 887, 891 (Pa. Super. 1955) (holding proposed facilities must be reasonably responsive to the need that exists); *West Penn, supra* I.D. at 20 (slip op. January 16, 1980) (holding if the extent of the authority sought is expansive, the need should be compelling).

Indeed, the ECC submits that Article 1, Section 27 and 52 Pa. Code §57.76(a) are designed to ensure that no project is built which, by its very nature, is not designed to minimize environmental harm through an evaluation and selection of technologies and alternatives that accomplish that goal.

Moreover, establishing a future need is not enough. In general, an applicant must present proof of present and future need for the proposed service. *Application for Harrison City Loop*, 1998 Pa PUC LEXIS 12, \* 17 (1998). Even where need is adequately shown, the Commission must

consider the dangers to the health and safety of the public, environmental considerations, cost, and available alternatives. *West Penn*, 54 Pa. P.U.C. at 327.

PPL also fails to discuss its statutory obligation to examine “alternatives” in connection with the “need” for the proposed facilities. In fact, PPL appears to be arguing that alternatives are only required to be considered within the context of the minimization of environmental impacts, and not as part of “need.”

PPL’s arguments in this respect exhort form over substance and misconstrue the obvious intent of the regulations to carry out the statutory and constitutional mandate under which the regulation was adopted. As part of its determination in this case, the Commission is bound to determine (1) that there is a need for the line, (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 Pennsylvania natural resources, *and* (4) that it will have minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and available alternatives. 52 Pa. Code § 57.76(a).

Although the terminology “available alternatives” is stated in the regulations in the context of standard number (4), it is unreasonable to think that the determination of “need” as set forth in standard number (1) can be made in the absence of consideration of alternatives. How can the PUC determine whether a line is “needed” if it does not determine whether alternatives to a line exist? Indeed, in requiring that the electric utility provide the “engineering justification” for an HV line, it is evident that other engineering alternatives must be considered. 52 Pa. Code §57.72(c)(5). Those alternatives could range from use of existing facilities in different ways, upgrading of lines or facilities, or construction of other facilities.

A “need” cannot exist in the absence of consideration of whether there are alternatives to the construction of the line. A more reasonable interpretation of this provision of the regulations is that standard number (4) further elucidates the balancing that must occur in determining need. It is no

surprise then that standard number (4) does, in fact, require a balancing of “the electric power *needs* of the public” with environmental impact, available technology, and available alternatives. This is consistent with the statutory mandate established by various sections of the Public Utility Code under which the regulations were promulgated, requiring a determination that the facilities are “necessary or proper for the service, accommodation, convenience or safety of the public.” 66 Pa.C.S. §1103; *see also* 66 Pa.C.S. §1501. Looking at this issue in the narrow way that PPL proposes is inconsistent with the obvious intent of the regulation and the constitutional and statutory mandates under which it was adopted.

In evaluating the need for a proposed HV transmission line, the Commission, in past cases, has looked critically at utility claims pertaining to standards for reliability, load projections, generation already available or coming on line that would *obviate* the need for a HV transmission line, interconnections with other utilities that could supplement local resources, non-transmission fixes, and consideration of alternatives to meet the demand. *West Penn, supra*. The Commission has also imposed a heavy burden on applicants to show that harm to the environment resulting from a transmission line is more than exceeded by the benefit and that available alternatives have been considered which reduce environmental harm to a minimum.<sup>4</sup>

Rather than apply this same burden in this case, PPL looks at minimizing harm to the environment *only* with respect to route selection – not with respect to whether the project, as a whole, is necessary. PPL did not evaluate whether the proposed facilities were reasonably proportionate to the need. Focusing only on solving *alleged* reliability issues caused by demands in the Mid-Atlantic area ignores the balancing required by the siting regulations *and* Article 1, Section 27 of the state constitution.

