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File #: 150483

January 20, 2012

BY HAND

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

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SECRETARY'S BUREAU

RE: Petition of PPL Electric Utilities Corporation for a Finding that a Building to Shelter Control Equipment at the West Trexlertown 69-12 kV Substation to be Constructed in Upper Macungie Township, Lehigh County, Pennsylvania is Reasonably Necessary for the Convenience or Welfare of the Public
Docket No. P-2012-

Dear Secretary Chiavetta:

Enclosed, for filing, are an original and three (3) copies of the Petition of PPL Electric Utilities Corporation in the above-referenced proceeding. Also enclosed is a CD containing a copy of the Petition and attachments.

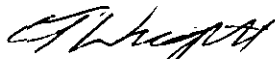
As indicated on the certificate of service, copies of the Petition are being served by certified mail, return receipt requested upon the involved governmental agencies and municipalities.

Construction is scheduled to commence as soon as practical following approval by the Pennsylvania Public Utility Commission to meet a required in-service date of April 2013.

If you have any questions concerning this matter, please contact me at the address or telephone numbers provided above.

Rosemary Chiavetta, Secretary
January 20, 2012
Page 2

Respectfully Submitted,



Christopher T. Wright

CTW/jl

Enclosures

cc: Certificate of Service
Office of Consumer Advocate
Office of Small Business Advocate
Bureau of Investigation & Enforcement
Kimberly Hafner

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SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities :
Corporation for a Finding that a Building to :
Shelter Control Equipment at the West :
Trexlerstown 69-12 kV Substation to be : Docket No. P-2012-_____
Constructed in Upper Macungie Township, :
Lehigh County, Pennsylvania is Reasonably :
Necessary for the Convenience or Welfare :
of the Public :

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 West Trexlertown 69-12 kV Substation (“W. Trexlertown Substation”) in Upper Macungie Township, Lehigh County, Pennsylvania is reasonably necessary for the convenience or welfare of the public and, therefore, exempt from any local zoning ordinance (“Zoning Petition”).¹ Construction is scheduled to commence as soon as practical following Commission

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

approval to meet a required in-service date of April 2013. In support of this Zoning Petition, PPL Electric states as follows:²

I. INTRODUCTION AND OVERVIEW

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

2. PPL Electric's address is as follows:

PPL Electric Utilities Corporation
Two North Ninth Street
Allentown, Pennsylvania 18101

3. PPL Electric's attorneys are:

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² Contemporaneously with the filing of this Zoning Petition, PPL Electric is filing with the Commission a Letter of Notification requesting Commission approval of the siting and construction of the West Trexlertown #1 & # 2 138/69 kV Transmission Tap Line. Issues relating to the necessity for and location of the West Trexlertown #1 & # 2 138/69 kV Transmission Tap Line are interrelated with this Zoning Petition.

Paul E. Russell (Bar I.D. #21643)
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PPL Electric's attorneys are authorized to receive all notices and communications regarding this Zoning Petition.

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

5. PPL Electric owns approximately 5,000 miles of transmission lines operating at 69 kV (kilovolts) or higher, approximately 375 substations with a capacity of 10 MVA (megavolts ampere) or more, and approximately 43,000 miles of distribution lines operating at less than 69 kV.

II. PROJECT SUMMARY

6. The proposed W. Trexlertown Substation is being planned in conjunction with two new 12 kV distribution lines and the proposed West Trexlertown #1 & # 2 138/69 kV Transmission Tap Line ("W. Trexlertown Tap"). Contemporaneously herewith, PPL Electric is filing a Letter of Notification seeking Commission approval of the siting and construction of the W. Trexlertown Tap. The construction of the W. Trexlertown Substation, together with the two

new 12 kV distribution lines and W. Trexlertown Tap, is required to resolve violations of reliability criteria and increase operating flexibility in the Trexlertown and South Fogelsville areas of Lehigh County. PPL Electric's W. Trexlertown LON is incorporated herein by reference.

7. The proposed W. Trexlertown Substation will be located entirely in Upper Macungie Township, Lehigh County. PPL Electric provided information regarding the W. Trexlertown project to representatives from the Township and County; none of which had any objection to the project.

