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October 17, 2012

**VIA HAND DELIVERY**

Rosemary Chiavetta  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor North  
PO Box 3265  
Harrisburg, PA 17105-3265

RE: PUC Docket Nos. A-2011-2267352, A-2011-2267353, A-2011-2267388, A-2011-2267416, A-2011-2267418, A-2011-2267426, A-2011-2267429, A-2011-2267446, A-2011-2267349, A-2011-2267448

Dear Secretary Chiavetta:

Enclosed for filing please find the original and nine (9) copies of the Brief of the Protestants in the above-referenced proceeding.

I have also enclosed an additional copy of the document to have time-stamped.

Very Truly Yours,

SALZMANN HUGHES, P.C.

  
E. Lee Stinnett

PA PUC  
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Enclosure

Concentrating in Environmental, Land Use, Municipal, Real Estate, Corporate, Estate Planning and Administration, and General Civil Litigation

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of PPL Electric Utilities Corporation	:	
under 15 Pa. C.S. § 1511(c) for a finding and	:	
determined that the service to be furnished by	:	
the applicant through its proposed exercise of the	:	
power of eminent domain to acquire a right of way	:	
and easement over and across the lands of the	:	
following property owners in Lower Mahanoy	:	
Township, Northumberland County, Pennsylvania	:	
	:	
Randall Clark	:	A-2011-2267352
	:	
John & Evelyn Zeiders	:	A-2011-2267353
	:	
Michael Schwalm	:	A-2011-2267388
	:	
Roy & Cindy Maurer	:	A-2011-2267416
	:	
Ronald & Dianne Mace	:	A-2011-2267418
	:	
The Shoop Family Trust c/o Edwin & Denny Shoop	:	A-2011-2267426
	:	
Gary & Dorene Lahr	:	A-2011-2267429
	:	
Elijah & Faye Lahr	:	A-2011-2267446
	:	
And the following property owners in Perry	:	
Township, Snyder County, Pennsylvania	:	
	:	
Michael & Logan Wendt	:	A-2011-2267349
	:	
for the proposed Richfield-Dalmatia 69 kV	:	
transmission tie line is necessary or proper for the	:	
service, accommodation, convenience or safety	:	
of the public	:	
	:	
Application of PPL Electric Utilities Corporation	:	
under 15 Pa.C.S. § 1511(c) for a finding and :	:	
determination that the service to be furnished by	:	
the applicant through its proposed exercise of the	:	
power of eminent domain to acquire a right of way	:	A-2011-2267448
and easement over and across the lands of Marvin	:	
Roger Hess and Leona Hess for the proposed	:	
Richfield-Dalmatia 69 kV transmission tie line and	:	

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Meiserville 69-12 kV substation in Susquehanna :  
Township, Juniata County, Pennsylvania is :  
necessary or proper for the service, accommodation :  
convenience or safety of the public :

**MAIN BRIEF OF PROTESTANTS MARVIN ROGER HESS AND LEONA HESS,  
RONALD AND DIANNE MACE, ROY AND CINDY MAURER  
AND THE SHOOP FAMILY TRUST**

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## **I. Introduction**

PPL Electric Utilities Corporation (“PPL Electric” or “PPL”) asserts a need to construct the Richfield-Dalmatia Tie Line and the Meiserville 69-12 kV Substation to resolve violations of reliability standards set forth in PPL Electric’s Reliability Principles and Practices (“RP&P”) applicable to 69 kV transmission lines and 12 kV distribution lines. PPL proposes to construct a new 69 kV transmission Tie Line to connect the existing Juniata-Richfield 69 kV line to the existing Sunbury-Dauphin 69 kV line. The proposed project also contemplates the construction of the Meiserville 69-12 kV Substation.

Protestants Hess, Mace, Maurer and the Shoop Family Trust each filed Protests against the proposed transmission line and substation. This brief is filed in opposition to the Application.

## **II. Statement of the Questions**

1. Whether PPL has carried its burden in establishing the need for the proposed Richfield-Dalmatia Tie Line. *Suggested Answer: No.*
2. Whether PPL has carried its burden in establishing the need for the proposed Meiserville 69-12 kV Substation. *Suggested Answer: No.*
3. Whether PPL has carried its burden in establishing that the project proposed in the Application will not create an unreasonable risk of danger to the health and safety of the public. *Suggested Answer: No.*
4. Whether PPL has carried its burden in establishing that the project proposed in the Application will have minimum adverse environmental impacts considering the available alternatives. *Suggested Answer: No.*

### III. Summary of the Argument

Both Pennsylvania law and the Commission's regulations require PPL to demonstrate: (1) a need for the project proposed in its Application; (2) that the proposed electrical facilities are less harmful to the environment than reasonable alternatives; and (3) that the proposed facilities will not create an unreasonable risk of danger to the health and safety of the public. Simply, PPL has not demonstrated any of the above. In fact, the project as proposed will not even meet the RP&P guidelines.

