

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition Of PPL Electric Utilities :
Corporation For A Finding That A Building :
To Shelter Control Equipment At The :
Schoeneck 69-12 kV Substation To Be : Docket No. P-2010-_____
Constructed In Lower Macungie Township, :
Lehigh County, Pennsylvania Is Reasonably :
Necessary For The Convenience Or Welfare :
Of The Public :

PETITION OF PPL ELECTRIC UTILITIES CORPORATION

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 Schoeneck 69-12 kV Substation (“Schoeneck Substation”) in Lower Macungie Township, Lehigh County, Pennsylvania is reasonably necessary for the convenience or welfare of the public and, therefore, exempt from any local zoning ordinance (“Zoning Petition”).¹ In support of this Zoning Petition, PPL Electric states as follows:

¹ 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, which has its principal office at Two North Ninth Street, Allentown, Pennsylvania 18101. It is a public utility that provides electric distribution, transmission, 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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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 furnishes electric distribution, transmission, 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 KVA² or more, and approximately 43,000 miles of distribution lines operating at less than 69,000 volts.

II. DISCUSSION

5. The proposed Schoeneck Substation is being planned in conjunction with the proposed Schoeneck #1 and #2 138/69 kV Transmission Tap Line (“Schoeneck Tap”). Contemporaneously herewith, PPL Electric is filing a Letter of Notification seeking Commission approval of the siting and construction of the Schoeneck Tap (“Schoeneck LON”). The combination of the Schoeneck Tap and the proposed Schoeneck Substation is required to meet increasing load due to residential growth, meet increased demand at Lower Macungie Industrial Park, and improve reliability and operating flexibility in the vicinity of Lower Macungie Township. PPL Electric’s Schoeneck LON is incorporated herein by reference.

6. Presently, PPL Electric’s distribution customers in the Lower Macungie Township area are served from the Trexlertown 69-12 kV Substation, via the Trexlertown 47-3

² Kilovolt Ampere.

12 kV distribution line, and the Macungie 69-12 kV Substation, via the Macungie 27-4 12 kV distribution line.

7. Due to the increasing demand for electricity, the load served by the Trexlertown 69-12 kV Substation is approaching its maximum. No additional transfers are available in the area due to heavy loading on the surrounding lines. This new substation will create a new tie with the Trexlertown Substation to provide additional transfer capability in an emergency. When load on the existing transformers exceeds planning criteria, reinforcement is required to ensure that customers will not experience an extended outage in the event of a transformer failure.

8. Additionally, the Trexlertown 47-3 12 kV distribution line is projected to exceed its normal planning guidelines in 2010. The normal and emergency ratings of the 336 kcmil aluminum conductor steel reinforced (“ACSR”) of the Trexlertown 47-3 12 kV distribution line are 10 and 12 MVA, respectively. The line, however, reached a peak load 10 MVA during summer 2009, and the peak load on the distribution line forecasted for the summer of 2010 is 10.1 MVA.

9. In addition, the Macungie 27-4 12 kV distribution line is projected to exceed the normal planning guidelines set forth in PPL Electric’s Reliability Principles and Practices (“RP&P”). The normal and emergency ratings of the 447 kcmil³ aluminum conductor steel reinforced (“ACSR”) of the Macungie 27-4 12 kV distribution line are 11 and 13 MVA, respectively. The peak load on the distribution line forecasted for the winter of 2012 is 12 MVA. The proposed Schoeneck Substation will relieve the Macungie 27-4 line.

10. Although there is some capability for growth at the Macungie Substation, the load served by the substation is projected to reach its maximum capability in 2015, when additional

³ Thousand circular Mils.

system reinforcement would be required. Further, the proposed Schoeneck Substation is the least cost alternative to solve the area's long term reliability issues.

