



Duquesne Light

Our Energy...Your Power

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November 8, 2010

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

In re: Application of Duquesne Light Company for the Siting and Construction of a
345 kV Transmission Line in the City of Pittsburgh, Municipality of Penn
Hills, Verona Borough and Plum Borough, Allegheny County, PA
Docket No. A-2010-2159814

Dear Secretary Chiavetta:

Enclosed please find the Reply Exceptions of Duquesne Light Company.

Sincerely,

Krycia Kubiak
Assistant General Counsel
Duquesne Light Company

encs

cc: All persons listed on Certificate of Service (w/enclosure)

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Application of Duquesne)
Light Company for the Siting and)
Construction of a 345 kV)
Transmission Line in the City of)
Pittsburgh, Municipality of Penn)
Hills, Verona Borough and Plum)
Borough, Allegheny County, PA)

Docket No. A-2010-2159814

**REPLY EXCEPTIONS
OF
DUQUESNE LIGHT COMPANY**

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Dated: November 8, 2010

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I. INTRODUCTION

Duquesne Light Company (“Duquesne”) seeks approval for a single-circuit 345 kilovolt (“kV”) transmission line (“the Line”) which will connect its Logans Ferry Substation located in Plum Borough to its Arsenal Substation located in the City of Pittsburgh. On February 11, 2010, Duquesne filed an Application with the Pennsylvania Public Utility Commission. A pre-hearing conference was held on April 21, 2010 and a hearing was held on June 2, 2010.

On September 29, 2010, Administrative Law Judges John H. Corbett and Mary D. Long issued their Initial Decision. There, the Administrative Law Judges concluded that “the route selected by Duquesne for the Highland-Logans Ferry 345 kV complies with the Commission’s regulations at Sections 57.76(a)(2-4) and 57.75(e), will not pose an unreasonable risk to health and safety, and will have minimum adverse environmental impact considering the electric power needs of the public.” I.D. at 18.

On October 19, 2010, Mr. Jenkins filed Exceptions to the Initial Decision. In general, Mr. Jenkins takes issue with the conclusions of the Administrative Law Judges. Mr. Jenkins neglected to serve a copy of the Exceptions on Duquesne. To remedy this oversight, on October 29th, PUC Secretary Rosemary Chiavetta sent a copy of the Exceptions to all parties.

Duquesne files these Replies to the Exceptions of Mr. Jenkins. Mr. Jenkins’ Exceptions should be rejected because Duquesne demonstrated with clear and substantial evidence that its proposed Line is reasonably necessary to permit Duquesne to provide adequate and reliable service and that the Line will be safe. As stated in the Initial Decision, Duquesne has established that the proposed Line is necessary, that it will not create an unreasonable risk of danger to public health and safety, it is in compliance with applicable statutes and regulations, and that it

will have only a minimum adverse environmental impact. In contrast, Mr. Jenkins' Exceptions are not supported by evidence. Mr. Jenkins does not cite evidence of record that supports his Exceptions and there is none. Moreover, Mr. Jenkins lacks standing to file Exceptions. As Mr. Jenkins did not file a Protest, Complaint or a Petition to Intervene, he is not a party to the proceeding for the purposes of filing exceptions.

The Commission should deny Mr. Jenkins' exceptions and grant Duquesne's application for the proposed 345 kV Line.

II. PAUL JENKINS DOES NOT HAVE STANDING TO FILE EXCEPTIONS

In this case, no person, including Mr. Jenkins, filed a Protest, Complaint or Petition to intervene. The applicable regulations are found at 52 Pa. Code §57.75 (d). That regulation states that a request for leave to intervene shall be in writing and shall briefly state the interest of the intervener and the objections to be raised. Mr. Jenkins failed to file any written pleadings.

Several neighbors and affected property owners attended the hearing that was held on June 2, 2010, in Pittsburgh. Judge Corbett stated that those who were present would be designated as "active parties." Active parties were defined as "parties who will receive copies of testimony, copies of every document that is filed in this proceeding." Tr. of 4-21-1010 pg. 7. Judge Corbett's ruling was in keeping with 52 Pa. Code §57.75 (c) which allows for the grouping of the parties to provide notice. However, being grouped in accordance with subsection (c) does not relieve a party of its obligation under subsection (d) if it wants to file pleadings in the case, specifically Exceptions.

Mr. Jenkins never formally entered his appearance into this case, nor filed with the Commission any pleading seeking to become a party. As such, Mr. Jenkins failed to follow the regulation 52 Pa. Code §57.75 (d) and therefore has no standing to submit Exceptions. During the evidentiary and public testimony hearing, neighbors gave testimony which became part of the record that is now before the Commission. However, Mr. Jenkins does not have standing to file Exceptions since he was not a party in the sense of 52 Pa. Code §5.533 (a).

