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Jessica R. Rogers

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File #: 2507/149396

October 24, 2011

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**RE: Petition Of PPL Electric Utilities Corporation For A Finding That A Building To Shelter Control Equipment At The East Tannersville 138-12 kV Substation To Be Constructed In Pocono Township, Monroe County, Pennsylvania Is Reasonably Necessary For The Convenience Or Welfare Of The Public; Docket No. P-2011-**

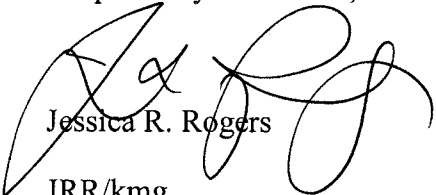
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Dear Secretary Chiavetta:

Enclosed, for filing, are an original and three (3) copies of the Petition Of PPL Electric Utilities Corporation For A Finding That A Building To Shelter Control Equipment At The East Tannersville 138-12 kV Substation To Be Constructed In Pocono Township, Monroe County, Pennsylvania Is Reasonably Necessary For The Convenience Or Welfare Of The Public. Also enclosed is a CD with a copy of the Petition.

As indicated on the enclosed certificate of service, copies of the Petition are being served by certified mail, return receipt requested upon the involved governmental agencies and municipalities. If there are any questions concerning this matter, please contact me at the addresses or telephone numbers provided above.

Respectfully Submitted,



Jessica R. Rogers

JRR/kmg

Enclosures

cc: Certificate of Service

ALLENTOWN HARRISBURG LANCASTER PHILADELPHIA PITTSBURGH PRINCETON WASHINGTON, D.C.

A PENNSYLVANIA PROFESSIONAL CORPORATION

7933810v1

**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 REGULAR MAIL  
RETURN RECEIPT REQUESTED**

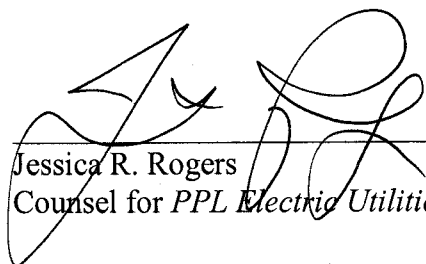
Monroe County Commissioners  
Monroe County Administration Center  
One Quaker Plaza Room 201  
Stroudsburg, PA 18360  
Attn: Suzanne McCool, Chairperson

Monroe County Planning Commission  
Monroe County Administrative Building  
One Quaker Plaza, Room 106  
Stroudsburg, PA 18360  
Attn: Ed Cramer, Chairman

Pocono Township Board of Supervisors  
PO Box 197  
Tannersville, PA 18372-0197  
Attn: Harold Werkheiser, Chairman

Pocono Township Planning Commission  
219 Oak Street  
East Tannersville, PA 18428  
Attn: Jane Cilurso, Chairwoman

DATED: October 24, 2011



\_\_\_\_\_  
Jessica R. Rogers  
Counsel for PPL Electric Utilities Corporation

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition Of PPL Electric Utilities :  
Corporation For A Finding That A Building :  
To Shelter Control Equipment At The East :  
Tannersville 138-12 kV Substation To Be : Docket No. P-2011-\_\_\_\_\_  
Constructed In Pocono Township, Monroe :  
County, Pennsylvania Is Reasonably :  
Necessary For The Convenience Or Welfare :  
Of The Public :

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**PETITION OF PPL ELECTRIC UTILITIES CORPORATION**

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TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

PPL Electric Utilities Corporation ("PPL Electric") hereby petitions the Pennsylvania Public Utility Commission ("Commission"), pursuant to 52 Pa. Code § 5.41 and 53 P.S. § 10619, for a finding that a building to shelter control equipment ("Control Equipment Building") at the proposed East Tannersville 138-12 kV Substation ("East Tannersville Substation") in Pocono Township, Monroe County, Pennsylvania is reasonably necessary for the convenience or welfare of the public and, therefore, exempt from any local zoning ordinance ("Zoning Petition").<sup>1</sup> PPL Electric reviewed its plan to construct the East Tannersville Substation with representatives of

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

Pocono Township and Monroe County, and neither had any objection to the Project. In support of this Zoning Petition, PPL Electric states as follows:

**I. INTRODUCTION AND OVERVIEW**

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

2. PPL Electric's address is Two North Ninth Street, Allentown, Pennsylvania 18101.

3. PPL Electric's attorneys are:

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Paul E. Russell (Pa. Bar I.D. #21643)  
Associate General Counsel  
PPL Services Corporation  
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Allentown, PA 18101  
Voice: 610.774.4254  
Fax: 610.774.6726

E-mail: perussell@pplweb.com

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

4. PPL Electric is a "public utility" and an "electric distribution company" as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 102, 2803. PPL Electric furnishes electric distribution, transmission, or provider of last resort electric supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of twenty-nine counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

5. PPL Electric owns approximately 5,000 miles of transmission lines operating at 69,000 volts or higher, approximately 330 substations with a capacity of 10 megavolt-amperes ("MVA") or more, and approximately 43,000 miles of distribution lines operating at less than 69,000 volts.

## II. DISCUSSION

6. PPL Electric proposes to construct the East Tannersville Substation, together with the East Tannersville #1 & #2 138 kV Taps ("East Tannersville Taps") and additional distribution facilities, to improve reliability of service in Pocono Township, Monroe County, and to reduce load on the Tannersville 57-2 12 kV line.

7. In order to guide its planning processes and to establish standards for its transmission and distribution systems, which will enable it to provide safe and reliable service at a reasonable cost, PPL Electric has adopted its Reliability Principles & Practices ("RP&P") guidelines. PPL Electric relies on the standards set forth in the RP&P for guidance in determining when it is appropriate to reinforce its transmission and distribution systems.

8. Load on the Tannersville 57-2 distribution line is projected to exceed the normal planning guidelines, which violates the planning standards in the RP&P. The planning guidelines allow the existing Tannersville 57-2 12 kV conductor to carry a maximum peak load of 10.0 MVA. The winter 2013 peak load on this line is projected to be 11.1 MVA. Overloading the Tannersville 57-2 12 kV line could result in conductor damage or failure, which would interrupt service to approximately 1,600 customers until repairs could be made. This line cannot accommodate future load growth in the area.

9. The existing Tannersville 57-2 distribution line also exceeds PPL Electric's RP&P guidelines for customer count per feeder. The RP&P guideline limits a 12 kV circuit to 1,300 customers. The Tannersville 57-2 circuit currently serves approximately 1,600 customers.

10. To resolve the violations of the RP&P and to improve service, PPL Electric plans to construct the proposed East Tannersville Substation, together with the East Tannersville Taps. The proposed East Tannersville 138-12 kV Substation will allow PPL Electric to construct an additional 12 kV distribution line to serve the area. Some customers can then be transferred from the 57-2 distribution line to the new distribution line, so that both lines will comply with the RP&P customer count requirement.

11. The principal part of the plan requires construction of approximately 750 feet of new 138 kV transmission line, the proposed East Tannersville Taps, which will supply the proposed East Tannersville Substation. The new East Tannersville Substation, in turn, will supply a new 12 kV distribution line. Load will be transferred from the existing Tannersville 138-12 kV Substation and from the Tannersville 57-2 12 kV distribution lines to the new East Tannersville Substation and distribution lines supplied by it.

12. Contemporaneously with this Petition, PPL Electric has filed with the Commission the *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 East Tannersville #1 & #2 138 kV Taps In Pocono Township, Monroe County, Pennsylvania* (hereinafter the "Letter of Notification"). With the Letter of Notification, PPL Electric filed Appendices 1 through 6, which provide additional detailed information regarding the East Tannersville Taps. The Letter of Notification and its accompanying Appendices are incorporated herein by reference.

13. The basic functional arrangement of PPL Electric's existing transmission system in the area is shown in Figure 1 to Attachment 1 of the Letter of Notification, which is a functional one-line diagram of the existing facilities. The existing distribution system in the area is shown in Figure 2 to Attachment 1 of the Letter of Notification.

14. A one-line diagram of the transmission facilities in the area, as altered by the Project, is provided in Figure 3 to Attachment 1 of the Letter of Notification. A one-line diagram of the distribution facilities in the area, as altered by the Project, is provided in Figure 4 to Attachment 1 of the Letter of Notification. These Figures shows the proposed electrical system in the area, including the East Tannersville Taps, the East Tannersville Substation, and the distribution line that will be supplied by the East Tannersville Substation.

15. The Project will improve reliability of service in the Pocono area by reducing the load on the Tannersville 57-2 12 kV distribution line. Approximately 650 customers and 3.3 MVA of load will be transferred from the Tannersville 57-2 12 kV distribution line.