11. To alleviate these problems, PPL Electric plans to construct and install new 12 kV distribution facilities to serve customer load in Lower Macungie Township area. These distribution facilities, which will be connected to the Schoeneck Substation, will be supplied by the Schoeneck Tap. The facilities will enable PPL Electric to serve the increasing customer load due to residential growth in the vicinity of Lower Macungie Township and meet increased demand at Lower Macungie Industrial Park. These new distribution facilities will also have the ability to connect with the existing Macungie 27-4 12 kV distribution line. Together, the Schoeneck Substation and new 12 kV facilities will reduce peak loading on the existing Macungie 27-4 12 kV distribution line by 5.5 MVA. Further, when the Schoeneck Substation, Schoeneck Tap, and connecting distribution facilities are complete, the proposed reinforcement will transfer load away from the existing Trexlertown 69-12 kV Substation and improve reliability and operational flexibility in the area. A detailed explanation of the proposed Schoeneck Substation and Tap is set forth in the Exhibits and Appendices to the Schoeneck LON.

12. The total estimated cost of this solution is approximately \$2.7 million, which includes \$2.3 million for the Schoeneck Substation and distribution line connections and \$412,400 for the Schoeneck Tap.

13. The new Schoeneck Substation will include a Control Equipment Building. Substations must include certain control equipment, primarily switches, relays, 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 Schoeneck Substation is to protect the control equipment facilities from the elements so that the line equipment, and the entire substation, can function properly.

14. 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.

15. The Schoeneck Substation will be surrounded by a high fence to prevent entry by unauthorized persons. The fenced area for the Schoeneck Substation will be approximately 104 feet by 136 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.

16. The Schoeneck Substation will be located on a 5.9-acre tract of land in Lower Macungie Township, Lehigh County, and will occupy approximately 1/3 acre.

17. The location of the Schoeneck Substation is advantageous because the source 138/69 kV transmission line, the Victaulic 138/69 kV Tap, is located in close proximity to the selected site for the proposed Schoeneck Substation. Consequently, only a short transmission tap line, the Schoeneck Tap, is required to connect the proposed substation to the electric grid. Additionally, by siting the substation within close proximity to the existing transmission source,

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

18. Provided as Attachment A hereto is drawing showing the location of the tract of land on which the proposed Schoeneck Substation, together with the required Control Equipment Building, will be constructed.

19. 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.

20. As explained above, the Schoeneck Substation, together with the Schoeneck Tap and new distribution facilities, is necessary to reduce load, serve the increase in demand, and resolve the reliability issues associated with the existing Trexlertown 69-12 kV Substation and Macungie 27-4 12 kV distribution line in the vicinity of Lower Macungie Township, Lehigh County. The Schoeneck 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 a Control Equipment Building on the site proposed for the Schoeneck Substation. Because the Schoeneck Substation is reasonably necessary for the public convenience and welfare, and because the Control Equipment Building is necessary to properly operate the

Substation, the Commission should find that the Control Equipment Building is reasonably necessary and, therefore, exempt from the Lower Macungie 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 LOWER MACUNGIE TOWNSHIP ZONING ORDINANCE

21. 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 Policy Statement 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.

22. The Lower Macungie Township has adopted a zoning ordinance. See LOWER MACUNGIE TOWNSHIP ZONING ORDINANCE OF 1998, *as amended*.⁴ The location where PPL Electric proposes to construct the Schoeneck Substation is designated as an Agricultural/Rural

⁴ Due to its length, the Lower Macungie Township's Zoning Ordinance is not attached to this Petition. It is available, however, at the home page for Lower Macungie Township, Lehigh County, Pennsylvania under "Zonings." Available at <http://www.lowermac.com>.

Zoning District. Pursuant to Lower Macungie Township’s Zoning Ordinance, “a building, structure, or facility owned and used by a public utility for the direct provision of services to the public” is a use permitted by right in an Agricultural/Rural Zoning District provided that certain conditions and restrictions are met. *See* LOWER MACUNGIE TOWNSHIP ZONING ORDINANCE, § 401.1 The Lower Macungie Township Zoning Ordinance defines public utility structures to include electric substations.⁵

23. The Lower Macungie Township Zoning Ordinance requires a 35-foot setback for public utility structures necessary for transmission in an Agricultural/Rural District. *See* LOWER MACUNGIE TOWNSHIP ZONING ORDINANCE, § 405. Although this setback requirement will not apply to the proposed Control Equipment Building if the Commission approves this Petition, PPL Electric intends to comply with this requirement.