III. REPLY EXCEPTIONS

A. Introduction

Even if Mr. Jenkins had standing to file exceptions, his Exceptions are unsupported by the evidence. His allegations that there are “other, independent experts” and “other alternatives” are mere conjecture. Jenkins Exc. 1. The decision from the Administrative Law Judges Corbett and Long thoughtfully considered the requirements of the regulations, balanced the needs of both the greater Pittsburgh community and those immediately affected, and verified that health, safety, and environmental concerns were addressed by Duquesne Light in the planning of this transmission line. Since Duquesne Light has met its burden, this transmission line should be approved.

In order for the Commission to grant an Application, the Application must meet certain criteria. The Pennsylvania Code states,

“The Commission will not grant the application...unless it finds and determines as to the proposed HV line: (1) That there is a need for it. (2) That it will not create an unreasonable risk of danger to the health and safety of the public. (3) That it is in compliance with applicable statutes and regulations providing for the protection of 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).

The Court’s Initial Decision found that Duquesne’s Application fulfilled the requirements of the Pennsylvania Code. I.D. at 18-19.

Mr. Jenkins’ Exceptions are only valid to the extent that they establish that Duquesne’s Application is not in compliance with the requirements of the Pennsylvania Code. Additionally, any finding of fact necessary to support a rejection of the initial decision must be based on substantial evidence, which is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Mill v. Pa. Publ. Util. Comm’n*, 447 A.2d 1100 (Pa. Commw. 1982); *Edan Transportation Corp. v. Pa. Publ. Util. Comm’n*, 623 A.2d 6 (Pa. Commw. 1993); 2 Pa. C.S. §704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. v. Pa. Publ. Util. Comm’n*, 412 A.2d 1037 (Pa. 1980).

Duquesne demonstrated that it gave careful consideration to the need for the Line and thoroughly considered the impacts of the project on residents near the proposed route and the environment in selecting the proposed route. Duquesne presented expert testimony on all of these subjects. I.D. at 3.

Duquesne is required to demonstrate that the proposed Line meets the requirements of the Public Utility Code and the Commission’s regulations by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. P.U.C.*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). It has clearly met this burden, especially here where no substantial contrary evidence was presented.

Duquesne explained that the Line is necessary to permit it to continue to provide adequate and reliable service. Duquesne Statement 2, at 2-6. Duquesne, like all public utilities, has an obligation to

“furnish and maintain adequate, efficient, safe and reasonable service and shall make all such repairs, changes, alterations, substitutions, and extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.” 66 Pa. C.S. §1501.

However, after it has met its obligations and carefully considered public health and safety and environmental and community impact, it has the right to manage its own affairs. A Pennsylvania Superior Court has held that:

“The selection of a route for transmission lines is a matter for the public utility in the first instance and unless it is shown that it proposes to exercise the powers conferred upon it wantonly or capriciously the law does not intend that the Commission should withhold its approval merely because another route might have been adopted, which would damage the owners less or lessen the inconvenience to them in the operation of their farm.” *Byers v. Pa. P.U.C.*, 176 Pa. Superior Ct. 620, 109 A.2d 232, 234 (Pa. Cmwlth. 1954).

Duquesne carefully considered the best route for the proposed Line, and the fact that other routes exist is not a valid reason to discard Duquesne’s Application because Duquesne demonstrated that its proposed route is superior to the alternatives.

The decision from the Administrative Law Judges Corbett and Long thoughtfully considered the requirements of the regulations, balanced the needs of both the greater Pittsburgh community and those immediately affected, and verified that health, safety, and environmental concerns were addressed by Duquesne in the planning of this transmission line. The Administrative Law Judges found in their Initial Decision that Duquesne’s Application fulfilled the requirements of the Pennsylvania Code. I.D. at 18-19.

Mr. Jenkins' Exceptions rebut neither Duquesne's exhibits and testimony nor the Administrative Law Judges' Findings of Fact and Conclusions of Law. The Exceptions are unsupported by the record and each of his Exceptions should be rejected.

