

November 1, 2010

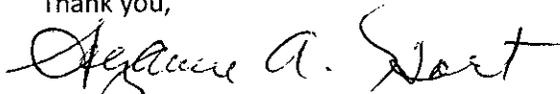
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Keystone Building, 2<sup>nd</sup> Floor  
400 North St.  
Harrisburg, PA 17120

Re: **A-2010-2152104**  
**A-2010-2153061**  
**A-2010-2163154**  
**C-2009-2107073**

Dear Ms. Chiavetta:

Enclosed is an original and nine copies of EXCEPTIONS OF SUZANNE A. HART, PROTESTANT, to the Recommended Decision of Administrative Law Judge, Wayne L. Weismandel re PPL Electric Utilities Corporation.

Thank you,



Suzanne A. Hart  
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570-629-0976  
Sznn\_hrt@yahoo.com

Encls.

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EXCEPTIONS  
OF  
SUZANNE A. HART  
PROTESTANT

## I. HISTORY OF THE PROCEEDINGS

pg 2, paragraph 7, line 1

*Of the parties to the consolidated case<sup>1</sup>, only PPL filed and served the required Initial Prehearing Conference memorandum, due on March 22, 2010.*

As of November 5<sup>th</sup>, 2009, Attorney J. Palmer Lockhard, head of Widener University's Civil Law Clinic, was the legal representative for the residents opposed to what-is-now called The Effort Mountain Taps (PPL has changed the name of the project several times).

On February 9<sup>th</sup>, 2010, Attorney Lockhard met with PPL's attorney John Isom, at Mr. Isom's request, and, on February 20<sup>th</sup>, met with us and informed us that he was uncertain as to whether or not he would represent us at the March 23<sup>rd</sup> PUC "hearing" in Harrisburg. He continued to vacillate, still implying that he hadn't necessarily made up his mind, right up until the morning of March 5<sup>th</sup>, the deadline for filing a protest.

On the morning of March 5<sup>th</sup>, Mr. Lockhard emailed the unsigned protest document to would-be protester, Davia Markowitz, and officially withdrew as our counsel.

At a total loss as to how to proceed, Ms. Markowitz phoned the PUC legal department and spoke with Special Agent Eranda Vero. Ms. Vero explained that one person could sign on behalf of the group, and explained that the March 23<sup>rd</sup> date was not the actual "hearing"; that no testimony would be given that day; that it was just an Initial Prehearing Conference at which time the dates would be agreed upon for the evidentiary hearing and the public-input hearing. She said that it would be good for as many protesters as possible to appear at the Initial Prehearing Conference because it would show the judge that we are serious, but that we're not required to be there in order to preserve our status as protesters. She further explained that we could not file an official protest AND testify at the public input hearing; that we could do one or the other, but not both. She said that the public input hearing would be held in our local area, and we would have the opportunity to testify under oath before the judge, and our testimony would go on the record and be taken into consideration in the decision.

Given the last-minuteness and our lack of familiarity with legal proceedings, along with

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our confusion and, yes, panic, we chose to wait to testify at a local public-input hearing, and forewent filing the official protest document. Ergo, we were under the impression that our presence at the Initial Prehearing Conference in Harrisburg, and the approximately six-hour round trip and the losing of a days work that it would entail, would serve no purpose because we couldn't participate in the Harrisburg hearing(s) if we wanted to testify at the local public-input hearing.

A number of days after the Initial Prehearing Conference, Ms. Markowitz phoned Special Agent Vero to find out the date for which the public-input hearing had been scheduled. Special Agent Vero checked the record and reported that, since none of the protesters had appeared, the judge had determined there was insufficient interest and did not schedule a public-input hearing. Requests for the judge to reconsider that decision were not granted.

LaRue High and I, in addition to being included in the official protest document that did not get filed when Mr. Lockhard withdrew, had filed individual protests before he had become our counsel, so we were still able to participate. However, all the other would-be protesters named on the document were effectively derailed and denied their right to be heard.

pgs 2 & 3, paragraphs 8 & 1,

*The Prehearing Conference was held in the consolidated case on March 23, 2010. PPL was present and participated. Despite notice, neither Albert Barney, Suzanne A. Hart, nor Larue High attended or participated. Pursuant to the provisions of 52 Pa.Code § 5.222( e), certain procedural matters and a schedule for the proceeding were established.<sup>2</sup> A transcript of the proceeding containing 19 pages was produced.*

During the March 5<sup>th</sup> telephone conversation between Ms. Markowitz and Special Agent Vero, Agent Vero stated that the judge had been mad at us for not appearing, and that we could read his comments in the transcript on the PUC website.

But, when we attempted to access the transcript, we could only access the first page; it stated that in order to read the rest of the document, we'd had to travel to the PUC in

Harrisburg. So while a transcript was produced, it was not accessible to the general public in the area that it affected.

pgs. 4 & 5, paragraphs 7 & 1

*The Initial Hearing convened as scheduled on July 13, 2010. PPL appeared through counsel and presented eight witnesses. PPL introduced into evidence the testimony of its witnesses and, without objection, PPL Exhibits 1, 2, 3, B, C, D, E, CJB-1, CJB-2 and Appendices 4 and 5, and PPL Statements 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 14, 15, 19 and 20. Suzanne Hart appeared pro se and provided evidence in the form of her own testimony and the introduction of Hart Exhibits A and B. Larue High appeared pro se (though Mr. Hanyon remains her attorney of record) and provided evidence in the form of her own testimony and the introduction of High Exhibits A and B. The Hearing was completed on July 13, 2010, and consequently the additional Hearing days of July 14 and 15, 2010 were canceled. A transcript of the proceeding containing 93 pages (numbered 20 through 112) was produced.*

The transcript of this hearing, unlike PPL's documented side of the story, cannot be acquired unless one purchases a copy of it. If it were available, the public might find it interesting to note that when Ms. Hart tried to give her testimony, she had barely managed to offer a polite greeting to those present, when PPL's Attorney, John Isom, forcefully interrupted, insisting that her testimony should be ruled inadmissible because she was introducing new evidence, which she was not; it was impossible to say what she was attempting to say because she never got the chance to say it. Mr. Isom so intimidated her that, when the judge allowed her to continue, she was too flustered to regain her train of thought. Ms. High was equally intimidated by proxy.

pg 5, paragraphs 1- 5

*By letter dated July 23, 2010, I provided the parties with copies of ex parte communications that I received from Margaret Dressler and from Stuart Thody.*

*By letter dated July 28, 2010, I provided the parties with copies of ex parte communications that I received from Davia Sacks Markowitz.*

*By letter dated August 5, 2010, I provided the parties with copies of ex parte communications that I received from Joseph S. Werzul, Sr.*

pg. 4

*By letter dated August 10, 2010, I provided the parties with copies of ex parte communications that I received from Linda Snyder.*

Copies of the letters received from Davia Sacks Markowitz, Joseph S. Werzul, Sr., and Linda Snyder were forwarded, not only to PPL, Suzanne Hart, LaRue High, and Albert Barney, but also to Margaret Dressler, and Stuart Thody. Each of the PUC cover letters accompanying the Markowitz, Werzul and Snyder communications stated:

"It should be noted [Ms. Markowitz/Mr. Werzul/Ms Snyder]'s letter will not be considered in deciding this case. Also, this letter will be placed with the above mentioned [Docket #s] files."