PPL's failure to meet the standards required for approval necessitates denial of its Application. PPL proposed to construct an 11.54 mile, 69 kV transmission line requiring a new river crossing over a pristine stretch of the Susquehanna River. As detailed throughout this Brief, PPL justified its entire project as being necessary to correct "violations" of its Reliability Principles and Practices ("RP&P") regarding customers per circuit and miles per circuit. Howard Slugoeki testified unequivocally that the RP&P guidelines are *voluntary*. PPL may not contend that the project is necessary to correct violations of *optional* RP&P guidelines. The contention is illogical and should not serve as the basis to authorize the exercise of eminent domain to take citizens' real property. Consequently, PPL failed to demonstrate that the project was needed to furnish service to the public.

PPL also failed to consider any alternative that did not involve a new river crossing over the Susquehanna, even though an obvious alternative exists – double circuit the 36-2 distribution line at its present location to halve the circuit miles and customers per circuit, thus obviating the transmission line crossing altogether. The Application also lacked any discussion of impacts to the Susquehanna or what efforts were undertaken by PPL to minimize the impacts to the Susquehanna. Without being provided information regarding both impacts to the Susquehanna

and those efforts undertaken to minimize any impacts in the Application, the Commission is incapable of considering those matters required by regulation.

Finally, PPL failed to demonstrate that the project proposed in the Application will not create an unreasonable risk of danger to the health and safety of the public. The Application proposes to construct a transmission line directly over a major industrial tire recycling facility. The National Fire Protection Association Standards clearly state that tires should not be stored under an electric line; however, that is what PPL proposes. The fact that the National Fire Protection Association felt compelled to issue Standards stating that tires should not be stored under electrical facilities lends significant credence to the fact that the practice is unsafe and should be avoided.

The Commission is required to find and determine that the three factors detailed above and throughout this Brief were conclusively established by PPL. The Application fails to meet the standards required for approval and should be denied by the Commission. Protestants respectfully submit that the Commission should deny PPL Electric's Application because the evidence fails to satisfy the legal standards required for approval.

**IV. Application for Transmission Line and Substation**

**a. Legal Standards**

Burden of Proof

As the proponent of its Application for approval of the siting and construction of its proposed transmission line and substation building, PPL Electric has the burden of proof in this proceeding. 66 Pa.C.S. § 332(a).



### Siting and Construction of Transmission Line

Before PPL may condemn Protestants' properties, Pennsylvania law requires PPL to obtain an Order from the Commission finding that the electric line is necessary. 15 Pa.C.S. § 1511(c). The Commission has adopted regulations concerning the siting and construction of a high-voltage (or "HV") transmission line. 52 Pa.Code §§ 57.71-57.77. Under those regulations, a utility is required to file an application "for authorization to locate and construct a HV transmission line or any portion thereof" before the utility can begin construction of any portion of the line. 52 Pa.Code § 57.71.

The Commission's regulations specifically provide that the Commission will consider the following matters in reaching its decision:

- (1) The present and future necessity of the proposed HV line in furnishing service to the public.
- (2) The safety of the proposed HV line.
- (3) The impact and the efforts which have been and will be made to minimize the impact, if any, of the proposed HV line upon the following:
  - (i) Land use
  - (ii) Soil and sedimentation
  - (iii) Plant and wildlife habitats
  - (iv) Terrain
  - (v) Hydrology
  - (vi) Landscape
  - (vii) Archeologic areas
  - (viii) Geologic areas
  - (ix) Historic areas
  - (x) Scenic areas
  - (xi) Wilderness areas
  - (xii) Scenic rivers
- (4) The availability of reasonable alternative routes.

52 Pa.Code § 57.75(e). The regulations define an “alternative route” as “a reasonable right-of-way which includes not more than 25% of the right-of-way of the applicant’s proposed route.” 52 Pa.Code § 57.1.

The regulations also make it clear that the Commission may impose conditions on the “location, construction, operation or maintenance” of the line. 52 Pa.Code § 57.76(a). That subsection continues by stating the following four elements must be established in order for the Commission to approve the power 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; and
- (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.

For purposes of this case, the Protestants have challenged three of the criteria set forth in Section 57.76(a): the need for proposed line, the unreasonable risk of danger to the health and safety of the public, and the environmental impact of the line.

