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File #: 2507/140066

January 19, 2010

BY HAND

James J. McNulty  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
PO Box 3265  
Harrisburg, PA 17105-3265

**RE: Petition of PPL Electric Utilities Corporation For a Finding That a Building to Shelter Control Equipment at the Beltzville 69-12 kV Substation To Be Constructed in Towamensing Township, Carbon County, Pennsylvania is Reasonably Necessary for the Convenience or Welfare of the Public**  
**Docket No. ~~P-2009-~~ A -**

Dear Secretary McNulty:

Enclosed for filing are the original and three (3) copies of the Petition of PPL Electric Utilities Corporation For a Finding That a Building To Shelter Control Equipment at the Beltzville 69-12 kV Substation To Be Constructed in Towamensing Township, Carbon County, Pennsylvania Is Reasonably Necessary for the Convenience or Welfare of the Public.

As indicated on the certificate of service, copies are being provided to the parties in the manner indicated.

Respectfully Submitted,

Christopher T. Wright

CTW/skr  
Enclosures  
cc: Certificate of Service

RECEIVED  
2010 JAN 19 PM 4:25  
PA PUC  
SECRETARY'S BUREAU

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition Of PPL Electric Utilities :  
Corporation For A Finding That A Building :  
To Shelter Control Equipment At The : **A-**  
Beltzville 69-12 kV Substation To Be : Docket No. ~~P-2009-~~  
Constructed In Towamensing Township, :  
Carbon County, Pennsylvania Is Reasonably :  
Necessary For The Convenience Or Welfare :  
Of The Public :

**RECEIVED**  
**2010 JAN 19 PM 4:25**  
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**SECRETARY'S BUREAU**

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**PETITION OF PPL ELECTRIC UTILITIES CORPORATION**

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TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

PPL Electric Utilities Corporation ("PPL Electric") hereby petitions the Pennsylvania Public Utility Commission ("Commission"), pursuant to 52 Pa. Code § 5.41 and 53 P.S. § 10619, for a finding that a building to shelter control equipment ("Control Equipment Building") at the proposed Beltzville 69-12 kV Substation in Towamensing Township, Carbon County, ("Beltzville Substation") is reasonably necessary for the convenience or welfare of the public, and therefore, exempt from any local Zoning Ordinance ("Zoning Petition").<sup>1</sup> In support of this Zoning Petition, PPL Electric states as follows:

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<sup>1</sup> PPL Electric believes its control equipment building is not a "building" but, rather, is part of its substation facilities. Therefore, PPL Electric's control equipment building is exempt from local zoning requirements. See, e.g., *Duquesne Light Co. v. Upper St. Clair Township*, 377 Pa. 323, 334-35, 105 A.2d 287, 292 (1954). This Zoning Petition is being filed as a precaution in the event that the Commission were to determine that the control equipment building is not a facility and, therefore, potentially subject to local zoning ordinances.

**I. INTRODUCTION AND OVERVIEW**

1. This Zoning Petition is filed by PPL Electric, Two North Ninth Street, Allentown, Pennsylvania 18101, a public utility that provides electric distribution and provider of last resort services in Pennsylvania subject to the regulatory jurisdiction of the Commission.

2. PPL Electric's attorneys are:

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Fax: 610.774.6726  
E-mail: perussell@pplweb.com

PPL Electric's attorneys are authorized to receive all notices and communications regarding this Zoning Petition.

3. PPL Electric is a "public utility" and an "electric distribution company" as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 102,

2803. PPL Electric is a “public utility corporation” as defined in Section 1103 of the Business Corporation Law of 1988, 15 Pa. C.S. § 1103. PPL Electric furnishes electric distribution and provider of last resort electric supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of twenty-nine counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

4. PPL Electric owns approximately 5,000 miles of transmission lines operating at 69,000 volts or higher, approximately 330 substations with a capacity of 10,000 KVA or more, and approximately 43,000 miles of distribution lines operating at less than 69,000 volts.

## **II. DISCUSSION**

5. The proposed Beltzville Substation is being planned in conjunction with the proposed Beltzville #1 and #2 138/69 kV Tap Lines (“Beltzville Taps”). Contemporaneously herewith, PPL Electric is filing a Letter of Notification seeking Commission approval of the siting and construction of the Beltzville Taps (“Beltzville LON”). The combination of the Beltzville Taps and the proposed Beltzville Substation are required to meet the increasing demand for electricity, improve reliability, and increase operational flexibility in the vicinity of the Towamensing Township, Carbon County. PPL Electric’s Beltzville LON is incorporated herein by reference.