On the cover letters accompanying the letters from Margaret Dressler and Stuart Thody, however, it merely stated that their [Dressler and Thody] letters would be placed with the Docket numbered files. It did not state that they would not be considered in deciding this case. And Ms. Dressler and Mr. Thody were copied future communications as parties to the case; which begs the question—what criteria dictated which of the ex parte communications were regarded and which were disregarded?

Subsequent protests filed by Kurt Scheller and Barbara Werzel were classified as Official Protests and were posted under the case docket number on the PUC website, but were copied to no one other than PPL. Why is there such a lacking of consistency?

pg 5, paragraphs 6 & 7

*On August 11, 2010, PPL, Suzanne Hart, and Larue High each filed and served their respective Main Brief.*

*On August 25, 2010, PPL, Suzanne Hart, and Larue High each filed and served their respective Reply Brief.*

Regardless of having showed evidence that seriously challenged statements in PPL's Brief, not one word of Ms. High's or my responses is cited in Judge Weisman's Recommendation, not even to override them. Every "Finding of Fact" is pasted directly from PPL's documents, including the typos.

It's clear that the paraphrasing of Ms. High's and our statements to the point of twisting the meaning and intent of our well-founded allegations is part of the strategy employed by PPL's legal counsel, but I would respectfully expect the Commission to require accuracy in a utility company's Application/Brief/Reply Brief.

I know that "unnecessary delay" is an issue that is taken into consideration, but does PPL's desire for a 'Hurry-up Offense really take precedence over truth and accuracy?

## II. FINDINGS OF FACT

The entire section is directly and entirely lifted from PPL's Brief and Reply Brief. Not only are the issues raised in Ms. High's and my Briefs and Reply Briefs not addressed in the judge's recommendation, but unlike all of PPL's case related documents, ours were not even posted on the docket on the PUC website. It's as if they don't even exist. Since they've not been made public, how is there any accountability for a fair weighing of the statements contained within them

Standing up to PPL is a very stressful and emotionally draining process. Why is only their side of the story made public? Why are they enabled to twist words around and respond to allegations that were never made in order to avoid having to respond to allegations that were made, and then have their contorted responses quoted as Findings of Fact in the judge's recommendation? Forgive me; I realize I am a minnow in a shark tank, but how is that reasonable? And if PPL has a legitimate case, why is that necessary?

pgs. 6, & 7, paragraphs 5 & 1

5. *Through a detailed system planning process and application of PPL's planning guidelines, PPL identifies facilities that require reinforcement to enable it to continue to provide adequate and reliable service to the public and plan appropriate measures to assure reasonably continuous supply to the entire regional load, even during adverse conditions. In order to assure that PPL's transmission and distribution systems can supply load reliably during summer and winter peak conditions and provide service at an acceptable voltage level through the daily load cycle, PPL has adopted a set of defined planning standards, which are set forth in PPL's Reliability Principles and Practices manual (RP&P). (PPL Statement No. 1, pp. 4-5)*

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At no time was this system or these guidelines revealed, ergo the Commission and the public are being asked to take PPL at their word. The fact that a corporation has vested interest in their data indicating certain specific findings is not unique to PPL. Data is manipulated by means of how the parameters of the software are set up. That's why one week, coffee causes cancer, and six months later, coffee prevents cancer. It depends on who does the study and where the best interest of their source of funding lies.

"In *PPL Electric Utilities Corporation v. Pennsylvania Public Utility Commission No. 272 C.D. 2006*, Complainants alleged that PPL tortuously interfered with their contractual relationships with certain customers of PPL. Those claims were based upon certain actions by PPL including: (1) its calculation of the maximum "interruptible load" on its system; [...] (3) PPL's adjustment of "base periods" to reflect current normal operations where the base period is used to determine the amount of incremental load eligible for discounted rates...

"Complainants alleged that these actions by PPL constituted violations of its tariff filed with the Commission and/or violations of Section 1303 of the Public Utilities Code (Code), 66 Pa.C.S. §1303.[1]

"The ALJ issued a recommended decision and order that PPL cease and desist from further violations of section 1303 of the Code, 66 Pa.C.S. §1303, with respect to its calculation of the 500 MW cap for interruptible customers.

Although this case is of a different nature, the fact that PPL was found to be miscalculating data to further its own best interests speaks to the case at hand. It is anybody's guess how PPL formats its software in order to arrive at the desired conclusion. I tried to find what the planning standards set forth in PPL's Reliability Principles and Practices manual are, and after numerous dead ends, finally located section C, item 19 of PPL's "Reliability Principles and Practices- January 2004 Revision" and it was in reference to religious workers! I respectfully request that, per *Suber v. Pa. Comm'n on Crime and Delinquency*, 885 A.2d 678 (Pa.Cmwlt. 2005), app. denied, 586 Pa. 776, 895 A.2d 1264 (2006) cited on pg. 20, p. 2, L. 9 in the Judge's Recommendation, you determine that PPL's data lacks credibility, and therefore, reverse the Judge's Recommendation, and find that PPL has not met its burden of proof.

pg 7, paragraph 2 (#6.)

6. *Through its system planning process, PPL identified several distribution lines and transformers in the Sun Valley/Jonas area that are overloaded as a result of load growth due to housing development. (PPL Statement No. 1, p. 6)*

I provided numerous documents to the contrary showing that housing, jobs, school enrollment, and the population at large is down, way down. Homes are in foreclosure, businesses have gone under, people are leaving the area. (*Hart Testimony, May 24, 2010; Exhibits 1a, 1b, 1c, 1d, 2a*)

Furthermore, as pointed out in both my Brief and Reply Brief, the area they are referring to as Sun Valley is not Sun Valley. (*Hart Testimony, May 24, 2010, Exhibits 3A- 3D; Hart Surrebuttal Testimony, June 28, 2010; pg. 1, p. 1, L3; Hart Reply Brief, August 24, 2010, Attachment 1*). Why they insist on calling the Indian Mountain Lakes/Meckesville area "Sun Valley" remains a mystery.

Sun Valley is one of the oldest subdivisions in the West End of Monroe County. It does not suffer from power outages (*Albano Letter, Hart Reply Brief, August 24, 2010, Attachment 2*), has reached buildout, has no new housing development due to Chestnuthill Township buying up all remaining lots to preserve as open space, and isn't even going to be affected by the proposed new transmission line because it's serviced by Gilbert, not Meckesville. (*Hart Reply Brief, August 24, 2010, pg. 13, p. 5*)

pg 7, paragraph 3 (#7.)

7. *The Sun Valley/Jonas area presently receives its distribution services from the Meckesville 69-12 kV Substation and two 12 kV distribution lines: the Meckesville 69-1 12 kV distribution line and the Meckesville 69-2 12 kV distribution line. (PPL Statement No. 1, p. 6)*

As I stated in my Reply Brief, it's difficult to have your argument judged fairly when PPL is referring to one location by the name of another. (*Hart Reply Brief, August 24, 2010, pg. 12, p. 4*)

pg 7, paragraph 4 (#8.)

8. *The number of customers served from the Meckesville 69-1 12 kV distribution line has increased by an average of 3 percent per year since 2004. The 2011 winter load on the Meckesville 69-1 12 kV distribution line is projected to be 10.2 MVA, which exceeds the normal planning guideline of 10 MVA. (PPL Statement No. 1, pp. 7-8)*

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And has steadily declined since 2009. (*Hart Testimony, May 24, 2010; Exhibits 1a, 1b, 1c, 1d, 2a; Hart Initial Brief, August 9, 2010; Exhibit A*)

pg 7, paragraph 5 (#9.)