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<sup>4</sup> Similarly, in siting a substation, in the case of *Re Philadelphia Electric Company*, A-110550F058 (I.D., June 1, 1992), ALJ Kranzel rejected a proposed siting of a substation, finding that the Company had a better, less costly alternative, that did not intrude on residents and that it had not shown a reasonable necessity for the construction of a control building.

Those provisions, instead, require, as the Commission has acknowledged in other cases, that the proposed facilities must be reasonably responsive to the need that exists. *Re Pennsylvania Power & Light Co.*, 50 Pa. P.U.C. 480, 484 (1977); *Re West Penn Power Co.*, *supra*, 54 Pa. P.U.C. at 320-327. If the facilities exceed what is necessary, the Commission should find that the “excess capacity” is not useful to the public, resulting in disallowances of costs. *See, e.g., Philadelphia Elec. Co. v. Pa. P.U.C.*, 61 Pa. Commw. 25, 433 A.2d 620 (1981).

The key question to be asked is: Do the “electric power needs of the public” require the proposed solution, or will a smaller, less environmentally-damaging solution fix the alleged problem? This view is consistent with the approach taken in *Payne v. Kassab*, 312 A.2d 86 (Pa. Commw. Ct. 1973), *aff’d* 323 A.2d 405 (Pa. 1974) which required a balancing of the environmental harm against the benefits of proceeding with the transmission line, considering available alternative technologies, siting and other factors.

Under Pennsylvania law, the proposed *solution* – not just the route - that has minimum adverse environmental impact, and is proportionate to the need, must be chosen. Every case in which the Commission has evaluated the “need” for a line has necessarily looked at customer load, electrical alternatives, and similar factors. Because PPL has not (1) looked at the most recent computer modeling or the current situation, (2) has not evaluated whether the proposed project will have a minimum adverse environmental impact and (3) has not evaluated whether the proposed facilities are reasonably responsive to the currently-identified issues, its application must be denied.

### **III. Legal Standards Applicable to Line Route Evaluation**

The Company’s brief claims that, regarding route selection issues, the “applicable legal standards for review of the selection of a route for utility lines are whether the powers conferred upon the public utility have been wantonly, capriciously or arbitrarily exercised” *citing Paxtowne*

v. Pa. P.U.C., 398 A.2d 254,256 (Pa. Cmwlth. 1979), and *West Penn Power Co. v. Pa. P.U.C.*, 184 A.2d 143 (Pa. Super 1962). PPL Brief at 19.

*But that is not the standard.* The Company is pointing to the *appellate* standard of review for line route selection in eminent domain proceedings – not Pennsylvania’s line siting regulations. With respect to the line route selection for extra high voltage lines, the regulations set forth the route selection siting requirements that the company must establish by a preponderance of the evidence.

With respect to choice of the line route, the Commission requires an analysis of the following elements for each HV line: 1) a general description of each alternative route, 2) a description of the methodology for developing the alternative routes, 3) a comparison of the relative merits of each route, and 4) a statement of the reasons underlying the selection of the preferred route. *See* 52 Pa. Code § 57.72(c)(10).

In addition, under Section 57.75, PPL must show the: (1) present and future necessity of the proposed line; (2) safety of the line and (3) “impact and the efforts which have been and will be made to minimize the impact, if any” on land use, soil sedimentation, plant and wildlife habitats, terrain, hydrology, landscape, archaeological areas, geologic areas, historic areas, scenic areas, wilderness areas and scenic rivers. 52 Pa. Code §§57.75(1)-(3).

The Company has the burden of proof on these code sections (52 Pa. Code §§57.72(c)(10) and 52 Pa. Code §§57.75(1)-(3)). *See, e.g. TrAILCo* at 9-10, 34, 42-43.