6. The proposed Beltzville Taps are required to reduce load and the number of customers served by the existing Weissport 75-3, Gilbert 78-2, and Gilbert 78-3 12 kV distribution lines, improve reliability of service, and increase operational flexibility in the vicinity of Towamensing Township, Carbon County. The present facilities that supply that area exceed the normal planning guideline based on PPL Electric’s Reliability Principles and Practices Manual (“RP&P”). These distribution lines also exceed the RP&P by having excessive

customers on each feeder. Additionally, the existing distribution lines are radial lines, which limit transfer capability and increase the duration of outages.

7. To alleviate these problems, PPL Electric plans to construct and install new 12 kV distribution facilities that will be connected to the Beltzville Substation, which will be supplied by the Beltzville Taps. The two new 12 kV distribution lines will exit the Beltzville Substation to serve part of the load currently being supplied by the Weissport 75-3, and the Gilbert 78-2 and 78-3 distribution lines. This reinforcement will reduce the peak loading on these lines by 4.0 MVA, 2.1 MVA, and 3.7 MVA, respectively. The Beltzville Substation will also create three new distribution tie lines to eliminate the main radial portions of the Weissport 75-3, the Gilbert 78-2, and the Gilbert 78-3 distribution lines, as well as provide a backup source to serve customer load in the event of outages. Additionally, the project will include remote controlled switching to improve the transfer capabilities of these circuits.

8. When the Beltzville Substation and Beltzville Taps are complete, the reinforcement will reduce the peak loading on the existing distribution facilities. Additionally, this load transfer will make capacity available at the nearby Weissport 69-12 kV Substation and Gilbert 69-12 kV Substation, and will allow for transfer capability between the three substations during maintenance and equipment outages.

9. The total estimated cost of this solution is approximately \$2.3 million, which included \$1.2 million for the Beltzville Substation, \$500,00 for the Beltzville Taps, and \$600,000 for the new distribution lines and tie lines.

10. The new Beltzville Substation will include a Control Equipment Building. Substations must include certain control equipment, primarily switches, relays and control equipment, and Supervisory Control and Data Acquisition (“SCADA”) equipment to control the

flow of electricity into, within and from the substation. Much of this equipment, in order to function properly, must be protected from the elements. The purpose of the proposed building in the Beltzville Substation is to protect the control equipment from the elements so that the line equipment, and the entire substation, can function properly.

11. The Control Equipment Building will be approximately 12 feet by 12 feet. It will be constructed on a concrete slab. The exterior walls will be constructed of corrugated aluminum. There will be minimal space heating and cooling equipment for the building. Such equipment will be installed solely for the purpose of keeping the temperature inside the building within limits tolerated by the control equipment. The building will not be intended for human occupancy; there will be no supply of water and no sanitary facilities.

12. The Beltzville Substation will be surrounded by a high fence to prevent entry by unauthorized persons. The fenced area for the Beltzville Substation will be approximately 136 feet by 104 feet. Access to the substation, including the Control Equipment Building, must be limited because the high voltage at which the substation will operate presents dangers to untrained persons. The Control Equipment Building will be contained within the fenced perimeter of the substation.

13. The Beltzville Substation will be located on a 2.69-acre tract of land owned by PPL Electric.

14. The location of the Beltzville Substation is advantageous because the source 69 kV transmission line is located approximately 140 feet from the proposed Beltzville Substation site, which PPL Electric already owns. Consequently, only a short transmission tap line, the Beltzville Taps, is required to connect the proposed substation to the electric grid. Additionally, by siting the substation within close proximity to the existing transmission source for the

Beltzville Taps, PPL Electric can minimize the length of the transmission line supplying the substation, thereby minimizing costs and environmental impacts.

15. Provided as Attachment A hereto is an aerial photo showing the location of PPL Electric's tract of land on which the proposed Beltzville Substation, together with the required Control Equipment Building, will be constructed. Attachment A also depicts the right-of-way and easement required for the Beltzville Taps.

16. The Pennsylvania Municipalities Planning Code ("MPC") provides, in relevant part, as follows:

This article shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

Section 619 of the MPC, Act of July 31, 1968, P.L. 805, *as amended*, 53 P.S. § 10619. Thus, a public utility building is subject to local zoning requirements for buildings unless, upon petition, the Commission determines that the proposed situation of the building in question is reasonably necessary for the convenience and welfare of the public. 53 P.S. § 10619.

17. As explained above, the Beltzville Substation, together with the Beltzville Taps and new distribution and tie lines, is necessary to reduce load and the number of customers served by local distribution lines, improve reliability of service, and increase operational flexibility in the vicinity of Towamensing Township, Carbon County. The Beltzville Substation must include certain control equipment in order to operate properly, and said equipment must be protected from the elements, which requires the construction of the Control Equipment Building on the Beltzville Substation Site. Because the Beltzville Substation is reasonably necessary for the public convenience and welfare, and because the Control Equipment Building is necessary to

properly operate the Beltzville Substation, the Commission should find that the Control Equipment Building is reasonably necessary and, therefore, exempt from the Towamensing Township's local zoning ordinance pursuant to Section 619 of the MPC. *Del-AWARE Unlimited, Inc. v. Pa. P.U.C.*, 513 A.2d 593 (Pa. Cmwlth. 1986).