24. Further, under the Lower Macungie Township Zoning Ordinance, uses permitted by right may be subject to additional criteria or conditions beyond the general requirements set forth for in a particular zoning district. *See* LOWER MACUNGIE TOWNSHIP ZONING ORDINANCE, § 2104. If PPL Electric were required to obtain zoning approval prior to construction of the Control Equipment Building, the process, including appeals from adverse determinations, could

⁵ The Lower Macungie Township Zoning Ordinance defines utility structures as follows:

Equipment or facilities regulated by the Pennsylvania Public Utility Commission and utilized for producing, generating, transmitting, distributing or furnishing ... electricity ... for the production of light, heat or power to or for the public for compensation....

See LOWER MACUNGIE TOWNSHIP ZONING ORDINANCE, § 201.196. The Lower Macungie Township Zoning Ordinance, in turn, defines “Electrical Substation” as follows:

An assemblage of equipment for transferring electric power rather than for its generation or utilization.

See LOWER MACUNGIE TOWNSHIP ZONING ORDINANCE, § 201.62.

consume substantial time, which could delay the construction of the Schoeneck Substation and Schoeneck Tap, which are reasonably necessary for the convenience or welfare of the public.⁶

25. Further, the proposed Schoeneck Tap and Schoeneck Substation were reviewed with representatives of Lower Macungie Township and Lehigh County. The Township and the County have no objection to the Schoeneck Tap Line and Schoeneck Substation. As indicated in the attached certificate of service, PPL Electric is serving a copy of this Zoning Petition on the Lower Macungie Township, the Lower Macungie Board of Supervisors, Lehigh County, and the Lehigh County Planning Commission.

26. Additionally, in all of its interactions with the Lower Macungie Township and Lehigh County, PPL Electric will continue to apply its long-standing policy of cooperating with local governments.

27. 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, except as provided herein, is therefore exempt from the requirements of the Lower Macungie

⁶ The lack of authority for a local municipality to regulate the design, location, or construction of public utility facilities is consistent with the long line of cases holding that public utilities are exempt from 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).

Zoning Ordinance that may, in the Lower Macungie Township's opinion, impose any restriction, condition or regulation on the construction of the Control Equipment Building.

IV. RELATED PROCEEDINGS

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

29. PPL Electric has been unable to acquire all of the rights-of-way necessary for the proposed Schoeneck Tap through negotiations with the relevant property owners. To date, agreements have been secured from two of the three relevant property owners. PPL Electric will continue to negotiate with the remaining property owner and anticipates reaching an agreement in the near future. To the extent that PPL Electric is unable to secure a right-of-way agreement from the remaining property owner, PPL Electric will file an application, pursuant to 15 Pa. C.S. § 1511(c), for a finding by the Commission that the service to be provided through the exercise of the power of eminent domain is reasonably necessary or proper for the service, accommodation, convenience, or safety of the public.


30. PPL Electric requests that all of these related proceedings be consolidated for hearings, if needed, and decision.

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 Schoeneck 69-12 kV Substation is reasonably necessary for the convenience or welfare of the public and, therefore, is exempt from the Zoning Ordinance of the Lower Macungie Township.

Respectfully submitted,

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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.

Date: 2/25/2010



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. McLearen, Chief

Pennsylvania Department of Transportation
Commonwealth Keystone Building
400 North Street, 8th 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

Lehigh County
17 South 7th Street
Allentown, PA 18101
Attn: The Honorable Donald T.
Cunningham, Jr., Executive

Lehigh Valley Planning Commission
961 Marcon Blvd., Suite 310
Allentown, PA 18103
Attn: Mr. Michael N. Kaiser, AICP,
Executive Director

Lower Macungie Township
3450 Brookside Road
Macungie, PA 18062-1427
Attn: Mr. Bruce Fosselman, Manager