#### IV. **The Gilchrist Decision**

PPL’s brief neglects any discussion of the *Gilchrist* decision – a decision that requires denial of PPL’s current application. *Maryland Conservation Council, Inc. v. Gilchrist*, 808 F.2d 1039 (4th Cir. 1986)





In its Brief, PPL states that “[t]he National Park Service has its own permitting process for electric transmission lines. Its specific concerns will be addressed as part of that process.” PPL Brief at 155. Although PPL admits that it must get permission from the National Park Service to construct the proposed facilities, PPL provides no further discussion of the relevance of that fact. *Without a permit from the National Park Service the proposed facilities cannot be built.*

As explained in greater detail in the OCA’s brief (see Section IV.C.9. of the OCA’s main brief), the *Gilchrist* decision shows how significant the “federal permit requirement” is to this proceeding. In *Gilchrist*, Montgomery County Maryland proposed to build a highway through Seneca Creek State Park. Department of Interior approval was required for this proposed use. *Gilchrist* at 1041. This proposed highway was challenged, in part, on the grounds that the National Energy Policy Act applied and that no part of the project could proceed until federal action on a completed Environmental Impact Statement had been finalized. *Gilchrist* at 1042-43. The *Gilchrist* court concluded that

... the Great Seneca Highway is a federal action within the meaning of the NEPA. Because the highway, wherever located, must cross Seneca Creek State park, a park established with a grant of substantial federal funds, the approval of the Secretary of the Interior for conversion of the park land to other than public outdoor recreation uses will be required.

...  
Because of the inevitability of the need for at least one federal approval, we think that the construction of the highway will constitute a major federal action.

...  
Because it is inevitable that the construction of the highway will involve a major federal action, it follows that compliance with the NEPA is required before any portion of the road is built.

*Gilchrist* at 1042 (emphasis in original). Because the proposed facilities in *this proceeding* require a federal permit for construction (a “federal action”), compliance with NEPA (including the issuance of a final Environmental Impact Statement) is required *before any portion* of the facilities are built. *Id.*

Thus, to comply with this aspect of federal law, and its own regulations, the Commission should reject the Application as incomplete as filed because of its lack of the necessary permit for construction *and* its lack of the necessary Environmental Impact Statement. At a minimum, PPL must be prohibited from beginning *any construction* unless and until all federal approvals regarding the Delaware Water Gap National Recreation Area and the Middle Delaware National Scenic and Recreational River are secured.

**V. Substantial Evidence in the Record**

[T]his 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).

*Application of Trans-Allegheny Interstate Line Co. ("TrAILCo")* Docket Nos. A-110172 et. al, slip op. (Pa. P.U.C. December 12, 2008) at 9-10. This Commission cannot approve PPL's application because there is no substantial evidence in the record that (1) PPL evaluated any alternatives to deal with the issues identified in the March 2009 modeling tests, (2) PPL chose a project that is reasonably responsive to a need that exists; or (3) PPL selected a project that minimized the environmental impacts.

PPL contends that it evaluated "alternatives" before choosing the Susquehanna to Roseland facilities as the "preferred solution". PPL Brief at 39-41. However, the record evidence *shows no analysis of non-transmission "alternatives"* that would have allowed the Commission or other parties to determine the necessity, and appropriateness, of the proposed facilities. PPL witness Steven Herling testified that non-transmission solutions were *not* considered to address the alleged reliability issues. Tr. at 1388; PPL St. 7 (Herling) at 10, 14, and 26.

In its brief, PPL discusses three *transmission* alternatives that were examined in 2007: (1) the "preferred alternative" (the proposed Susquehanna to Roseland facilities); (2) a Bossards – Roseland

500 kV line, and (3) a Stanton-Roseland 230 kV line. *See* PPL's brief at 39-41. As the record clearly reflects, these three "transmission alternatives" were only examined in 2007, as part of PJM's 2007 Regional Transmission Expansion Plan, and the "preferred alternative" was approved by the PJM board on June 22, 2007. PPL brief at 41<sup>5</sup>.

