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File #: 2507/140066

September 21, 2010

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: Petition Of PPL Electric Utilities Corporation For A Finding That A Building To Shelter Control Equipment At The Blue Mountain 138-12 kV Substation To Be Constructed In Moore Township, Northampton County, Pennsylvania Is Reasonably Necessary For The Convenience Or Welfare Of The Public
Docket No. P-2010-**

Dear Secretary Chiavetta:

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 Blue Mountain 138-12 kV Substation To Be Constructed In Moore Township, Northampton County, Pennsylvania Is Reasonably Necessary For The Convenience Or Welfare Of The Public in the above-referenced proceeding.

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

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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 Blue :
Mountain 138-12 kV Substation To Be : Docket No. P-2010-_____
Constructed In Moore Township, :
Northampton County, Pennsylvania Is :
Reasonably Necessary For The Convenience :
Or Welfare Of The Public :

PETITION OF PPL ELECTRIC UTILITIES CORPORATION

PA PUC
SECRETARY'S BUREAU

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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 Blue Mountain 138-12 kV Substation (“Blue Mountain Substation”) in Moore Township, Northampton 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, 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 address is Two North Ninth Street, Allentown, Pennsylvania 18101.

3. 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.

4. 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 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.

5. PPL Electric owns approximately 5,000 miles of transmission lines operating at 69 kV (kilovolts) or higher, approximately 330 substations with a capacity of 10 MVA (megavolts ampere) or more, and approximately 43,000 miles of distribution lines operating at less than 69 kV.

II. DISCUSSION

6. The proposed Blue Mountain Substation is being planned in conjunction with a new 12 kV distribution line and the proposed Blue Mountain #1 & #2 138 kV Transmission Tap Lines (“Blue Mountain Taps”). Contemporaneously herewith, PPL Electric is filing a Letter of Notification seeking Commission approval of the siting and construction of the Blue Mountain Taps (“Blue Mountain LON”). The installation of the Blue Mountain Substation, together with the new 12 kV distribution line and Blue Mountain Taps, is required to improve reliability of service and meet increasing demand in the Moore Township area. PPL Electric’s Blue Mountain LON is incorporated herein by reference.

7. The proposed Blue Mountain Substation will be located entirely in Moore Township, Northampton County. The Blue Mountain project was reviewed with representatives from the Township, County and their planning commissions, and none of them had any objection to the project.

8. Both the Blue Mountain Substation and Blue Mountain Taps will be located entirely on land owned in fee by PPL Electric. An aerial exhibit is provided at the end of Attachment 2 to the Blue Mountain LON. The aerial exhibit depicts the location of the existing and proposed facilities.

9. The Blue Mountain Substation is required to enhance the reliability of service in the area. Presently, approximately 2,000 distribution customers are served from the existing Northampton 31-2 12 kV distribution line. The existing Northampton 31-2 12 kV distribution line is projected to exceed the normal planning guidelines for line loading set forth in PPL Electric's Reliability Principles and Practices manual ("RP&P") in the winter of 2010-2011. Further, the overall length of the Northampton 31-2 12 kV distribution line and its branches is approximately 96 miles, which exceeds the PPL Electric RP&P guideline of 50 miles of 12 kV line length per feeder. The Northampton 31-2 12 kV distribution line has limited transfer capability because it is tied to only one other circuit that presently has approximately 1,300 customers and cannot accommodate any additional customers under the PPL Electric RP&P. This limited transfer capability can increase the duration of outages. The Northampton 31-2 12 kV distribution line also exceeds the RP&P guideline for the number of customers. The RP&P guideline is that no 12 kV distribution line should serve more than 1,300 customers; the Northampton 31-2 12 kV distribution line serves about 2,000 customers. The Northampton 31-2 12 kV distribution line has repeatedly been among the worst performing circuits on the PPL Electric system. A detailed explanation of the need for the Blue Mountain Substation and Blue Mountain Taps is set forth in the Attachment 1 to the Blue Mountain LON.