8. Both the W. Trexlertown Substation and W. Trexlertown Tap will be located entirely on land owned in fee by PPL Electric. An aerial plot plan is provided at the end of Attachment 2 to the W. Trexlertown LON. The plot plan depicts the location of the existing and proposed facilities.

9. Together the W. Trexlertown Substation, W. Trexlertown Tap, and associated 12 kV distribution facilities will relieve overloading conditions and provide an additional source of supply to distribution customers located in the Trexlertown and South Fogelsville areas of Lehigh County.

10. Presently, customers in the Trexlertown and South Fogelsville areas are served by, among others, the Trexlertown 47-5 12 kV and South Fogelsville 53-3 12 kV distribution lines. These distribution lines exceed PPL Electric's Reliability Principles & Practices (RP&P) guideline for peak load served by these type of conductors, which is 11,000 kVA (kilovolt Amperes). In the summer of 2011, the Trexlertown 47-5 12 kV and the South Fogelsville 53-3 distribution lines peaked at 13,200 kVA and 11,500 kVA, respectively.

11. Further, the Trexlertown 47-5 12 kV distribution line exceeds PPL Electric's RP&P guideline for customer count per feeder, which provides that no more than 1,300 customers should be served from a 12 kV circuit feeder. Presently, the Trexlertown 47-5 12 kV distribution line serves approximately 3,500 customers.

12. In addition, the load on the Trexlertown 69-12 kV Substation increased to 48,900 kVA in the summer of 2011, which exceeds the 6-hour rating of 42,400 kVA for this Substation's smallest transformer. A substation's maximum operating rating is limited by the maximum capacity of its smallest transformer. In the event that one transformer fails, all load at the substation must be able to be served from the remaining transformers. If the load exceeds the maximum capacity of the remaining transformer at the time of failure, many customers may experience outages until repairs can be made.

13. A detailed explanation of the need for the W. Trexlertown Substation and W. Trexlertown Tap in order to serve the rapidly growing customer load in the Trexlertown and South Fogelsville areas is set forth in Attachment 1 to the W. Trexlertown LON.

14. To alleviate these problems, PPL Electric plans to construct and install two new 12 kV distribution lines that will be connected to the W. Trexlertown Substation, which will be supplied by the proposed W. Trexlertown Tap.

15. The W. Trexlertown Substation and two new 12 kV distribution facilities will increase reliability and operating flexibility in the Trexlertown and South Fogelsville areas of Lehigh County by: (1) transferring load to relieve the overloading on the Trexlertown 47-5 12 kV and South Fogelsville 53-3 12 kV distribution lines; (2) reducing the number of customers served by the existing Trexlertown 47-5 12 kV distribution line to alleviate count violations; and (3) transferring load to relieve the overloading on the existing Trexlertown 69-12 kV Substation.

The W. Trexlertown Substation, W. Trexlertown Tap, and the associated 12 kV distribution facilities will reduce restoration times, as well as address the reliability issues associated with the existing distribution lines. A detailed explanation of the proposed W. Trexlertown Substation and W. Trexlertown Tap is set forth in the Attachments to the Dappers LON.

16. The total estimated cost of W. Trexlertown project is approximately \$2.7 million, which includes approximately \$320,000 for the transmission tap line, \$1.5 million for the substation, and \$890,000 for distribution work.

17. The new W. Trexlertown Substation will include a Control Equipment Building. Substations must include certain switches, relays, and other control equipment to control the flow of electricity into, within, and from the substation. In order to function properly, much of this equipment must be protected from the elements. The purpose of the Control Equipment Building is to protect the control equipment at the proposed W. Trexlertown Substation from the elements so that the control 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 the limits required for the control equipment to operate properly. The Control Equipment Building will not be intended for human occupancy; there will be no supply of water and no sanitary facilities.

19. The W. Trexlertown Substation will be surrounded by a 7-foot high fence to prevent entry by unauthorized persons. The fenced area for the W. Trexlertown Substation will be approximately 104 feet by 136 feet. Access to the substation, including the Control

Equipment Building, must be limited because the high voltages at which the substation will operate present hazards to untrained persons. The Control Equipment Building will be contained within the fenced perimeter of the Substation.