16. The estimated total cost of the Project, including the East Tannersville Taps, East Tannersville Substation, and related distribution lines is approximately \$2.35 million.

Construction of the Project is scheduled to begin in the spring of 2013 to meet an in-service date of November, 2013.

17. The new East Tannersville Substation will include a Control Equipment Building. Substations must include certain control equipment, primarily switches, relays, and Supervisory Control and Data Acquisition ("SCADA") equipment to control the flow of electricity into, within, and from the substation. Much of this equipment, in order to function properly, must be protected from the elements. The purpose of the proposed building in the East Tannersville Substation is to protect the control equipment from the elements so that the line equipment, and the entire substation, can function properly.

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

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

20. The East Tannersville Substation will be located on a 6.5-acre tract of land owned in fee by PPL Electric.

21. The new East Tannersville Substation will be connected to the Monroe-Jackson 138 kV Transmission Lines via the East Tannersville Taps. The substation location was chosen because of its proximity to the source line and because of the required distribution tie-in points.

22. Provided as Attachment A hereto is an aerial map showing the location of PPL Electric's tract of land on which the proposed East Tannersville Substation, together with the required Control Equipment Building, will be constructed. An aerial map in Map Pocket D of the Letter of Notification also depicts the rights-of-way and easements for the proposed transmission lines associated with the Project, which will connect with the East Tannersville Substation.

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

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

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

24. As explained above, the East Tannersville Substation, together with the East Tannersville Taps and additional distribution facilities, is necessary to alleviate projected violations of the RP&P on the neighboring Tannersville 57-2 12 kV line in the Pocono area, and will provide additional capacity for future electric system load growth. The East Tannersville Substation must include certain control equipment in order to operate properly, and said

equipment must be protected from the elements, which requires the construction of the Control Equipment Building on the East Tannersville Substation Site.

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

### **III. THE POCONO TOWNSHIP ZONING ORDINANCE**

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

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

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

52 Pa. Code § 69.1101.

27. Pocono Township has adopted a zoning ordinance, which includes a map on which zoning districts are identified. See ZONING ORDINANCE OF POCONO TOWNSHIP, COUNTY OF MONROE, Ordinance of November 17, 2003, *as amended* ("Zoning Ordinance of 2003").<sup>2</sup> The location where PPL Electric proposes to construct the East Tannersville Substation is designated as a "R-1 Residential."

28. With respect to public utility facilities, the Pocono Township zoning ordinance captures public utility facilities under "Essential Services", which are defined as follows:

ESSENTIAL SERVICES - Include the provision of gas, electrical, steam, communication, telephone, sewer, waste material, water, public safety and other similar services. The facilities required to provide such services shall consist of:

- A. Limited facilities including equipment such as poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment which does not require enclosure within a building or which can be constructed within a public right-of-way.
- B. Major facilities including equipment which requires enclosure within a building or construction on its own site such as gas storage areas, solid waste substations, substations, telephone exchanges and telephone booths.

Zoning Ordinance of 2003, Article 2, § 202.

29. The Pocono Township zoning ordinance provides that essential services are permitted in an R-1 Residential zoning district by right. It is unclear whether any permit must be obtained. See Zoning Ordinance of 2003 Article 4, § 402(B)(1)(b), Article 2, § 202.

30. The Pocono Township zoning ordinance requires that structures built to provide essential services comply with regulations for the zoning district the building will be located in.

31. The Pocono Township Zoning Ordinance recognizes that public utility buildings may be exempt from local regulation, stating as follows:

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<sup>2</sup> A true and correct copy of the complete Zoning Ordinance of 2003 can be found at the Ponoco Township website. The URL is as follows:  
<http://www.poconotownship.org/ORDINANCES.html>.

With the exception of storage yards, the provisions and regulations of this Ordinance shall not apply to any existing or proposed buildings or extension thereof, used or to be used by a public utility corporation deemed necessary for the convenience or welfare of the public in accordance with Section 619 of the Pennsylvania Municipal Planning Code, Act 247, as amended.

*See Id.* Article 9, § 910. Therefore, the Pocono Township Zoning Ordinance provides that a public utility building is exempt from local zoning upon a finding by the Commission that the building is necessary for the convenience or welfare of the public.

32. As explained above, PPL Electric will install a fence around the East Tannersville Substation that will to prevent entry by unauthorized persons. Although PPL Electric currently has no plans to install a buffer around the proposed East Tannersville Substation, PPL Electric will leave as much vegetation and trees as practical, provided that they will not interfere with the construction, operation, or maintenance of the public utility facilities at the East Tannersville Substation site. Further, substantial land around the substation site is forested, which will provide a large buffer between the proposed East Tannersville Substation and surrounding area.