9. *The number of customers served from the Meckesville 69-2 12 kV distribution line has increased by an average of 6 percent per year since 2004. The Meckesville 69-2 12 kV distribution line began to exceed its normal planning guidelines of 11 MVA in 2006, and it exceeded the emergency guideline of 13 MVA in 2008. In January, 2010, the load on the Meckesville 69-2 kV distribution line was 13.4 MVA. The 2011 winter load on the Meckesville 69-2 12 kV distribution line is projected to be 15.2 MVA, and the 2013 winter load is expected to exceed the thermal guideline of 17 MVA. (PPL Statement No. 1, pp. 7-8)*

Aside from the fact that we are currently experiencing negative growth, Meckesville is a very small substation surrounded by mostly open land and state forest. If it services so many people, it's unclear where they are. If, however, they were to be growing beyond their current capacity, the substation could be upgraded to meet the demand because there is an abundance of room for expansion on the site of the substation. (*Hart Testimony, May 24, 2010; Exhibits 3*)

pg 7, paragraph 6 (#10)

10. *The transformers at the Meckesville 69-12 kV Substation are projected to become overloaded in 2011. (PPL Exhibit 3, p. 8)*

To Reiterate:

"The load growth projections are just extrapolations of historic trends (primarily customer growth driven). If there is some reason that historic patterns will no longer be indicative of future events (e.g., they can't put any more houses there because there is not more room), then the forecasts could be overstated."

*—Stephen Shulman, Independent Consultant and Senior financial executive in the energy and renewables industries, with 20+ years experience in independent energy, including IPP, transmission, renewables & environment, and energy regulation*

If there were not such a plethora of inaccuracies and contradictions in all of PPL's documents, it might be easier to believe their projections. However, since there are so many inaccuracies and contradictions and avoidances of issues in all of PPL's documents, I feel it's important to point out that PPL shows no third-party data in relation to their findings. All their projections, etc,

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have been prepared either by paid PPL staff, or paid independent contractors; contractors whom they have employed repeatedly for nearly two decades (*PPL Testimony, Baker, Keeler, Slugaki*). And it's a known fact that they have a history of manipulating data (*please refer to #5 above*).

pgs 7 & 8, paragraph 7 & 1 (#11.)

11. *Load transfer capability in the Sun Valley/Jonas area is limited, especially at times of peak loads, because loads on neighboring circuits are also approaching their emergency planning guidelines. (PPL Statement No. 1, pp. 8-9) Because there is limited capacity available to transfer load away from the transformers at the Meckesville 69-12 kV Substation to other transformers, a transformer failure at the Meckesville 69-12 kV Substation would lead to an extended outage for more than 3,000 customers until repairs could be made or a transformer could be replaced. (PPL Statement No. 1, p. 9)*

The Gilbert substation, which services Gilbert and Effort, including Sun Valley, was recently upgraded from 69kV to 138kV-capable. PPL can and does upgrade existing substations. (*Hart Reply Brief, August 24, 2010; pg. 14, p. 2 L. 2, p.3*)

pg 8, paragraph 2 (#12)

12. *The Sun Valley/Jonas area is one of PPL's poorest performing areas in terms of the number of service outages, duration of outages, and number of customer affected. (PPL Statement No. 1, p. 3)*

That statement is absolutely untrue and has been repeatedly refuted by numerous sources (*Thody letter, Hart Initial Brief, Exhibit B & Hart Reply Brief, Attachment 6 and Recommended Decision, pg. 5 p. 2; Dressler letter, Hart Reply Brief, Attachment 5 and Recommended Decision, pg. 5, pl 2; Albano letter, Hart Reply Brief, Attachment 2*). If you will grant us a public-input hearing in our area, there will be no shortage of residents attesting to the lack of outages.

It might be of interest to note, in the August 2003 blackout of nearly the entire Northeast, our area did not lose power because we were not connected to the grid that PPL now wants to connect us to. (*Hart Testimony, May 24, 2010, #38*)

pg 8, paragraph 3 (#13.)

13. *Even if no further load growth were to occur, the distribution system in the Sun Valley/Jonas area needs to be reinforced. (PPL Statement No. 11, p. 2)*

Please refer to response to #10 above..

pg 8, paragraph 4 (#14.)

14. *Energy efficiency and alternative energy programs would not resolve the overloading that presently exists on these distribution facilities. (Tr. 84-86)*

15. *A new source of supply to an overloaded distribution line or transformer would not resolve the overload condition. (PPL Statement No. 11, p. 4)*

But current studies show that a combination of #14 and #15 would resolve the alleged overload.

16. *Fuel cells or microgrids are experimental, unproven, and expensive compared to the traditional electrical distribution systems. (PPL Statement No. 11, pp. 4-5; Tr. 89-90)*

Advances in game-changing technology are appearing nearly every month. (*Hart Testimony, May 24, 2010, Exhibit 2D; Hart Initial Brief, Exhibits C-1, C-2, & C-3; Hart Reply Brief, pg. 19, p. 3).*

Even since the time since I filed my Reply Brief on August 24<sup>th</sup>, 2010, there have been new advances; Bloom energy now also powers Coca Cola, Odwalla Juice, and Adobe; and a new British fuel cell company is opening a US company in the Philadelphia Navy Yard

18. *After identifying these reliability issues, PPL examined various electrical solutions, or functional configurations, to enable it to continue to provide adequate and reliable service to the public and plan appropriate measures to assure reasonably continuous supply to the Sun Valley/Jonas area. (PPL Statement No. 1, pp. 9-10, 12)*

Please refer to #5 above.

pg 9, paragraph 2 (#20.)

20. *The method of construction for Alternative 1 would be expensive and would not reduce outages because having two distribution circuits on the same poles would expose both circuits to the same hazards that cause outages. (PPL Statement No. 1, p. 12; PPL Exhibit 1, Ex. B, p. 8)*

There are no outages to reduce. The line is not needed. (*Thody letter, Hart Initial Brief, Exhibit B & Hart Reply Brief, Attachment 6 and Recommended Decision, pg. 5 p. 2; Dressler letter, Hart Reply Brief, Attachment 5 and Recommended Decision, pg. 5, pl 2; Albano letter, Hart Reply Brief, Attachment 2*). Again, as previously requested, a public input hearing in our local area would put this issue to rest.

pg 9, paragraph 3 (#21.)

21. *Alternative 1 would require the transformers at the Meckesville Substation to be replaced with larger units because the loads on the existing transformers at the Meckesville Substation are approaching their capacities. (PPL Statement No. 1, p. 12; PPL Exhibit 1, Ex. B, p. 8)*

If that were so, there is more than ample space to upgrade and expand Meckesville to a larger sized, larger capacity substation. It's a little bitty substation situated inside a big fence, surrounded by acres and acres and acres of nothing. Please refer to #9 above.

22. *Under Alternative 1, an additional substation to the east of the Meckesville Substation would be needed in the future. After the new substation is built, the two new lines from the Meckesville Substation under Alternative 1 would no longer be needed and would represent a wasted asset. (PPL Statement No. 1, p. 12; PPL Exhibit 1, Ex. B, p. 8)*

In the not-so-distant future, these kinds of transmission lines will be obsolete (*Hart Testimony, May 24, 2010, Exhibit 2D; Hart Initial Brief, Exhibits C-1, C-2, & C-3; Hart Reply Brief, pg. 19, p. 3*). PPL knows this and wants to implement this and other projects before this technology becomes outmoded.

pg 9, p 5 & 6, & pgs 10-12 (#s 23- 34.)