However, no alternatives to the Susquehanna - Roseland line were considered *after* the 2007 RTEP. Tr. at 1385 (testimony of PJM's Steven Herling). Neither PPL nor PJM evaluated any alternatives to the *different* issues identified in the 2008 modeling tests, or the much less severe potential future issues from the March 2009 modeling tests. *Id.*

As discussed in the ECC's main brief, one of the biggest problems with PPL's application is the fact that the computer modeling assumptions that caused PJM to approve the Susquehanna to Roseland line as "needed" in 2007 have changed. But neither PJM nor PPL have evaluated any other potential fixes to deal with the currently-projected future issues.

In addition, the latest computer modeling study (the March 2009 "retool") (1) does not include an updated load forecast that reflects the current economic recession; (2) does not evaluate the significant quantities of Demand Response and Energy Efficiency resources that cleared in the May 2009 RPM Auction; and (3) completely ignores Pennsylvania's Act 129 and New Jersey's Energy Master Plan peak load reduction initiatives which require the reduction of peak electrical usage.

Despite these significant and material changes to predicted potential future issues since 2007, no one has determined whether a cheaper or less intrusive alternative fix exists.

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<sup>5</sup> *See also* PPL St. 8 (McGlynn) at 24, and 2007 RTEP report at 60 (ECC Cross Ex. 14 at 60)(before choosing the Susquehanna - Roseland line as the preferred solution in 2007, PJM evaluated these two other alternatives.

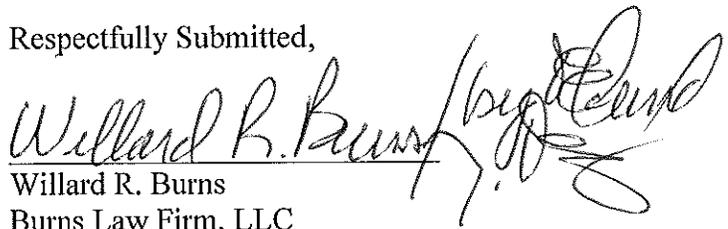
Thus, PPL's application must be denied because there is no substantial evidence in the record that the proposed facilities "**will have minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and the available alternatives.**" 52 Pa. Code §57.76(a)(4)(emphasis supplied).

**VI. Conclusion**

For the above reasons, the ECC respectfully submits that PPL's application should be denied.

Dated: October 14, 2009

Respectfully Submitted,



Willard R. Burns  
Burns Law Firm, LLC  
390 Oak Spring Road  
Marianna, PA 15345  
Phone: (412) 693-3035 Fax: (412)291-1498  
wburns@burnslegal.net

Edmund "Tad" Berger  
Berger Law Firm, P.C.  
2104 Market Street  
Camp Hill, PA 17011  
Phone: (717) 920-8900 Fax: (717) 920-8901  
publicutilitylaw@bergerlawfirm.net

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In Re: Application of PPL Electric Utilities Corporation for  
Approval of the Siting and Construction of the Pennsylvania  
Portion of the Proposed Susquehanna-Roseland 500 kV  
Transmission Line

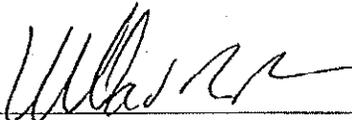
Docket Nos.  
A-2009-2082652  
A-2009-2082832

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CERTIFICATE OF SERVICE

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I hereby certify that on this day I have caused to be served true copies of the foregoing cover letter transmitting the Energy Conservation Council of Pennsylvania ("ECC") Reply Brief upon the parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant) and the September 14, 2009, Briefing Order in this matter, in the manner and upon the persons listed on the attached Service List.