33. PPL Electric will construct an access road at the East Tannersville Substation site that will be adequate for PPL Electric's needs.

34. The East Tannersville Substation will be located on a 6.5-acre tract of land and the fenced area for the East Tannersville Substation will be 104 by 136 feet. Thus, there will be adequate area and yard to meet PPL Electric's intended use of the land.

35. Notwithstanding, if PPL Electric were required to obtain a 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 East Tannersville Substation and transmission lines associated with the project, which are reasonably necessary for the convenience or welfare of the public. Further, the Pocono Township's standard

for public utility facilities disregards that the design, location, or construction of public utility facilities is within the exclusive jurisdiction of the Commission.<sup>3</sup>

36. Additionally, the proposed Project and East Tannersville Substation were reviewed with representatives of Pocono Township and Monroe County. The Township and the County have no objection to the East Tannersville Substation and the transmission lines associated therewith. As indicated in the attached certificate of service, PPL Electric is serving a copy of this Zoning Petition on Pocono Township, the Pocono Township Planning Commission, Monroe County, and the Monroe County Planning Commission.

37. Further, in all of its interactions with Pocono Township and Monroe County, PPL Electric will continue to apply its long-standing policy of cooperating with local governments.

38. For these reasons, PPL Electric requests that the Commission find that the Control Equipment Building is reasonably necessary for the convenience or welfare of the public and, therefore, exempt from the requirement of the Pocono Township zoning ordinance that may require a permit prior to the construction of any essential services facilities, which includes

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

public utility facilities, and such other portions of the Zoning Ordinance of 2003 that may, in Pocono Township's opinion, impose any restriction, condition, or regulation on the construction of the Control Equipment Building.

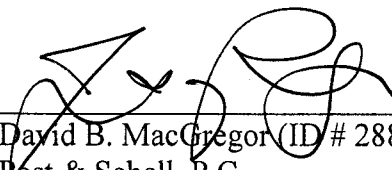
**IV. RELATED PROCEEDINGS**

39. Contemporaneously herewith, PPL Electric filed with the Commission the Letter of Notification for the East Tannersville Taps. Therein, PPL Electric is requesting approval for the siting and construction of the East Tannersville Taps, which will be connected to the proposed East Tannersville Substation, including the Control Equipment Building that is the subject of this Zoning Petition. Issues relating to the necessity for and location of the East Tannersville Taps are interrelated with this Zoning Petition.

V. CONCLUSION

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

Respectfully submitted,



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Of Counsel:

Post & Schell, P.C.

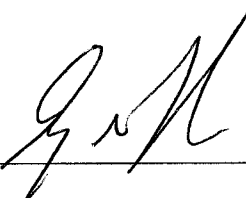
Date: October \_\_, 2011

*Attorneys for PPL Electric Utilities Corporation*

## VERIFICATION

I, Gregory N. Dudkin, being the Senior Vice President – Operations of PPL Electric Utilities Corporation, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that PPL Electric Utilities Corporation to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: 10/13/11

  
\_\_\_\_\_



SUBSTATION  
(FENCED AREA)

12' X 12' CONTROL CUBICLE  
(APPROXIMATE LOCATION)

1

EXISTING MONROE - JACKSON LINE

LEGEND

- EXISTING TRANSMISSION LINE
- PROPOSED TAP LINE (APPROXIMATE)
- EXISTING POLE
- PPL PROPERTY LINE (APPROXIMATE)
- PROPERTY LINE (APPROXIMATE)
- EXISTING RIGHT OF WAY (APPROXIMATE)

SOURCE: PENNSYLVANIA SPACIAL DATA ACCESS (PASDA),  
DELEWARE VALLEY REGIONAL PLANNING COMMISSION  
ORTHOIMAGERY (2005).

AERIAL EXHIBIT

EAST TANNERSVILLE  
#1 & #2 TAP LINE  
POCONO TOWNSHIP  
MONROE COUNTY, PA.

Scale 1" = 150'



PREPARED BY:  
PPL ELECTRIC UTILITIES CORP.

PROPERTY  
ID NUMBER

PROPERTY OWNER

1

PPL ELECTRIC UTILITIES  
TWO NORTH NINTH STREET  
ALLENTOWN, PA 18101