23. *PPL retained the services of URS Corporation to facilitate its analysis of the route selection. (PPL Statement No. 2, p. 6) URS Corporation provides engineering, construction and technical services for, among other things, transmission and gas pipeline siting. URS Corporation uses a siting methodology adapted from a protocol developed by the Electric Power Research Institute and the Georgia Transmission Corporation (EPRI-GTC). This “opportunity and constraint” methodology has been used by URS and other consultants for many years in transmission and other siting studies. The EPRI-GTC process offers an excellent framework for siting analysis when used with appropriate modifications. (PPL Statement No. 4, pp. 2-3)*

Numbers 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, & 34 are all moot points. The line is not needed; there are no significant outages that this transmission line would remedy; the technology is on its last legs and to approve such a project is approving the destruction of natural resources and causing unreasonable mental anguish to those members of the public whose lives and quality of life will be directly and indirectly adversely impacted. I respectfully request that, if you refuse to deny them, at least postpone approving them until they correct the inaccuracies, contradictions, and show real evidence that what they claim to be fact is indeed fact. I further respectfully suggest that the fact that they have a timetable, and want to impose some ‘hurry up offense’ on this project should not be reason to side-step fairness, thoroughness, and the upholding of equal justice.

pg 12, p 2 (#35.)

35. *PPL’s Siting Team, in conjunction with URS Corporation, conducted multi-faceted analysis to determine the preferred route for the Effort Mountain Taps in accordance with the Commission’s regulations at 52 Pa.Code § 57.72(c). This analysis included designation of a “Study Area,” compilation of an environmental inventory, identification of alternative routes, analysis of the alternative routes, and selection of the proposed line route. (PPL Exhibit 1, Ex. D; PPL Statement No. 2, p. 6)*

Google earth is not up-to-date. The car it shows in my neighbor’s driveway has been gone since April of 2006.

pgs 15 & 16, p 6 & 1 (#48)

pg. 13

48. *To mitigate the impact of vegetation clearing, PPL will use selective tree clearing as set forth in PPL's "Specification for Initial Clearing and Control and Maintenance of Vegetation on or Adjacent to Electric Line Right-of-Way through Use of Herbicides, Mechanical and Hand Clearing." (PPL Statement No. 2, p. 16)*

As I responded, in my Reply Brief, to the above statement, made by PPL in their Brief, PPL seems to have forgotten, or forsaken, that it has a written agreement with PHLT, Trexler Boy Scout Camp, Indian Mountain Lakes Civic Association, and Birch Hollow Estates Homeowners Association that they will not use any herbicides anywhere along the route of this transmission line. (*Hart Reply Brief, pg. 29, p. 1 & 2, & Attachment 8*)

In echoing the statement made by PPL in their Brief, stating that, apparently regardless of their agreements-in-writing to the contrary, they do plan to use herbicides along the route, which crosses the Pohopoco Watershed, it would disturbingly appear that the judge is endorsing PPL's renegeing on its agreements.

pg 16, p 4 (#51.)

51. *Undergrounding high voltage 138kV lines would have a significantly higher cost than constructing the line overhead. Due to this cost increase, which would be passed on to all PPL customers, it is not practical to construct the high voltage Effort Mountain Taps underground where overhead construction is feasible. (PPL Statement No. 12, p. 6)*

If they can bury cables under the ocean to transport energy from offshore wind farms, it is difficult to believe they can't bury cables on land for the mere distance of less than six miles.

As to cost, study in Wisconsin computed the actual cost of burying between 32 and 55 miles of power line and found that, amortized over 20 years, the entire cost to ratepayers would be an additional 70-cents per month. (*Hart Reply Brief, pgl 27, p. 4*).

I believe I have already cited evidence that refutes the statements and findings in the following paragraphs, and I don't wish to waste your time by being redundant, so I am skipping ahead to:

pg 17, p3 (#56.)

pg. 14

56. *The location of the Effort Mountain Substation is advantageous because it is central to the load that it will serve. Having a centrally located substation is advantageous because distribution lines fed from the substation will be shorter, which reduces costs and improves the reliability of service because the distribution will have less exposure to damage from hazards such as falling trees and motor vehicles. (PPL Statement No. 6, pp. 5-6)*

The rare outages caused by falling trees and traffic accidents are caused occur when trees fall on, or cars crash into delivery/distribution lines at the side of the road. Diminished exposure of transmission lines will do nothing to protect delivery/distribution lines from hazards such as falling trees and motor vehicles.

pg 18, p2 (#61.)

61. *The required in-service date for the Effort Mountain Substation is the same as the Effort Mountain Taps, November 2011. (PPL Statement No. 1, p. 3) If PPL were required to obtain a Zoning Permit 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 Effort Mountain 138-12 kV Substation. (PPL Statement No. 7, p. 4)*

I have to respectfully inquire, if they are required to adhere to “the required in-service date”, why are they not required to abide by the requirement to obtain the required Zoning Permit?

pg 18, p 6 (#65.)

65. *PPL attempted to purchase rights-of-way and easements but was unable to reach an agreement with Ms. High. (PPL Statement No. 8, p. 6). The Real Estate Specialists from PPL met with Ms. High on several occasions in an attempt to negotiate an amicable agreement for a right-of-way over Ms. High’s property. (PPL Statement No. 19, pp. 5-6) The Real Estate Specialists did not threaten Ms. High. (PPL Statement No. 19, p. 7) The Real Estate Specialists treated Ms. High in a respectful and fair manner. (PPL Statement No. 15, p. 4) PPL’s Real Estate Specialists followed the Commission’s regulations regarding disclosure of the power of eminent domain. (PPL Statement No. 19, pp. 6-7)*

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This is highly contested by Ms. High, as well as others who dealt with PPL's negotiators. (*Murphy letter, Hart Reply Brief attachment; Mickey letter, Hart Reply Brief attachment; Scheller Official Protest*). I don't know how the judge can come to this conclusion when he wasn't present during PPL's attempted 'negotiations'. A public input hearing in our local area would shed some interesting light on this subject.

### III. DISCUSSION

III. DISCUSSION pg 19, p4

*The party seeking a Commission order in its favor has the burden of proof in this case. 66 Pa.C.S.A. § 332(a). In Docket Numbers A-2010-2152104, A-2010-2153061 and A-2010-2163154 this party is PPL. In Docket Number C-2009-2107073 it is Mr. Barney who has the burden of proof.*

Mr. Barney dropped the ball early on. He never filed any testimonies, and his complaint was dismissed with prejudice at the July 13<sup>th</sup> hearing. None of the protesters have had any communication with him, either prior to or since that hearing.

pg 19, p4

*The party seeking a Commission order in its favor has the burden of proof in this case. 66 Pa.C.S.A. § 332(a). In Docket Numbers A-2010-2152104, A-2010-2153061 and A-2010-2163154 this party is PPL. In Docket Number C-2009-2107073 it is Mr. Barney who has the burden of proof.*

&

pgs 21, p2 & 3, & pg 22, p1

*By not appearing for the scheduled Hearing, complainant in Docket Number C-2009-2107073 failed to bear his burden of proof. Consequently, the Complaint must be dismissed.*

*Due to the waste of both Commission's and respondent's time, money, and energy occasioned by complainant's failure to appear at a hearing of which he had notice<sup>3</sup>, the dismissal*

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*will be with prejudice. Martin W. Jefferson v. UGI Utilities, Inc., Docket Number Z-00269892, Opinion and Order adopted October 26, 1995, entered December 26, 1995; Maurice Jones v. The Peoples Natural Gas Company d/b/a Dominion Peoples, Docket Number C-20054885, Opinion and Order adopted January 12, 2006, entered February 14, 2006.*

When Mr. Barney's complaint was dismissed with prejudice on July 13<sup>th</sup>, Ms. High and I had filed written testimonies and surrebuttals, and were present and participated, to the best of our pro se ability, in the hearing, and followed up by filing Briefs and Reply Briefs.