  
\_\_\_\_\_  
Willard R. Burns  
Burns Law Firm, LLC  
390 Oak Spring Road  
Marianna, PA 15345  
Phone: (412) 693-3035  
Fax: (412) 291-1498  
wburns@burnslegal.net

*Attorneys for:*  
*Energy Conservation Council*

Dated: October 14, 2009

## SERVICE LIST

### Via Hand Delivery of Letter, Certificate and Brief

Honorable Susan D. Colwell, ALJ Office of Administrative Law Judge Pennsylvania Public Utility Commission Commonwealth Keystone Building 400 North Street Harrisburg, PA 17120	
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### Via Email of Letter, Certificate, and Brief, and First Class Mail of Letter and Certificate

Dianne E. Dusman, Esquire Darryl Lawrence, Esquire Office of Consumer Advocate 555 Walnut Street, Forum Place, 5th Floor Harrisburg, PA 17101-1923	Charles Daniel Shields, Esquire Adeolu Bakare, Esquire PA PUC Office of Trial Staff P.O. Box 3265 Harrisburg, PA 17105-3265
Edmund Berger, Esquire Berger Law Firm, P.C. 2104 Market Street Camp Hill, PA 17011	Kent D. Murphy, Esquire UGI Corporation 406 North Gulph Road King of Prussia, PA 19406
John H. Isom, Esquire Andrew S. Tubbs, Esquire Post & Schell, P.C. 17 North Second Street, 12th Floor Harrisburg, PA 17101-1601	Denise Foster, Esquire Joe Dominguez, Esquire Exelon Generation Co., LLC 300 Exelon Way Kennett Square, PA 19425
Shelby A Linton-Keddle Esquire Pamela C. Polacek, Esquire McNees Wallace & Nurick, LLC 100 Pine Street, P.O. Box 1166 Harrisburg, PA 17108-1166	Paul E. Russell, Esquire Associate General Counsel PPL Services Corporation Two North Ninth Street Allentown, PA 18101
Willard R. Burns, Esquire Burns Law Firm, LLC 390 Oak Spring Road Marianna, PA 15345	Susan Simms Marsh, Esquire Pennsylvania American Water Company 800 West Hershey Park Drive Hershey, PA 17033

David B. McGregor, Esquire Post & Schell, P.C. Four Penn Center 1600 John F. Kennedy Boulevard Philadelphia, PA 19103-2808	Michael F. Faherty, Esquire Lavery Faherty Young & Patterson 225 Market Street, P.O. Box 1245 Harrisburg, PA 17108-1245
--	--

Via First Class Mail of Letter and Certificate

Stanley & Susan Tomkiel 228 Belaire Drive Mt. Laurel, NJ 08054-2702	David Murphy and Marguerite T. Kranick 279 Faller Road Lake Ariel, PA 18436
Jeffrey J. Coccodrilli Ryan T. Coccodrilli Joseph Williams 4 East Forest Drive Saylorsburg, PA 18353	HARA Corporation c/o F. Andrew Wolf Corporate Counsel Bushkill Group Route 209, P.O. Box 447 Bushkill, PA 18324
D&L Realty Company 400 Mill Street Dunmore, PA 18512	Kenneth Powell & Linda Powell 1305 Justus Boulevard Clarks Summit, PA 18411
Rudolph Saporito & Maria Saporito P.O. Box 434 Lake Ariel, PA 18436-0434	Annette & Ralph Seeley 52 Saw Creek Estates Bushkill, PA 18324
Joseph K & Maria Doe 2117 Fifth Street East Meadow, NY 11554	Timothy and Debra Kocher 1184 Ridge Road Bath, PA 18014
Arlean K. Lilly 1260 Smith Gap Road Bath, PA 18014-8738	Donna Davis, Esquire P.O. Box 423 Dunmore, PA 18512
Geff Blake, Esquire Wright & Reihner, P.C. 148 Adams Avenue Scranton, PA 18503	Robert Fagan Synapse Energy Economics, Inc. 22 Pearl Street Cambridge, MA 02139
Al Spinelli 249 At The Falls Bushkill, PA 18324	Robyn Long 1176 Saw Creek Estates Bushkill, PA 18324