10. To alleviate these problems, PPL Electric plans to construct and install a new 12 kV distribution line that will be connected to the Blue Mountain Substation, which will be

supplied by the proposed Blue Mountain Taps, to serve customer load in the Moore Township area. The Blue Mountain Substation and new 12 kV distribution line will reduce peak loading, reduce the overall line length and reduce customer count on the existing Northampton 31-2 12 kV distribution line to comply with the PPL Electric RP&P and thereby increase reliability and operating flexibility in the Moore Township area. Further, when the Blue Mountain Substation, Blue Mountain Taps, and the connected 12 kV distribution line are complete, the proposed reinforcement will reduce restoration times, as well as address the reliability issues associated with the existing Northampton 31-2 12 kV distribution line. A detailed explanation of the proposed Blue Mountain Substation and Blue Mountain Taps is set forth in the Attachments to the Blue Mountain LON.

11. The total estimated cost to design and construct the proposed project is approximately \$2.1 million, which includes \$1.3 million for the new Blue Mountain Substation, \$489,000 for the Blue Mountain Taps, and \$300,000 for distribution work.

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

13. 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.

14. The Blue Mountain Substation will be surrounded by a high fence to prevent entry by unauthorized persons. The fenced area for the Blue Mountain Substation will be approximately 104 feet by 136 feet. Access to the substation, including the Control Equipment Building, must be limited because the high voltages 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.

15. The Blue Mountain Substation will be located on a 7.93-acre tract of land in Moore Township, Northampton County. The entire 7.93-acre site for the proposed Blue Mountain Substation is owned in fee by PPL Electric. The Blue Mountain Substation will only occupy approximately one-third of an acre.

16. The location of the Blue Mountain Substation is advantageous because the source 138 kV transmission line, the Siegfried-Jackson #1 & #2 138 kV Transmission Line, crosses the site for the proposed Blue Mountain Substation. Consequently, only 150 feet of transmission tap lines, the Blue Mountain Taps, are required to connect the proposed Substation to the electric grid. Additionally, by siting the Blue Mountain Substation within close proximity to the existing transmission source, PPL Electric can minimize the length of the Blue Mountain Taps supplying the Substation, thereby minimizing costs and environmental impacts.

17. Provided as "Attachment A" hereto is an aerial exhibit showing the location of the tract of land on which the proposed Blue Mountain Substation, together with the required Control Equipment Building, will be constructed.

18. 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 municipality may zone a public utility building unless the Commission determines that the building is reasonably necessary for the convenience or welfare of the public. If the Commission finds that the building is reasonably necessary, the building is exempt from local zoning ordinances under the MPC. *Del-AWARE Unlimited, Inc. v. Pa.P.U.C.*, 513 A.2d 593, 596 (Pa. Cmwlth. 1986).

19. As explained above, the Blue Mountain Substation, together with the Blue Mountain Taps and new 12 kV distribution line, is necessary to reduce load, improve restoration times, and resolve the reliability issues associated with the existing Northampton 31-2 12 kV distribution line in Moore Township area. The Blue Mountain 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 Blue Mountain Substation. Because the Blue Mountain 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 Moore 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 MOORE TOWNSHIP ZONING ORDINANCE

20. 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:

(2) Siting electric transmission lines.

(3) Siting a public utility "building" under section 619 of the Municipalities Planning Code (53 P.S. § 10619)....

52 Pa. Code § 69.1101.

21. The Moore Township has adopted a Zoning Ordinance, which is attached hereto as "Attachment B." See MOORE TOWNSHIP ZONING ORDINANCE OF 1980, *as amended* (April 24, 1973). Under the Moore Township Zoning Ordinance, no buildings or structures shall be used or constructed unless in conformity with the Zoning Ordinance. See MOORE TOWNSHIP ZONING ORDINANCE OF 1980, § 200-3.A.

22. The Moore Township Zoning Ordinance defines essential services to include the provision of electricity. The Moore Township Zoning Ordinance further defines "major facilities" as equipment that is enclosed within a building or constructed on its own site, including substations. See MOORE TOWNSHIP ZONING ORDINANCE OF 1980, § 200-5.

23. The location where PPL Electric proposes to construct the Blue Mountain Substation is designated as a Limited Conservation District. Pursuant to the Moore Township Zoning Ordinance, substations are permitted in a Limited Conservation District as a “Special Exception Use.” *See* MOORE TOWNSHIP ZONING ORDINANCE OF 1980, § 200-13.C. The Moore Township Zoning Ordinance defines a “Special Exception Use” as follows:

A use for which the Zoning Hearing Board may grant permission following a public hearing and findings of fact consistent with this chapter, provided that the use complies with the conditions and standards required by this chapter.