Immediately following Albert Barney's dismissal with prejudice, PPL's Attorney, John Isom, moved to block my original written testimony from being entered into the record. In response, Judge Weismandel pronounced:

"PPL has burden of proof, as you are well aware, Mr. Isom."

That statement by the judge, gave Ms. High and me, who were (through no fault of our own) appearing without legal representation, an assurance that the burden of proof did indeed rest on PPL. After all, why would we doubt the words of the judge?

While Ms. High and I were not familiar with the process, all the other parties had extensive experience, and it would be obvious to them that Mr. Barney's dismissal had opened the door for PPL to plead prima facie. In light of the fact that the PUC has never denied a single one of PPL's applications, a statement by the judge, lacking in disclaimers ('the whole truth') such as, "*At this point, PPL still has burden of proof*" was misleading and lulled Ms. High and me into a false sense of security as to on whom the burden of proof rests.

Surprising no one other than Ms. High and me, in PPL's Brief, they claim prima facie and assert that the burden of proof shifts to the protesters. Rather than actually address the arguments put forth by Ms. High and me, PPL prefers to simply prevent our arguments from being considered.

Regarding prima facie, I reiterate from my Reply Brief of August 24, 2010 (pg. 8, p. 4), in response to PPL's laying claim to having set forth a prima facie case and that, therefore, their evidence doesn't have to be compelling, just reasonably believable:

"In *McDonnell Douglas v. Green*, 411 U.S. 792, 802 (1973), the Supreme Court stated that "[t]he burden of establishing a prima facie case of disparate treatment is not onerous."

PPL's claim that, although the Burden of Proof is on them, it is actually, as they see it, on us; and their further claim that their evidence is deserving of preferential consideration over mine and Ms. High's, establishes "disparate treatment", or at least, the expectation of "disparate treatment." Hence, the Burden of Proof should remain, or shift back to PPL."

Witnesses:

At the July 13<sup>th</sup> evidentiary hearing, the judge expressly asked Ms. High and I if we wished to call any witnesses. Since Ms. High and I were initially among the residents represented by Attorney J. Palmer Lockhard, he was seeing to the procuring of witnesses. When Attorney Lockhard backed out on the day of the protest filing deadline, Ms. High and I interpreted Number 4 in the Prehearing Conference Order:

"Pursuant to 52 Pa.Code §§ 1.21- 1.23.  
Unless you are an attorney, you may not represent someone else"

to mean that they could not have anyone testify on their behalf, and so they did not include testimony of any of the numerous residents who would have been eager to bear witness to their case.

It is, of course, not PPL's or the PUC's fault that they misunderstood. However, at the above-mentioned hearing of July 13<sup>th</sup>, Judge Weismandel DID ask them if they wished to call any witnesses. They were ill-prepared, but they had two people along for moral support who had also been among those represented by Attorney Lockhard, and they were willing to speak in spite of the fact that they were not prepared, so I would like to call Linda Snyder. Judge Weismandel asked me the reason for and nature of Ms. Snyder's testimony. I began to reply, but was interrupted by Mr. Isom who barked, "Linda Snyder has been involved in this for over a year and had ample time to file a protest."

Linda Snyder was one of the clients represented by J. Palmer Lockhard, who was abandoned at the last minute, and who chose to testify at the public input hearing that never got scheduled; so Mr. Isom's statement, while partially true, is not the whole truth, and is therefore misleading.

However, the result was the request to call Ms. Snyder as a witness was denied. Why would the judge invite Ms. High and me to call a witness if the fact that the witness did not file a

protest disqualifies them as a witness. If Ms. Snyder had filed a protest, she wouldn't need to be a witness.

A. Standards For Approval Of The Siting Of Public Utility Facilities

*pgs 22 & 23, p3 & 1*

*Section 57.76 of the siting regulations provides, in pertinent part, as follows:*

*The Commission will not grant the application, either as proposed or as modified, unless it finds and determines as to the proposed HV line:*

*(1) That there is a need for it.*

Given PPL's penchant for misrepresenting allegations made by the opposition, and given the overt contradictions contained in their case-related documents, without seeing exactly how they arrived at their figures, including the specifications of their software, and documents that counter the documents I provided [citation] to the contrary, I feel it precipitous to find in favor of their argument of need.

*(2) That it will not create an unreasonable risk of danger to the health and safety of the public.*

What is considered 'a reasonable risk of danger to the health and safety of the public', had never been disclosed or responded to (*Hart Reply Brief, pg. 25, p. 3, 4, & 5*).

*(3) That it is in compliance with the applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth.*

*(4) That it 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).*

There is other available technology and available alternatives, but PPL prefers to cling to the status quo. (*Hart Reply Brief, pg. 21, p. 2, 3, 4, & 5; & Hart Testimony, May 24, 2010, Exhibit 2D; Hart Initial Brief, Exhibits C-1, C-2, & C-3; Hart Reply Brief, pg. 19, p. 3*.)

pg. 24, p. 3

pg. 19

*Section 619 of the Municipalities Planning Code (MPC), Act of July 31, 1968, P.L. 805, as amended, 53 P.S. § 10619, provides a limited exception to this general rule. Section 619 of the MPC provides 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 a 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. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the municipality in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.  
53 P.S. § 10619.*

Despite assurances to the contrary, the citizens in the affected area never received a public input hearing in the municipality in which the proposed building is located. (*Hart Reply Brief, pg, 10, p. 2*)

pg. 27, p. 4

D. Need For The Proposed Facilities

*Through a detailed system planning process and application of PPL's planning guidelines, PPL identifies facilities that require reinforcement to enable it to continue to provide adequate and reliable service to the public and plan appropriate measures to assure reasonably continuous supply to the entire regional load, even during adverse conditions. In order to assure that PPL's transmission and distribution systems can supply load reliably during summer and winter peak conditions and provide service at an acceptable voltage level through the daily load cycle, PPL has adopted a set of defined planning standards, which are set forth in PPL's Reliability Principles and Practices manual (RP&P). The RP&P recognizes the necessity of maintaining a proper balance between service reliability and the cost of service, and that large, long, and frequent interruptions are to be avoided. (PPL Statement No. 1, pp. 4-5)*

We do not have large, long, or frequent interruptions. And any interruptions that we do have are not caused by anything that these new transmission lines will remedy. (*Thody letter, pg. 20*)