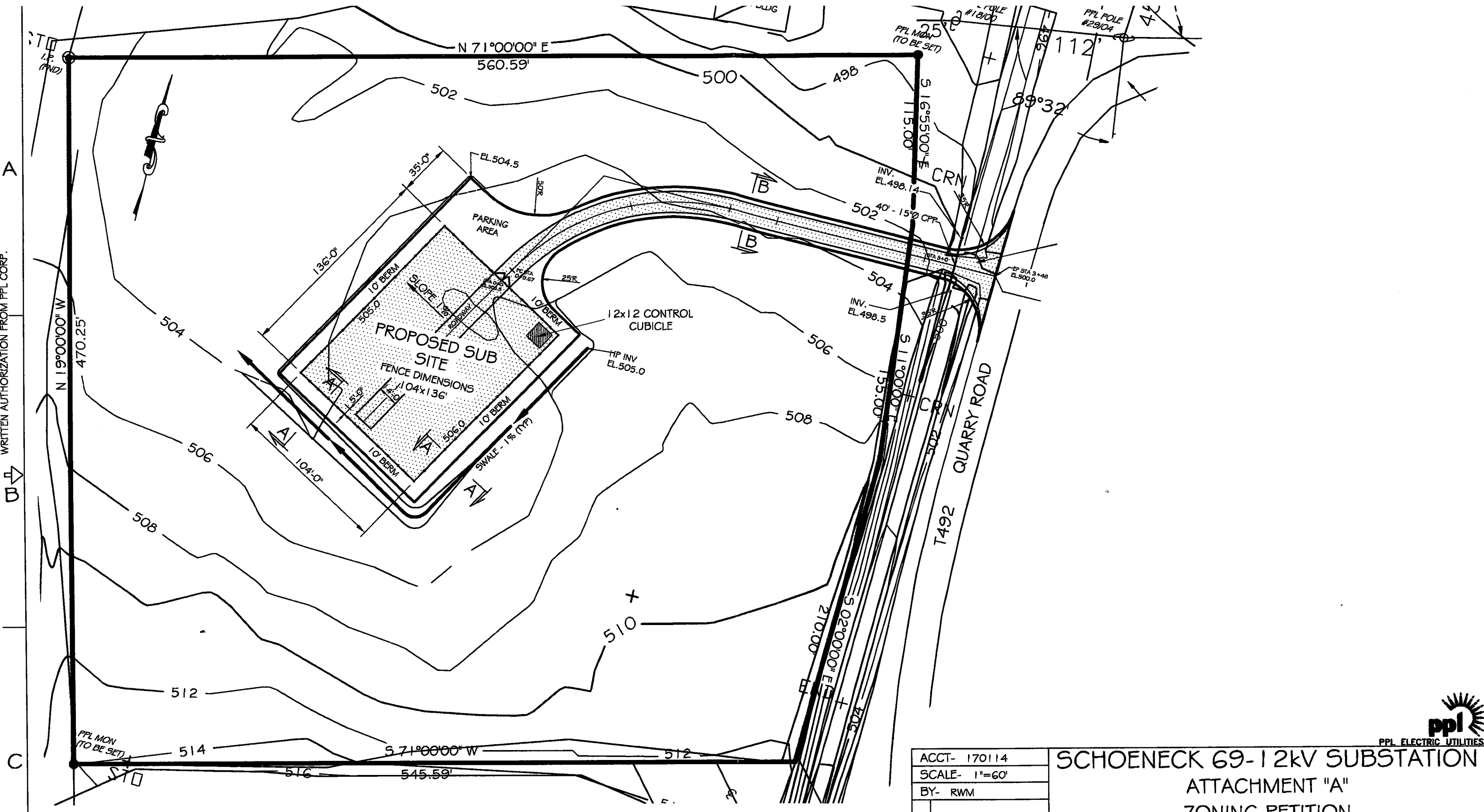
Lower Macungie Township Planning
Commission
3450 Brookside Road
Macungie, PA 18062-1427
Attn: Mr. Maury Robert, Chair

Date: 2/25/2010



Christopher T Wright

BE DUPLICATED, USED OR DISCLOSED WITHOUT WRITTEN AUTHORIZATION FROM PPL CORP.



ACCT- 170114	SCHOENECK 69-12KV SUBSTATION		
SCALE- 1"=60'	ATTACHMENT "A"		
BY- RWM	ZONING PETITION		
REVIEWED	LOWER MACUNGIE TWP.	DATE	LEHIGH CO., PA.
	APPROVED	<i>Kenneth Kuhns</i>	<i>2/17/10</i>
	PPL DRAWING NO.	SHEET NO.	REV.

ATTACHMENT A

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NO.	DATE	ACCT.	REVISION	BY	REVIEWED	APPROVED

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