See MOORE TOWNSHIP ZONING ORDINANCE OF 1980, § 200-5. Section 200-18 of the Moore Township Zoning Ordinance sets forth the procedure for obtaining Zoning Hearing Board approval for a Special Exception Use. *See* MOORE TOWNSHIP ZONING ORDINANCE OF 1980, § 200-18.

24. In order for the Moore Township Zoning Hearing board to approve a Special Exception Use, it must find that the use complies with general standards applicable to all Special Exception Uses, as well as with standards applicable to specific uses. With respect to substations, the Moore Township Zoning Ordinance provides that all equipment for utility substations shall be enclosed in a building or by a sight obscuring screen, masonry wall, wooden fence or chain link fence with evergreen vines at least eight feet in height. *See* MOORE TOWNSHIP ZONING ORDINANCE OF 1980, § 200-18.E(34).

25. In addition to the general and specific standards, the Moore Township Zoning Ordinance also provides that a Special Exception Use may also be subject to any other conditions or standards that the Zoning Hearing Board, in its sole discretion, deems necessary and reasonable. *See* MOORE TOWNSHIP ZONING ORDINANCE OF 1980, § 2008-18.C

26. A proposed subdivision is located across from the site for the proposed Blue Mountain Substation. Two existing homes are located nearby, with the closest being approximately 500 feet, 152.4 meters, from the proposed substation. PPL Electric intends to mitigate the visual impacts to the existing and future homes by landscaping the site after the project is completed.

27. Notwithstanding, if PPL Electric were required to obtain a zoning permit or other zoning approval 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 Blue Mountain Substation and Blue Mountain Tap, which are reasonably necessary for the convenience or welfare of the public as explained above.² Importantly, construction on the Blue Mountain project is scheduled to begin in March 2011 to meet a required in-service date of November 2011. The required in-service date is the date the proposed facilities need to be placed in service to prevent equipment overloads that have the potential to damage existing facilities, and, thereby, cause the interruption of service to customers.

28. The Blue Mountain Taps were reviewed with representatives of Northampton County, Lehigh Valley Planning Commission, and Moore Township. These entities have no

² 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. 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).

objection to the Blue Mountain project. As indicated in the attached certificate of service, PPL Electric is serving a copy of this Zoning Petition on the Northampton County, Lehigh Valley Planning Commission, Moore Township Board of Supervisors, and Moore Township Planning Commission.

29. Additionally, in all of its interactions with the Northampton County, Lehigh Valley Planning Commission, and Moore Township, PPL Electric will continue to apply its long-standing policy of cooperating with local governments.

30. 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 is, therefore, exempt from the requirements of the Moore Township Zoning Ordinance that may, in the Moore Township's opinion, impose any restriction, condition or regulation on the construction of the Control Equipment Building.

IV. RELATED PROCEEDINGS

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

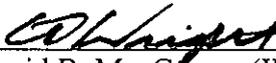
32. Pursuant to 52 Pa. Code §57.75(i)(1), PPL Electric requests that these related proceedings be consolidated for hearings, if necessary, and decision.

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 Blue Mountain 138 kV Substation is reasonably necessary for the convenience or welfare of the public and, therefore, is exempt from the Zoning Ordinance of the Moore Township.

Respectfully submitted,

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Date: 9/21/, 2010

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: 9/15/10



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

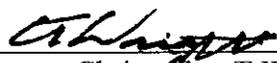
Northampton County
Northampton County Government Center
669 Washington Street
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Attn: Mr. John Stoffa, County Executive

Lehigh Valley Planning Commission
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Allentown, PA 18109
Attn: Mr. Michael Kaiser, AICP, Executive Director

Moore Township Board of Supervisors
2491 Community Drive
Bath, PA 18014
Attn: Mr. Maynard Campbell, Chair

Moore Township Planning Commission
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Attn: Mr. Jason Harhart, Planning Director and Zoning Officer

Date: 9/21/2010



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