*Hart Initial Brief, Exhibit B & Hart Reply Brief, Attachment 6 and Recommended Decision, pg. 5 p. 2; Dressler letter, Hart Reply Brief, Attachment 5 and Recommended Decision, pg. 5, pl 2; Albano letter, Hart Reply Brief, Attachment 2).*

pg. 29, p. 2

*In short, the Sun/Valley Jonas area is one of PPL Electric's poorest performing areas in the terms of the number of service outages, duration of outages, and number of customers affected. (PPL Statement No. 1, p. 3)*

The previous five paragraphs (pg. 27, p. 5; pg. 28, p. 1- 4; pg. 29, p 1) are a reprint of PPL's Brief. It's as if the judge is their spokesperson. It's as if the protestants don't even exist. Even the typo: "Sun/Valley Jonas" is lifted directly from PPL's Brief. This statement of PPL's was refuted by various residents, and it's being presented as if no one contested a single thing PPL claimed (*Thody letter, Hart Initial Brief, Exhibit B & Hart Reply Brief, Attachment 6 and Recommended Decision, pg. 5 p. 2; Dressler letter, Hart Reply Brief, Attachment 5 and Recommended Decision, pg. 5, pl 2; Albano letter, Hart Reply Brief, Attachment 2*) .If you will grant us a public input hearing, as we were led to believe you would, it will be obvious that PPL is profoundly mistaken.

F. Response To Ms. Hart

pg. 32, p3

*Ms. Hart raises several arguments in opposition to the need for the proposed facilities. However, Ms Hart does not challenge the results of PPL Electric's planning process and, further, disregards the fact that the distribution facilities serving the Sun Valley/Jonas area are, or soon will be, in excess of the planning guidelines.*

1. PPL has been found to manipulate data in the past (*PPL Electric Utilities Corporation v. Pennsylvania Public Utility Commission No. 272 C.D. 2006*)
2. All of PPL's "data" has come through paid employees or sub-contracted employees with a long-term history with PPL. (*Hart Reply Brief, pg. 7, p. 1 & 2*)
3. They are basing their projections on customer growth driven historic trends, which have changed drastically since their most recent projections. (*Shulman statement, pg. 9, p. 1 above*)

pg. 21

pg. 32, p 4

*Ms. Hart asserts that the Effort Mountain project is not needed because the national projected annual growth of electricity has declined, and because construction in the Sun Valley/Jonas area has decreased. (Hart Exhibit A, p. 2, ¶ 1; Hart Exhibit B, p. 3, ¶ 2) Although the national projected annual growth of electricity usage is 1.0% per year and construction permits in the Sun Valley/Jonas area presently are at lower levels, since 2004 the number of customers served from the Meckesville 69-1 line has increased by 300 customers, an average of 3% per year, and Meckesville 69-2 line has increased by 650 customers, an average of 6% per year. This high rate of growth has overloaded the distribution electrical facilities in the area. More importantly, the sources cited by Ms. Hart are not projecting declining load, only slower growth. As explained above, certain distribution lines in the Sun Valley/Jonas area are presently overloaded. Thus, even if no further load growth were to occur, the distribution system in the Sun Valley/Jonas area needs to be reinforced now. (PPL Statement No. 11, p. 2)*

We are experiencing negative growth (Hart Testimony, May 24, 2010; Exhibits 1a, 1b, 1c, 1d, 2a).

And, as cited above numerous times, Sun Valley:

1. Is not even near where they say it is;
2. Does not suffer power outages;
3. Is serviced by the Gilbert Substation, not Meckesville.

pg. 33, p. 2

*Ms. Hart also suggests that the Pocono Raceway Solar Farm could be used to resolve the need for the Effort Mountain Project. (Hart Exhibit A, p. 3, ¶ 2.b) Although the Pocono Raceway Solar Farm is an additional source of supply, it would not resolve the substation and distribution overloading conditions in the Sun Valley/Jonas area. A new source of supply to an overloaded distribution line or transformer would not resolve the overloaded condition. Further, the Pocono Raceway Solar Farm is located on a different line and substation. Consequently, the Pocono Raceway Solar Farm cannot supply the overloaded*

pg. 22

*facilities in the Sun Valley/Jonas area unless new lines to connect them were constructed. (PPL Statement No. 11, p. 4)*

As previously stated, the "Sun Valley" PPL refers to is not Sun Valley, but Indian Mountain Lakes, part of which is off Rte. 115, and almost directly across the road from the Pocono Raceway Solar Farm. *(Hart Testimony, Exhibits 3A- 3D)*

pg. 33, p. 3

*Ms. Hart next suggests that fuel cells or microgrids could be used to resolve the need for the Effort Mountain Project. (Hart Exhibit A, p. 3, ¶ 2.c; Hart Exhibit B, p. 5, ¶ 7.e) However, both of these technologies are experimental and unproven. Further, such technologies are expensive compared to the traditional electrical distribution systems. (PPL Statement No. 11, pp. 4-5; Tr. 89-90)*

I reiterate that fuel cell and microgrid technology is developing at a staggeringly rapid pace and will soon replace the grid. *(Hart Testimony, May 24, 2010, Exhibit 2D; Hart Initial Brief, Exhibits C-1, C-2, & C-3; Hart Reply Brief, pg. 19, p. 3).*

PG. 34, P. 2

*Finally, Ms. Hart raises a concern that the real purpose of the Effort Mountain Project is to construct facilities that will enable PPL to transmit electricity to out-of-state markets. (Hart Exhibit A, p. 5) However, the sole purpose of the Effort Mountain Taps is to transmit electricity approximately 5.7 miles from the existing Siegfried-Jackson #1 and #2 138 kV transmission line to the proposed Effort Mountain 138-12 kV Substation. From the proposed Substation, electricity will be delivered to retail customers in the vicinity through 12 kV facilities. Importantly, 12 kV distribution lines are designed to distribute electricity locally and are of insufficient size and capacity to transport power out of state. The line will connect the Siegfried-Jackson #1 and #2 138 kV transmission line to the Effort Mountain Substation. It will have no other source of supply or destination. (PPL Statement No. 12, p. 2) The Effort Mountain Taps cannot be used to deliver bulk electric supplies to these destinations.*

Time will tell, I guess.

pg. 23

G. Siting

pg. 37. p.4

*In order to receive further comment on Route B1, an open house was held on May 28, 2009. PPL continued to work with landowners and other interested persons to further reduce the impact of the project, which resulted in a modified alignment of Route B1. The realignment involved moving the line further into the Jonas Mountain Preserve. Although the alignment would increase forest fragmentation in the Jonas Mountain Preserve, PPL also coordinated the **purchase** of an adjacent forested parcel of 123 acres through which the modified Route B1 also traverses, which PPL donated to the Jonas Mountain Preserve thereby substantially expanding the reserve and protecting the additional land from future development. **By these means, PPL resolved the concerns of the residents of Birch Hollow Estates, the Pocono Heritage Land Trust, which owns and manages the Jonas Mountain Preserve, and the owners of the adjacent forested parcel of land, the Knappenberger tract, that will become part of the Jonas Mountain Preserve. (PPL Exhibit 1, Exhibit D, pp. 32-34)***

Reiterating a number of issues:

1. It is Birch HOLLOW Estates, not Birch "Hallow". PPL referred to the subdivision by the wrong name a number of times in their Brief [citation]. PPL had many written correspondences with the residents and Board of Directors of Birch Hollow Estates, and they are very familiar with the name of the subdivision because they've sent numerous letters referring to it. I maintain, this serves to show that their paperwork is careless and sloppy (*Hart Reply Brief, pg. 22, p. 6*)
2. The Judge refers to an ex parte communication from Stuart Thody (*Recommended Decision, pg. 5, p. 2; Thody letter, Hart Initial Brief, Exhibit B & Hart Reply Brief, Attachment*). That letter was written on Birch Hollow Estates Letterhead on behalf of their Board of Directors, the president being Mr. Thody. But the Judge quotes PPL's nom de faux pas "Hallow". What PPL says, is apparently fact even when it isn't correct. I reiterate this merely to re-illustrate that I have officially pointed this, and others like it, out, but all of it to no avail. (*please refer to preceding citation*)

pg. 24

3. PPL did not “resolve the concerns of the residents of Birch Hollow Estates. It addressed, to some extent, the concern that it was looming in the backyards of residents of BHE. But Judge Weismandel’s statement implies that, once the line got moved farther into the Jonas Mountain Preserve, everyone was satisfied. Nothing could be farther from the truth. (*Thody letter, Hart Initial Brief, Exhibit B & Hart Reply Brief, Attachment 6 and Recommended Decision, pg. 5 p. 2; Dressler letter, Hart Reply Brief, Attachment 5 and Recommended Decision, pg. 5, pl 2; Markowitz letter, Recommended Decision pg. 5, p. 3*).

BHE has many concerns, one of which actually was resolved by PPL’s promise, in writing, that they will not use any herbicides for vegetation control anywhere along the route of the transmission line (*Hart Reply Brief attachment*), however, it appears they have reneged on that promise, as well as their non-herbicide agreements with PHLT, Trexlor Boy Scout Camp, and Indian Mountain Lakes Civic Association. And, at least at this point, it appears that that is not an issue to the Commission.

#### H. Engineering and Safety

##### 1. Engineering

pg. 39, p. 3

*In Pennsylvania, electric utilities are required to install and maintain transmission facilities in conformity with the National Electrical Safety Code (NESC). 66 Pa.C.S.A. § 2804(1)(ii). The NESC establishes industry standards for safeguarding work crews and the general public against electrical hazards during construction, installation, operation and maintenance of conductors and equipment in electric supply stations and overhead electric supply lines. It includes work rules for the construction, maintenance and operation of electric supply lines and equipment. (PPL Statement No. 3, p. 5) It is uncontested that the proposed Effort Mountain Taps will be designed and constructed according to, and will meet or exceed, all applicable NESC minimum standards. All of the clearance and thermal ratings meet, or exceed, the requirements of the NESC. (PPL Statement No. 3, p. 5)*

It is uncontested by whom? PPL’s contests it in their own statement (*PPL Exhibit 1, Exhibit E, p. 3*)

pg. 25

pg. 39, p. 4

*The Commission has found in numerous cases that transmission lines that meet or exceed the NESC requirements do not create an unreasonable risk or danger to the health and safety of the public. Application of PP&L for Approval to Locate and Construct a 138 kV Transmission Line Between West Allentown and Salisbury Substations, Docket No. A-00104160 (July 20, 1984); Application of PP&L for Authorization to Locate and Construct its Hamlin 138 kV Electric Transmission Line, Docket No. A-00101826 (April 3, 1981); Larken v. Philadelphia Electric Co., 39 Pa. PUC 777 (1961). The construction of the Effort Mountain Taps along Route B1 will not create any unreasonable risk to the health or safety of the public.*

With all due respect, the most recent of those three findings by the Commission is from 1984, 26 years ago. And the oldest of those findings is from 1961, 29 years ago. I submitted evidence of research that is far more current and contradicts those findings. (*Hart Reply Brief, pg. 26, p. 3, 4, & 5; & attachment 7*)

Also, it's disturbing that no details are ever disclosed as to what would be considered a reasonable risk of danger to the health and safety of the public. (*Hart Reply Brief, pg. 25, p. 1, 2, 3, & 4*)

If approval is based on, and PPL is basing its argument on, the project being "necessary for the service, accommodation, convenience or safety of the public", how can it be for the safety of the public if it puts the public's safety at risk? (*Hart Reply Brief pg. 25, p. 2, 3, & 4*)

Their planned use of helicopters to monitor the line has never been made public, nor was my mention of it addressed (*Hart Reply Brief, pg. 25, p. 5*).

## 2. Electric and Magnetic Fields

pg. 40, p. 2

*In order to address issues related to electric and magnetic fields, PPL has adopted a Plan for Magnetic Field Management (PMFM). (PPL Exhibit 1, Exhibit E, p. 3; PPL Exhibit 1, Appendix 4) Under the PMFM, PPL, as a matter of policy, designs and builds transmission lines to reduce magnetic fields when such steps can be implemented at low or no*

pg. 26

*cost and are consistent with functional requirements.<sup>4</sup> Consistent with its PMFM, PPL will reverse phase the proposed Effort Mountain Taps where there are two circuits and increase pole heights by 5 feet above the minimum height required by the NESC. (PPL Statement No. 3, p. 6)*

*In previous proceedings, the Commission has commented favorably upon PPL's PMFM:*

*Based on the extensive scientific evidence developed to date, which has been discussed in the preceding section, it is clear that EMF should not be regarded as a health hazard.*

With all due respect, "Commented favorably" does not scientific finding make. And the extensive scientific evidence developed to date "discussed in the preceding section", again, is three cases from 26 to 29 years ago. That is hardly extensive, or to date.

And while they claim safeguards exits, they will only consider using them if it's "feasible to do so at low or no cost." (PPL Exhibit 1, Exhibit E, p. 3)

J. Response To Ms. Hart

pg. 42, p. 3

*Ms. Hart also raised concerns regarding the removal of trees in the forested areas along the selected route. (Hart Exhibit A, p. 3, ¶ 2.e) To mitigate the impact of vegetation clearing, PPL will use selective tree clearing as set forth in PPL's "Specification for Initial Clearing and Control and Maintenance of Vegetation on or Adjacent to Electric Line Right-of-Way through Use of Herbicides, Mechanical and Hand Clearing." (PPL Statement No. 2, p. 16) In short, PPL will remove only those plants that have the potential to interfere with the operation of the transmission line, and PPL will preserve as much vegetation as possible. In addition, as explained above, PPL has donated a substantial tract of forested land to the Jonas Mountain Preserve, which will protect the land from future development.*

Reiterating PPL's no-herbicide clause in their written agreements with PHLT, Trexlor Boy Scout Camp, and Indian Mountain Lakes Civic Association. And a letter to the Board of

Directors of Birch HOLLOW Estates assuring them that no herbicides would be used anywhere along the route. (*Hart Reply Brief attachment*)

It also appears that PPL is confused as to whether they "donated" the Knappenburger property to PHLT, or whether they sold it to them at a loss. (*Hart Reply Brief, pg. 22, p. 2, 3, 4, & 5; and Scheller Official Protest*)

pg. 42, p. 4

*As an alternative to the selected route, Ms. Hart recommends the installation of three distribution lines along State Route 534, State Route 115, and the Toll Road. (Hart Exhibit B, p. 6, ¶ 3.b) However, these alternatives are not practical. PPL is unable to run distribution lines parallel to State Routes 534 and 115 because the right-of-way width along these roads is not wide enough to accommodate the structures needed to maintain proper clearances needed to comply with the NESC. (Tr. 101) Further, there are many residential dwellings located along State Route 534, State Route 115, and the Toll Road, and the curtilage of many of these dwellings would be within 100 meters from the routes along these roads. Consequently, pursuant to Section 1511 of the Pennsylvania Business Corporation Law of 1988, 15 Pa.C.S.A. § 1511, PPL would not be able to exercise the power of eminent domain to condemn the necessary right-of-way across the numerous residential properties along these roads that would be subject to the right-of-way. Therefore, to the extent that any property owner along these roads was unwilling to enter into an agreement with PPL for sufficient right-of-way, PPL would be unable to construct the required lines along these roads. (Tr. 101-02)*