20. The W. Trexlertown Substation will be located on a 61-acre tract of land in Upper Macungie Township, Lehigh County. The entire 61-acre site for the proposed W. Trexlertown Substation is owned in fee by PPL Electric. The W. Trexlertown Substation will only occupy approximately 0.3 an acres.

21. The location of the new W. Trexlertown Substation will provide a source central to the load it will serve. The centrally located new substation, together with the new 12 kV distribution facilities, will reduce the length of exposure for the existing circuits, provide an additional source for load transfers, reduce the number of customers affected by a line outage, and improve reliability and operating flexibility in the Trexlertown and South Fogelsville areas.

22. Further, the location of the W. Trexlertown Substation is advantageous because the source 138/69 kV transmission line, the AT&T R&D #1 & #2 138/69 kV Transmission Tap Line, crosses the project site for the proposed W. Trexlertown Substation. Consequently, only 1,200 feet of new transmission tap line, the W. Trexlertown Tap, is required to connect the proposed Substation to the electric grid. Additionally, by siting the W. Trexlertown Substation within close proximity to the existing transmission source, PPL Electric can minimize the costs and environmental impacts of the W. Trexlertown Tap supplying the Substation.

23. Provided as "Attachment 1" hereto is an aerial exhibit showing the location of the tract of land on which the proposed W. Trexlertown Substation, together with the Control Equipment Building, will be constructed.

III. EXEMPTION FROM LOCAL ZONING

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

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

Section 619 of the MPC, Act of July 31, 1968, P.L. 805, *as amended*, 53 P.S. § 10619. Thus, a municipality may zone a public utility building unless the Commission determines that the building is reasonably necessary for the convenience or welfare of the public. If the Commission finds that the building is *reasonably necessary*, the building is exempt from local zoning ordinances under the MPC. *Del-AWARE Unlimited, Inc. v. Pa. P.U.C.*, 513 A.2d 593, 596 (Pa. Cmwlth. 1986).

25. As explained above, and more fully in the W. Trexlertown LON and supporting attachments, the W. Trexlertown Substation, together with the W. Trexlertown Tap and two new 12 kV distribution lines, is necessary to resolve violations of reliability criteria and increase operating flexibility in the Trexlertown and South Fogelsville areas of Lehigh County. The W. Trexlertown Substation must include certain control equipment in order to operate properly, and said equipment must be protected from the elements. The most efficient and appropriate means of protecting the equipment at this substation is construction of a Control Equipment Building on the site proposed for the W. Trexlertown Substation.

26. Because the W. Trexlertown Substation is reasonably necessary for the public convenience and welfare, the Commission should find that the Control Equipment Building is reasonably necessary and, therefore, exempt from the Upper Macungie Township's local zoning

ordinance pursuant to Section 619 of the MPC. *Del-AWARE Unlimited, Inc. v. Pa. P.U.C.*, 513 A.2d 593 (Pa. Cmwlth. 1986).

IV. THE UPPER MACUNGIE TOWNSHIP ZONING ORDINANCE

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

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

(2) Siting electric transmission lines.

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

52 Pa. Code § 69.1101.

28. Upper Macungie Township has adopted a zoning ordinance.³ *See* UPPER MACUNGIE TOWNSHIP ZONING ORDINANCE, *as amended* (2011) (hereinafter "UMT ZONING ORDINANCE"). Under the Zoning Ordinance, a construction permit, zoning permit, and building permit are required for the construction of any building or structure. *See* UMT ZONING ORDINANCE, Article 2, § 202, pp. 57-58, Article 10, Section 1006, p. 226.

³ The UMT ZONING ORDINANCE is not attached to this Petition because it is 245 pages in length. It is, however, publicly available at the home page for Upper Macungie Township, Lehigh County, Pennsylvania under "2011 Upper Macungie Township Zoning Ordinance Book." *Available at:* <http://www.uppermac.org/zoning.html>.