### III. THE TOWAMENSING TOWNSHIP ZONING ORDINANCE

18. On January 11, 2001, the Commission adopted a policy statement to further the Commonwealth's goal of making agency actions consistent with sound land use planning by considering the impact of its decision upon local comprehensive plans and zoning ordinances. See 31 Pa. Bull. 951 (Feb. 17, 2001). Section 69.1101 of the Commission's Regulations provides:

[T]he Commission will consider the impact of its decisions upon local comprehensive plans and zoning ordinances. This will include reviewing applications for:

- (1) Certificates of public convenience.
- (2) Siting electric transmission lines.
- (3) Siting a public utility "building" under section 619 of the Municipalities Planning Code (53 P.S. § 10619).
- (4) Other Commission decisions."

52 Pa. Code § 69.1101.

19. The Towamensing Township has adopted a zoning ordinance, which includes a map on which zoning districts are identified. See TOWAMENSING TOWNSHIP ZONING ORDINANCE OF 1991, *as amended* (December 19, 1991).<sup>2</sup> The location where PPL Electric

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<sup>2</sup> The Towamensing Township Zoning Ordinance is 94 pages. PPL Electric will provide copies of the Towamensing Township Zoning Ordinance upon request.

proposes to construct the Beltzville Substation is designated as a Residential District. The substation parcel is currently a wooded lot that is bordered to the north and west by residential properties. To the east, the parcel is bordered by an agricultural field which contains a residential dwelling. To the south, the parcel is bordered by a wooded parcel.

20. Under Section 405 of the Towamensing Township Zoning Ordinance, utility facilities are permitted in a Residential District as a Conditional Use. *See* TOWAMENSING TOWNSHIP ZONING ORDINANCE OF 1991, § 405.F, p. IV-2. A use identified as a Conditional Use is permitted provided that the Township Board of Supervisors, after receiving recommendations from the Planning Commission, grants the conditional use subject to expressed standards and any additional conditions that the Board of Supervisors deems appropriate. *See* TOWAMENSING TOWNSHIP ZONING ORDINANCE OF 1991, § 401(c), p. IV-1. Additionally, the Towamensing Township Zoning Ordinance imposes additional conditions and requirements that must be satisfied in order for the Township Board of Supervisors to grant an Conditional Use. *See* TOWAMENSING TOWNSHIP ZONING ORDINANCE OF 1991, §§ 1007-1008, pp. X-4 – X-5.

21. Further, with respect to the siting and location of a substation and transmission facilities in a Residential District, the Towamensing Township Zoning Ordinance provides as follows:

Transformer station, pumping station, relay station, towers (transmission or relay), substation, and switching centers. In Residential Districts, such uses shall be permitted only when the following conditions are met.

(a) Such installation is essential to service such residential areas; and

(b) No public business office or any storage yard or storage building is operated in connection with it; and

(c) A sixty (60) foot buffer yard shall be provided along all property lines except for utility stations designed for local distribution; and

(d) Towers are prohibited in Residential Districts.

See TOWAMENSING TOWNSHIP ZONING ORDINANCE OF 1991, § 406.F(F1), p. IV-19. Section 406.F(F1) of the Towamensing Township Zoning Ordinance attempts to regulate public utility facilities; however, the design, location, and construction of public utility facilities is exempt from local ordinances.<sup>3</sup>

22. If PPL Electric were required to obtain a approval for a Conditional Use prior to construction of the Control Equipment Building, the process, including appeals from adverse determinations, could consume substantial time, which could delay the construction of the Beltzville Substation and Beltzville Taps, which are reasonably necessary for the convenience or welfare of the public.

23. Additionally, the proposed Beltzville Taps and Beltzville Substation were reviewed with representatives of Towamensing Township and Carbon County. The Township