B. The Proposed 345 kV Line will not Present EMF Dangers or Other Safety Concerns

Duquesne's proposed Line is a 345 kV Line that will replace an existing, inactive 69 kV line. Mr. Jenkins claims that a 345 kV line will increase electro-magnetic fields or EMFs. He states, "It goes against common sense that increasing from 69 kV to 345 kV will not increase the dangers from EMF." Jenkins Exc. 1. Mr. Jenkins presented no evidence of increased dangers at the hearing, nor is there any evidence of dangers from EMF in the record. He states, "Dr. Erdreich...concluded that raising the line height by less than 100% and increasing the kV by 500% will actually be of a lower intensity." Jenkins Exc. 1. Presumably, this is a claim that Dr. Linda Erdreich testified that the electromagnetic field will be of a lower intensity. The Exception then poses a rhetorical question of how "other, independent" experts would evaluate the proposed electromagnetic field. Jenkins Exc. 1. However, Mr. Jenkins did not introduce any expert testimony to refute Duquesne's testimony, nor is there any evidence in the record that contradicts any of the information presented by Duquesne.

To explain that the proposed Line would not pose any health hazard, Duquesne called to testify Dr. Linda Erdreich, an expert in epidemiology with a focus on electric and magnetic fields. Tr. of 06-02-2010 pg. 69. Dr. Erdreich explained that, after 30 years of research, exposure to EMF is not a demonstrated cause of any adverse health effect. DLC Statement 5, at 8.

First, electric and magnetic fields are two distinct types of fields with different properties and effects. DLC Statement 5, at 3. Dr. Erdreich testified to the electric fields that already existed next to Mr. Jenkins house with the 69 kV line. DLC Exhibit 11. She then compared the existing level of electric fields to the electric fields that will be present when the proposed 345 kV line is built. Tr. of 06-02-2010 pps. 74-76. Although the electric fields are projected to be higher with the proposed the 345 kV than with the 69 kV line, they are still well within levels considered safe and do not pose a danger to the health and safety of the public. Tr. of 6-2-2010 pps. 76-77.

Regarding magnetic fields, Dr. Erdreich further testified that the projected magnetic fields associated with the 345 kV line will be lower than the magnetic fields associated with the 69 kV line that was there before Mr. Jenkins bought his home, due to the greater height of the proposed Line. Tr. of 6-2-2010 pps. 75-76; DLC Exhibit 11.

Duquesne agrees with the finding in the Initial Decision that, “There are no technical concerns regarding the construction of the 345 kV line. The design, methods, and materials used to construct the line are well-proved and have been used extensively in the past for this type of transmission line both by Duquesne and other utilities.” I.D. at 8. Michelle Antantis, a Principal Engineer at Duquesne testified, “The line was designed to meet or exceed the requirements set forth in the 2007 current edition of the NESC [National Electrical Safety Code] and also will be constructed to OSHA [Occupational Safety and Health Administration] standards. Also, the line is designed and will be constructed and operated to conform to existing Duquesne Light standards.” DLC Statement 1 at 3. The Commission has held that transmission lines that meet or exceed the NESC requirements do not create an unreasonable risk or danger to the health or safety of the public. *Application of PPL Electric Utilities Corporation Filed Pursuant to 52 Pa.*

Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the Pennsylvania Portion of the Wayne Counties, Pennsylvania, A-2009-2082652 (Order entered February 12, 2010); 52 Pa. 57.193 (a). The proposed route is the least invasive of all proposed routes, and the Line is safe and minimally invasive as the Code requires.

Based on this evidence, the Administrative Law Judges properly found that the Line will not present EMF dangers. Citing Dr. Erdreich's testimony, the Administrative Law Judges concluded, "Accordingly, the proposed line poses no danger to the health and safety of the public from EMF exposure." I.D. at 8.

C. The Impact of the Proposed Poles is as Minimal as Possible

Mr. Jenkins argues that support structures of the 345 kV line will have an adverse impact on the neighborhood. Jenkins Exc. 2. He claims that the impact on home values was not addressed. *Id.* Mr. Jenkins, however, did not present any evidence that Duquesne's proposed Line will have an adverse impact on home prices, nor is there any such evidence in the record.

Contrary to Mr. Jenkins' Exception, Duquesne has taken a substantial analysis to select a route that would have the least impact and undertook substantial steps to minimize the effects of the Line. A principal concern of Duquesne in selecting a route for the new Line was to minimize the impact on the environment and on the community. The proposed Line was selected because of its minimal impact upon these two categories. Based upon the environmental assessment and line routing study prepared by Duquesne's experts, Duquesne determined that the route chosen would have the least impact of all available alternatives. Tr. of 6-2-2010 pg. 64.

Although the proposed 345 kV Line will have higher poles than the existing 69 kV Line which will be removed as part of this project, in many ways, the proposed Line will be less

intrusive. The proposed Line will consist of self-supporting tubular steel monopoles that will replace the lattice steel structures and wood pole structures of the existing, inactive 69 kV Line. DLC Statement 3 at 2. Because the new poles will be monopoles, rather than steel lattice structures, they will have smaller footprints than the current structures.