29. The UMT ZONING ORDINANCE defines a “building” as any structure, or part thereof, having a permanent roof and intended for the shelter, work area, housing or enclosure of persons, animals, vehicles, equipment or materials and that has a total area under roof of greater than 50 cubic feet. *See id.*, Article 2, § 202, p. 35. In turn, the UMT ZONING ORDINANCE defines a “structure” to include any man-made object having an ascertainable stationary location on land. *See id.*, Article 2, § 202, p. 68.

30. The UMT ZONING ORDINANCE also provides that any structure shall be subject to the principal or accessory setbacks of the Zoning Ordinance unless specifically exempted. *See id.*, Article 2, § 202, p. 68. With respect to electrical substation, the UMT ZONING ORDINANCE provides that electrical substations with outdoor structures at least 10 feet in height are required to provide evergreen screening on the sides of the substation that are within 150 feet of a dwelling, undeveloped residentially zoned land, expressway, or arterial street. *See id.*, Article 3, § 306(D)(2), p. 92. Further, the UMT ZONING ORDINANCE requires specific fencing parameters for electrical substations, as well as specific set backs for each zoning district. *See id.*, Article 3, § 307, and Article 4, § 403(D)(6)(c)(3).

31. The site for the proposed W. Trexlertown Substation currently is zoned as a R1 Rural Residential District. The UMT ZONING ORDINANCE provides that, unless exempted, public utility facilities are not permitted, as a permitted use or by special exemption, in any residential district, including R1 Rural Residential Districts. *See id.*, Article 3, § 306, p. 82.

32. Notwithstanding the foregoing, the UMT ZONING ORDINANCE expressly recognizes that public utilities may be exempt from zoning and local regulation under Section 619 of the MPC. *See id.*, Article 1, Section 114, p. 20. Therefore, consistent with Section 619 of the MPC, the UMT 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.

33. Based on the foregoing, in the absence of a finding by the Commission under Section 619 of the MPC, it is unlawful under the UMT ZONING ORDINANCE for PPL Electric to commence work on and begin to use the Control Equipment Building at the W. Trexlertown Substation until zoning, construction, and/or building permits have been obtained. *See id.*, Article 1, § 107(A), p. 10. In order to obtain such permits, PPL Electric must follow the permitting procedures set forth in the UMT ZONING ORDINANCE, including the payment of fees. *See id.*, Article 1, §§ 104, 118-119, and Article 10, § 1007. If PPL Electric were required to obtain zoning, construction, and/or building permits prior to the construction and use of the Control Equipment Building, the process, including appeals from adverse determinations, could consume substantial time, which could delay the construction of the W. Trexlertown Substation, W. Trexlertown Tap, and associated 12 kV distribution facilities, which are reasonably necessary for the convenience or welfare of the public as explained above.⁴ Construction on the W. Trexlertown project is scheduled to begin as soon as practical following Commission approval to meet a required in-service date of May 2013. The required in-service date is the date the

⁴ The lack of authority for a local municipality to regulate the design, location, or construction of public utility facilities is consistent with the long line of cases holding that public utilities are exempt from local ordinances. *See Duquesne Light Company v. Monroeville Borough*, 449 Pa. 573, 580, 298 A.2d 2352 (1972) (“This Court has consistently held, however, that the Public Utility Commission has exclusive regulatory jurisdiction over the implementation of public utility facilities”) (citations omitted). *See, e.g., County of Chester v. Philadelphia Elec. Co.*, 420 Pa. 422, 218 A.2d 331 (1966) (holding that regulation by a multitude of jurisdictions would result in “twisted and knotted” public utilities with consequent harm to the general welfare); *Newtown Twp. v. Philadelphia Elec. Co.*, 594 A.2d 834, 837 (Pa. Cmwlth. 1991) (noting that “it is clear that no ‘implied’ power exists in the MPC which would allow the Township to regulate [the Philadelphia Electric Company] through its subdivision and land development ordinance”); *Heintzel v. Zoning Hearing Bd. of Millcreek Twp.*, 533 A.2d 832 (Pa. Cmwlth. 1987) (holding that township had no power to regulate, under its zoning ordinance, city’s erection of water tower because that power was under the exclusive jurisdiction of the PUC); *South Coventry Twp. v. Philadelphia Elec. Co.*, 504 A.2d 368 (Pa. Cmwlth. 1986) (noting that to possibly subject [the Philadelphia Electric Company] to a miscellaneous collection of regulations upon its system would clearly burden and indeed disable it from successfully functioning as a utility); *Commonwealth v. Delaware and Hudson Railway Co.*, 339 A.2d 155 (Pa. Cmwlth. 1975) (holding that the MPC did not authorize local governments to regulate public utilities in any manner which infringes upon the power of the Commission to so regulate).