The existing system could be upgraded, using existing poles and rights-of-way. Upgrading the current system would not require a wider right-of-way or the acquiring of any further easements; it would not encroach on any residences any more than it already does. It be more cost efficient for PPL and the ratepayers.

pg. 43, p. 2

*Ms. Hart also appears to question the motive for modifying the selected route to move it further into the Jonas Mountain Preserve. (Hart Exhibit B, pp. 7-8) Ms. Hart erroneously asserts that the motive for the modification was to obtain tax benefits. As explained above, after additional public input, PPL modified Route B1 to accommodate the concerns of the*

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*residents of Birch Hollow Estates, the Pocono Heritage Land Trust, which owns and manages the Jonas Mountain Preserve, and the owners of the Knappenberger tract. As part of the modification, PPL purchased the Knappenberger tract and resold the land to the Pocono Heritage Land Trust in exchange for a right-of-way through the Jonas Mountain Preserve, reserving for itself a right-of-way adequate for the Effort Mountain Taps. As required by the Department of Conservation of Natural Resources, PPL provided replacement land for the Jonas Mountain Preserve before the Pocono Heritage Land Trust could grant PPL the right-of-way needed for the modified Route B1. Although PPL resold the Knappenberger tract to the Pocono Heritage Land Trust for less than it paid, the difference reflects the value of the right-of-way. The difference will not be a tax deduction. Instead, it will be a capital investment included in rate base. (Tr. 94-96)*

I do not understand how this can be quoted as fact, when I clearly stated something else entirely (*Hart Surrebuttal Testimony*, pgs. 5 & 6). I would particularly like to call your attention to the fact that, while I had the amount they paid for the Knappenburger property reversed with the amount they sold it to PHLT for, I never, at any time, even remotely suggested that the tax write-off to which I was referring had anything what-so-ever to do with PPL moving the route back farther into the Jonas Mountain Preserve and away from Birch Hollow Estates residences. Never, not once, did I say, or even imply that. What I did say was that they got a tax write-off for selling the Knappenburger property at a loss.

I have corrected their distortion of my statement, not once, but twice; once in my Initial Brief, and that being strategically ignored, again in my Reply Brief. (*Hart Initial Brief*, pg. 5, p. 3; pg. 6, p. 1; *Exhibit G, Exhibit H; Hart Reply Brief*, pg. 23, entire page)

It is contrary to my nature to accuse anyone of intentional wrongdoing, but even an ostrich can only dig his head so deep into the sand before he runs out of neck. I realize that I am not learned in procedural specifics, and my appearing pro se probably made PPL and Judge Weismandel feel like they were being forced to play with their little sister, but I just learned today that on May 14, 2009, a letter was sent to PPL's General Counsel, Paul E. Russell, from then-PUC Secretary, James J. McNulty, notifying him of Albert Barney's complaint, and closing with the following:

“Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
P.O. Box 186  
Harrisburg, PA 17108  
(800) 692-7375”

An offer to PPL’s legal counsel as to where he might find legal help is, of course, preposterous. However, neither I, nor Ms. High, nor Mr. Barney for that matter, were ever offered any information as to where we might legal help. And, so, when our attorney abandoned us at the last minute, unable to afford a lawyer, I have appeared pro se.

But that does not give PPL permission to distort and contort my statements, thereby avoiding having to respond to them by responding, instead, to their own mythical version. And it is dismaying that the judge, not only allowed, but condoned it. PPL’s legal documents are rife with inaccuracies, contradictions, distortions, and misrepresentations. If presentation and protocol outweigh truth and accuracy, this might be law, but it’s not justice.

For the third time, as per my Reply Brief:

“PPL’s lack of attention to details is further evidenced on page 34, paragraph 3. That entire paragraph misquotes me, paraphrases me, and responds to an allegation I never made while ignoring the one I did make.

Case in point, I did not “question the motive for modifying the selected route to move it further into the Jonas Mountain Preserve”, nor did I “assert that the motive for the modification was to obtain tax benefits.”

What I DID assert was that PPL would reap significant tax benefits from the sale-at-a-loss of the Knappenburger tract to PHLT. I mentioned NOTHING about the CHANGE OF LOCATION of the line WITHIN the Jonas Mountain Preserve. PPL cannot even get THAT right?

This has *nothing* to do with where the line runs through the Jonas Mountain Preserve; it is about the significant tax advantages PPL will be afforded by declaring a capital tax loss.

From The Encyclopedia of Taxation and Tax Policy by Gerald Auten ©1999  
Urban Institute Press, edited by Joseph J. Cordes, Robert D. Ebel, and Jane G. Gravelle.

"Corporations are permitted to "carry back" capital losses to off-set capital gains from prior years, thus earning a kind of retroactive refund of capital gains taxes."

Meanwhile, the ratepayers, whose tax dollars were used by PHLT to purchase the Knappenburger tract from PPL, will be assessed to cover the loss PPL suffered on the sale. Not "Double Jeopardy" in the legal sense, more like a double whammy."

I understand PPL's motivation for distorting my statements and then ignoring it when I point it out, but I do not understand the judge ignoring it.

Based on this, and the other quotations-as-fact of PPL's warped portrayals of my, and Ms. High's claims, I have to regretfully suggest that this case has not been argued in good faith, nor conducted in fairness.

An applicant for a project of this magnitude, that will permanently and irrevocably affect the lives of so many citizens of the Commonwealth of Pennsylvania, should be required to be accurate and truthful, and should not be allowed to intimidate and demoralize property owners, and abuse the powers of this Commission.

It is this Commission, symbiotic though your relationship with PPL may be, that exists for the purpose of overseeing their conduct, and, as a public commission, making sure the public is granted its right to be heard and is not denied that right because of incorrect information given out by the Commission's own legal department.

Due to the disingenuousness of the way PPL conducted themselves; and given that they were given carte blanche to run amok of the facts, and their distortion of the facts, by reason of his quoting them as uncontested fact, was endorsed by the judge, I hereby respectfully take exception to the Judge's Recommendation and request that a full and proper investigation of PPL's actions, deeds, activities, methods of data gathering, and criteria on which employee evaluations are based, be undertaken in full view of the public eye, or that the approval of PPL's Effort Mountain Taps project (or whatever they're calling it now) be denied with prejudice.

*Matthew A. Stant*  
Jan 1, 2010

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA FIRST CLASS MAIL

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Albert Barney  
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Joseph P. Hanyon, Esquire  
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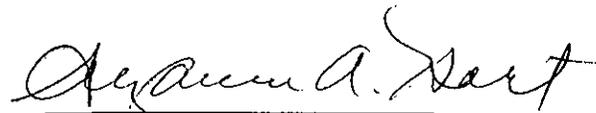
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[VIA E-MAIL & FIRST CLASS MAIL]

Date: November 3, 2010

  
Suzanne A. Hart

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