Based on the evidence which included testimony of Duquesne's siting experts and the report that they prepared, the Administrative Law Judges properly found that: "[a]lthough the poles associated with the proposed line will be much taller than the poles that were in use for the 69 kV line, those homes have already been impacted by the presence of a transmission line. Other alternative routes may have impacted fewer homes, but the impact on those residences would be a completely new impact rather than the incremental impact which will be suffered by the homes near the existing 69 kV right-of-way." I.D. at 17. The impact that the Administrative Law Judges considered included (although it was not limited to) the impact upon home values. The 69 kV line was initially constructed in 1927. DLC Statement 2, page 5. The homes in the existing right-of-way are already affected by that transmission line, so the impact of updating the Line will not be as great as the impact of installing a new Line in another area.

D. Duquesne Proposed the Best Route for the Line

Mr. Jenkins claims that Duquesne has other alternatives that would have less of an impact. Jenkins Exc. 3. There is no evidence on the record that there is an alternative route that has less of an overall impact than the proposed 345 kV Line.

Duquesne presented expert testimony regarding the selection of the route for the Line. Duquesne identified six potential routes and analyzed the impacts that use of each route would have if it were selected. DLC Exhibit 7. Duquesne gave particular attention to the potential

impacts on all homes that are 100 feet or less from the proposed Line.¹ DLC Exhibit 7. George Reese testified, “The number of residential units within 100 feet of the centerline of each alternative, either new or existing right-of-way, was tabulated and included in the evaluation.” DLC Statement 4 at 5. The impact that a Line would have on nearby homes was a serious consideration when Duquesne evaluated possible routes.

Although Duquesne was concerned with the possible impact that a Line would have on nearby homes, it was also concerned with the possible impact of numerous other factors. The potential routes were evaluated based on a total of 25 factors. DLC Statement 4 at 5. The factors were based on Commission regulations and traditional environmental impact criteria. DLC Statement 4 at 5. Some of the factors were weighted because of their greater importance. DLC Statement 4 at 5. To determine an impact score, each proposed route was given a set of scores for the 25 criteria, and the scores were multiplied by the weighting factors. DLC Statement 4 at 5-6.

The proposed routes labeled Alternative 1 and Alternative 9 achieved the most favorable scores, indicating that they would have the smallest overall impact. DLC Statement 4 at 6. Alternative 1 was selected because it contains an existing 69 kV line that is no longer needed and will have minimal impact based on the environmental and socioeconomic criteria which were evaluated. DLC Exhibit 7. It also affected fewer houses within 100 feet of the centerline than Alternative 9.

¹ Mr. Jenkins believes that Duquesne gave consideration to homes 100 feet from the proposed Line but not to homes that are even closer than 100 feet. Jenkins Exc. 3. Mr. Jenkins’ belief is inaccurate. Duquesne gave consideration to homes within 100 feet of the Line. Houses within 100 feet of the proposed line are varying distances from the line; some may be 100 feet away, and some may be closer to the line. Mr. Jenkins fails to understand that the term “within 100 feet” includes homes that are the full 100 feet away from the proposed route and homes that are closer.

George Reese testified that Alternative 1 had the least impact of any of the Alternatives, and that the appropriate environmental permits have been issued by Commonwealth and federal agencies in order to proceed with the project. Tr. of 6-2-2010 pps. 63-64.

Duquesne has not only considered the needs of the customers in the immediate vicinity of the Line; it has considered how the proposed Line will affect all customers. Using existing right-of-ways rather than purchasing new ones helps to minimize costs associated with this upgrade. Customers, through the rates that they pay for electric service, will ultimately bear the cost of this upgrade, and it would be irresponsible and wasteful to purchase new right-of-ways when existing options are available.

Based on the foregoing, the Administrative Law Judges properly found that “[a]lthough other alternatives affected fewer residences within 100 feet of the centerline of the proposed line, the impacts on the residences along Alternative 1 have already been experienced and should not be substantial from upgrading the line. In contrast, the other alternatives would require new rights-of-way and have more significant environmental impacts.” I.D. at 11. The impact on the homes in the immediate vicinity of the Line was not the only consideration that Duquesne made in choosing the proposed route, and that the Administrative Law Judges made in granting Duquesne’s Application, but it was a very significant consideration.