proposed facilities need to be placed in service to prevent equipment overloads that have the potential to damage existing facilities and, thereby, cause the interruption of service to customers.

34. PPL Electric has provided information to representatives of Upper Macungie Township and Lehigh County describing the W. Trexlertown project. These entities have not objected to the project. Further, as indicated in the attached certificate of service, PPL Electric is serving a copy of this Zoning Petition on the Upper Macungie Township Planning Board, Upper Macungie Township Board of Supervisors, Lehigh County Commissioners, and Lehigh Valley Planning Commission.

35. In addition, in all of its interactions with Lehigh County, Upper Macungie Township, and their respective planning commissions, PPL Electric will continue to apply its long-standing policy of cooperating with local governments.

36. For these reasons, PPL Electric requests that the Commission find that the Control Equipment Building at the proposed W. Trexlertown Substation is reasonably necessary for the convenience or welfare of the public and is, therefore, exempt from the requirements of the UMT ZONING ORDINANCE that may, in the Upper Macungie Township's opinion, impose any restriction, condition, or regulation on the construction of the Control Equipment Building at the *W. Trexlertown Substation*.

V. RELATED PROCEEDINGS

37. Contemporaneously with the filing of this Zoning Petition, PPL Electric is filing with the Commission the W. Trexlertown LON. Therein, PPL Electric is requesting approval for the siting and construction of the W. Trexlertown Tap, which will be connected to and supply the

proposed W. Trexlertown Substation, including the Control Equipment Building that is the subject of this Zoning Petition. Issues relating to the necessity for and location of the W. Trexlertown Tap are interrelated with this Zoning Petition.

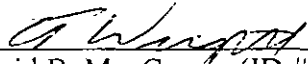
38. Pursuant to 52 Pa. Code §57.75(i)(1), PPL Electric requests that these related proceedings be consolidated for purposes of hearings, if necessary, and decision.

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

Respectfully submitted,

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E-mail: cwright@postschell.com