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<sup>3</sup> The lack authority for a local municipality to regulate the design, location, or construction of public utility facilities is consistent with the long line of case holding that public utilities are exempt for local ordinances. The Pennsylvania Supreme Court has recognized the exclusive jurisdiction of the Public Utility Commission ("Commission") in a long line of cases. See *Duquesne Light Company v. Monroeville Borough*, 449 Pa. 573, 580, 298 A.2d 2352 (1972) ("This Court has consistently held, however, that the Public Utility Commission has exclusive regulatory jurisdiction over the implementation of public utility facilities") (citations omitted). See, e.g., *County of Chester v. Philadelphia Elec. Co.*, 420 Pa. 422, 218 A.2d 331 (1966) (holding that regulation by a multitude of jurisdictions would result in "twisted and knotted" public utilities with consequent harm to the general welfare); *Newtown Twp. v. Philadelphia Elec. Co.*, 594 A.2d 834, 837 (Pa. Cmwlth. 1991) (noting that "it is clear that no 'implied' power exists in the MPC which would allow the Township to regulate [the Philadelphia Electric Company] through its subdivision and land development ordinance"); *Heintzel v. Zoning Hearing Bd. of Millcreek Twp.*, 533 A.2d 832 (Pa. Cmwlth. 1987) (holding that township had no power to regulate, under its zoning ordinance, city's erection of water tower because that power was under the exclusive jurisdiction of the PUC); *South Coventry Twp. v. Philadelphia Elec. Co.*, 504 A.2d 368 (Pa. Cmwlth. 1986) (noting that to possibly subject [the Philadelphia Electric Company] to a miscellaneous collection of regulations upon its system would clearly burden and indeed disable it from successfully functioning as a utility); *Commonwealth v. Delaware and Hudson Railway Co.*, 339 A.2d 155 (Pa. Cmwlth. 1975) (holding that the MPC did not authorize local governments to regulate public utilities in any manner which infringes upon the power of the Commission to so regulate).

and the County have no objection to the Beltzville Taps Line and Beltzville Substation. As indicated in the attached certificate of service, PPL Electric is serving a copy of this Zoning Petition on Towamensing Township, the Towamensing Township Planning Commission, Carbon County, and the Carbon County Planning Commission.

24. Further, in all of its interactions with the Towamensing Township and Carbon County, PPL Electric will continue to apply its long-standing policy of cooperating with local governments.

25. For these reasons, PPL Electric requests that the Commission find that the Control Equipment Building is reasonably necessary for the convenience or welfare of the public and therefore exempt from the requirement of the Towamensing Township Zoning Ordinance that requires a Zoning Permit prior to construction of any building and such other portions of the Zoning Ordinance that may, in the Towamensing Township's opinion, impose any restriction, condition or regulation on the construction of the Control Equipment Building.

#### **IV. RELATED PROCEEDINGS**

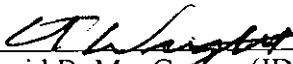
26. Contemporaneously with the filing of this Zoning Petition, PPL Electric is filing with the Commission the Beltzville LON. There, PPL Electric is requesting approval for the siting and construction of the Beltzville Taps which will be connected to supply the proposed Beltzville Substation, including the Control Equipment Building that is the subject of this Zoning Petition. Issues relating to the necessity for and location of the Beltzville Taps are interrelated with issues related to this Zoning Petition.

V. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission find that the Control Equipment Building proposed by PPL Electric Utilities Corporation at the Beltzville Substation is reasonably necessary for the convenience or welfare of the public and therefore is exempt from the Zoning Ordinance of the Borough of Blakely.

Respectfully submitted,

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Of Counsel:

Post & Schell, P.C.


Date: January 19, 2010

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*Attorneys for PPL Electric Utilities Corporation*

## VERIFICATION

I, David G. DeCampli, being the President of PPL Electric Utilities Corporation, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that PPL Electric Utilities Corporation 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.

  
David G. DeCampli

**CERTIFICATE OF SERVICE**

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

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Pennsylvania Historical and Museum  
Commission  
Bureau for Historic Preservation  
Commonwealth Keystone Building, Second  
Floor  
400 North Street  
Harrisburg, PA 17120-0053  
Attn: Mr. Douglas C. McLearn, Chief

Pennsylvania Department of Transportation  
Commonwealth Keystone Building  
400 North Street, 8<sup>th</sup> Floor  
Harrisburg, PA 17120  
Attn: The Honorable Allen D. Biehler, P.E.,  
Secretary

Department of Environmental Protection  
P.O. Box 2063  
Market Street State Office Building  
Harrisburg, PA 17105-2063  
Attn: Office of Field Operations

Carbon County Commissioners  
P.O. Box 129  
Jim Thorpe, PA 18229  
Attn: William J. O’Gurek, Chairperson

Carbon County Planning Commission  
76 Susquehanna Street  
P.O. Box 210  
Jim Thorpe, PA 18229  
Att: Ms. Judy Borger, Director

Towamensing Township Board of  
Supervisors  
120 Stable Road  
Lehighton, PA 18235  
Attn: Mr. Rodney George, Chairperson

Towamensing Township Planning  
Commission  
120 Stable Road  
Lehighton, PA 18235  
Attn: Ms. Connie Bieling, Chairperson

Date: January 19, 2010

  
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