E. Duquesne’s Rights Of Way are Adequate to Accommodate a 345 kV Line

Mr. Jenkins argues that Duquesne’s presentation of its case leads to the conclusion that Duquesne is concerned that the right-of-way is not wide enough for a 345 kV Line. Jenkins Exc. 4. Although he alleges “aggressive tactics concerning vegetation removal,” he has not cited to any evidence that Duquesne has performed vegetation management beyond its right-of-way. *Id.*

Contrary to Mr. Jenkins's assertion, the evidence demonstrates that Duquesne's rights-of-way are wide enough to accommodate the proposed 345 kV Line. James Boyle has testified that the existing easements are sufficient for the proposed line. Tr. of 6-2-2010 pg. 51. Mr. Boyle explained that the line was designed for the wires to be able to swing in the wind and still maintain clearance from nearby vegetation. *Id.* The current right-of-ways are wide enough to accommodate the current 69 kV Line, and they are wide enough to accommodate the proposed 345 kV Line.

Vegetation management was considered in Duquesne's Application. One reason that the elevation of the Lines is so great is so that they will be further from trees in the vicinity. The further the Line from the trees, the less vegetation management will have to be conducted. Tr. of 6-2-2010 pps. 51-52.

Mr. Jenkins did not introduce any evidence to contradict the evidence that is on the record. The record establishes that the existing right-of-way is sufficiently wide for the proposed Line.

F. Duquesne Urgently Needs to Build the Proposed 345 kV Line

Mr. Jenkins claims that Duquesne has failed to prove that there is a need to reactivate this Line. In fact, the record shows that the prior 69 kV line is obsolete and to meet the electric needs of the region, a 345 kV line is needed.

Duquesne has presented testimony that the proposed Line is necessary. In fact, Duquesne requested an expedited treatment of its application. Tr. 4-21-2010 pg. 9. The North American Electric Reliability Corporation (NERC) implemented reliability standards in 2007. Tr. of 6-2-2010 pg. 35. In 2004, Duquesne participated in a comprehensive reliability assessment of its

transmission system that forecasted its ability to provide reliable service in 2009 and 2014. *Id.* The assessment predicted violations of NERC category B and C contingencies and that, if Duquesne lost one line, that loss would overload another line. *Id.* Overloading a line causes it to heat, which can cause it to fail. In order to be in compliance with mandatory NERC reliability standards, the Duquesne transmission system must be upgraded. The proposed 345 kV Line will contribute to this upgrade by providing an alternative supply into the northeastern portion of Duquesne's service territory. DLC Statement 2 at 6.

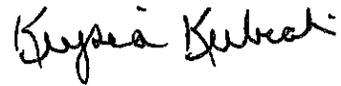
The central feature of Duquesne's plan is a new 345kv transmission backbone and related facilities between the Brunot Island and Logans Ferry Substations. DLD Statement 2 at 4. The plan uses a combination of existing, new and up-rated transmission lines, of which the proposed Highland-Logan's Ferry 345 kV project is an essential component. *Id.* Overall this plan, including the proposed Highland-Logan's Ferry 345 kV project, will mitigate low voltage conditions and contingency overload scenarios, particularly in the northeastern portion of Duquesne's system. DLC Statement 2 at 6. The 345 kV Line to Logans Ferry is one of the final steps to completing the transition of area transmission supply from 69 kV to 138 kV. *Id.* Megan Sullivan testified that if the proposed 345 kV Line is not built, then Duquesne will not be able to furnish adequate facilities. Tr. of 6-2-2010 at page 42. The Line is necessary.

IV. CONCLUSION

Administrative Law Judges John E. Corbett, Jr. and Mary D. Long made accurate Findings of Fact and correct Conclusions of Law when, in their Initial Decision, they approved Duquesne's Application for a 345 kV transmission Line. Duquesne submits that for all of the

reasons supplied in Duquesne's Application, Testimony, Exhibits, and herein, Mr. Jenkins' Exceptions on this issue should be denied.

Respectfully submitted,

A handwritten signature in black ink that reads "Krysia Kubiak". The signature is written in a cursive style with a large initial 'K'.

Krysia Kubiak
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Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Application of Duquesne Light :
Company for the Siting and Construction of a :
345 kV Transmission Line in the City of Pittsburgh, : Docket No. A-2010-2159814
Municipality of Penn Hills, Verona Borough :
and Plum Borough, Allegheny County, PA :

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of Reply Exceptions of Duquesne Light Company were served upon the following persons on November 8, 2010 in the manner indicated.

VIA FIRST CLASS MAIL

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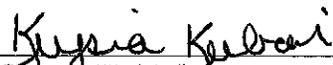
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Dated this 8th day of November 2010.



Krysta Kubiak