Date: January 20, 2012


Attorneys for PPL Electric Utilities Corporation

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VERIFICATION

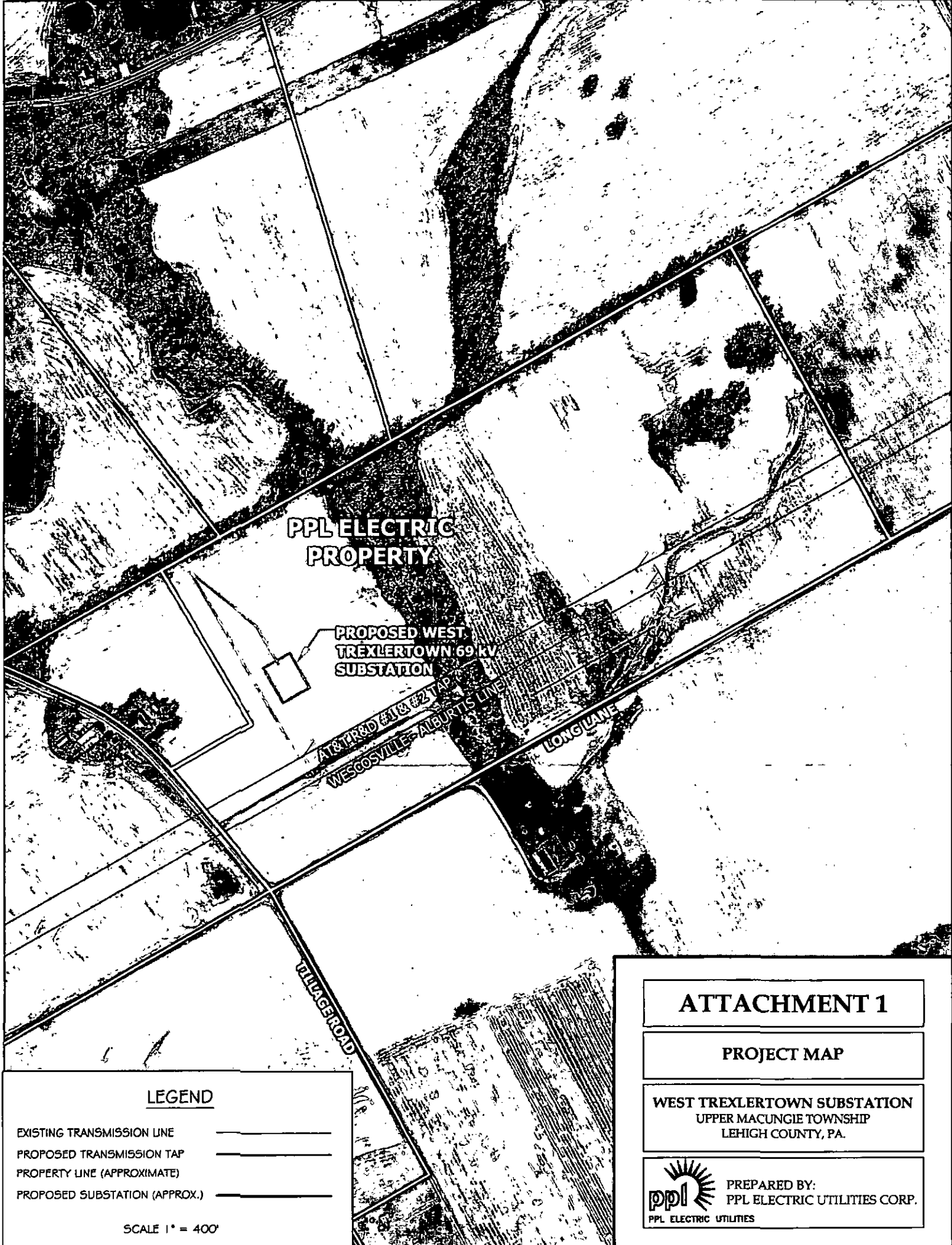
I, Gregory N. Dudkin, being the Senior Vice President - Operations at PPL Electric Utilities Corporation, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that PPL Electric Utilities Corporation to be able to prove 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: 1/16/12



Gregory N. Dudkin

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**PPL ELECTRIC
PROPERTY**

**PROPOSED WEST
TREXLERTOWN 69 kV
SUBSTATION**

**A & TRUD #1 & #2
WESCOSVILLE-ALBURTIS LINE**

LONG LANE

ULLAGER ROAD

LEGEND

- EXISTING TRANSMISSION LINE
- PROPOSED TRANSMISSION TAP
- PROPERTY LINE (APPROXIMATE)
- PROPOSED SUBSTATION (APPROX.)

SCALE 1" = 400'

ATTACHMENT 1

PROJECT MAP

**WEST TREXLERTOWN SUBSTATION
UPPER MACUNGIE TOWNSHIP
LEHIGH COUNTY, PA.**

PREPARED BY:
PPL ELECTRIC UTILITIES CORP.
PPL ELECTRIC UTILITIES

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 § 1.54 (relating to service by a participant).

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Lehigh County Commissioners
17 S. Seventh Street
Allentown, PA 18101
Attn: Mr. Dean N. Browning, Chairman

Lehigh Valley Planning Commission
961 Marcon Boulevard, Suite 310
Allentown, PA 18103
Attn: Steven L. Glickman, Chairman

Upper Macungie Township Board of
Supervisors
8330 Schantz Road
Breinigsville, PA 18031-1510
Attn: Edward J. Earley, Ed.D., Chairperson

Upper Macungie Township Planning Board
8330 Schantz Road
Breinigsville, PA 18031-1510
Attn: David C. Etowski , Chairperson

Date: January 20, 2012



Christopher Wright

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