#### Standards for Determining Need for a Transmission Line

The Commission has held that the need for a transmission line “must be established . . . by a detailing of such earmarks of engineering need, as a defined service area, a defined terminal point, evidence of system inadequacy, and proof that the line in question is a reasonable solution to the problems presented.” *West Penn Power Co.*, 54 Pa.PUC 319 (1980). The Statutory Construction Act mandates that words be construed “according to their common and approved usage.” 1 Pa.C.S § 1903(a).

The plain meaning of “need” as meaning “absolutely required” is reflected in its dictionary definition: “necessity arising from the circumstances of a situation or case.” *Collins English Dictionary - Complete & Unabridged 10th Edition*. HarperCollins Publishers. “Necessity” is defined as “the state or quality of being obligatory or unavoidable” or “a prerequisite.” *Id.* Thus, PPL’s project must be objectively unavoidable, not simply desirable from PPL’s viewpoint.

### Environmental Review Standards

The Pennsylvania Constitution establishes the right of Pennsylvanians to “clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment.” Pa. Const. art. I, § 27. The Commonwealth Court has held, affirmed by the Pennsylvania Supreme Court, that an administrative agency’s compliance with section 27 can be determined by using a three-part test:

1. Was there compliance with all applicable statutes and regulations relevant to the protection of the Commonwealth’s public natural resources?
2. Does the record demonstrate a reasonable effort to reduce the environmental incursion to a minimum?
3. Does the environmental harm which will result from the challenged decision or action so clearly outweigh the benefits to be derived therefrom that to proceed further would be an abuse of discretion?

*Payne v. Kassab*, 312 A.2d 86, 94 (1973), *aff’d* 361 A.2d 263 (1976).

In a subsequent case, Commonwealth Court specifically applied this standard to the Commission and held that an applicant must meet this three-part test (once a protestant or intervenor raises the issue). *Department of Environmental Resources v. Pa. Public Utility Commission*, 335 A.2d 860, 865 (1975). See also *Borough of Moosic v. Pa. Public Utility Commission*, 429 A.2d 1237 (1981).

The Commission later held that this standard would be applied once a protestant or intervenor raises a “substantial issue” of an “adverse impact” on the environment; “not a mere recitation of threatened environmental harm.” *Philadelphia Suburban Water Co.*, 54 Pa. PUC 127 (1980). That case also established two other important principles.

First, the burden is on the utility to show that it made a “reasonable decision, not the best possible decision.” The Commission continued: “Evidence of an alternative may be the basis for questioning the reasonableness of the company’s decision, but mere existence of an alternative site does not invalidate the company’s judgment.”

Second, any alleged environmental impact must be directly related to the proposed project. In *Philadelphia Suburban*, the Commission rejected as too remote “the possibility of future development in an adjoining township.” Rather, the Commission stated that its evaluation of environmental impacts would be based on “environmental incursions at the site . . . which is the subject of the application.”

In a separate case decided about the same time as *Philadelphia Suburban*, the Commission held that an electric utility failed to meet the second prong of the *Payne v Kassab* test (reasonable efforts to minimize environmental impact). In *West Penn Power Co.*, 54 Pa. PUC 319 (1980), the Commission held that a utility must produce “on the record specific, substantial evidence which tends to show reasonable efforts to reduce environmental incursion to a minimum.”

In summary, a utility must make a decision that reasonably minimizes the impact to the environment from the specific project, given the available alternatives. The utility must demonstrate that it has made a “reasonable effort to reduce the environmental incursion to a

minimum” and that any resulting environmental harm is clearly outweighed by the benefits of the project.

**b. PPL Electric Failed to Establish Need for the Proposed Project**

PPL justified its entire project as being necessary to correct “violations” of its Reliability Principles and Practices (“RP&P”). (PPL Application, paragraph 10.) A fair reading of the Application shows that PPL justified its project solely on the argument that it is required to “cure violations” of PPL’s RP&P requirements regarding customers per circuit and miles per circuit.

PPL’s first witness, Howard Slugocki, contradicted and negated the Application’s justification by testifying repeatedly under cross examination that the RP&P is a “guideline” only and that it is “not mandatory.” N.T. 145. Mr. Slugocki specifically stated that the RP&P guidelines are “not mandatory.” N.T. 145. PPL’s conduct in the field is consistent with Mr. Slugocki’s view of the RP&P as merely optional. Mr. Slugocki admitted under cross examination that PPL undertook a distribution project on the very circuit in question that did not satisfy the RP&P by adding a circuit, 36-1, from the Dalamatia substation. N.T. 154. That distribution circuit was installed even though *at the time of installation* it violated RP&P requirements, both in terms of circuit miles and customers on a single circuit. N.T. 154.

PPL’s conduct and testimony establishes conclusively for purposes of this Application proceeding that RP&P guidelines are entirely optional and that PPL treats them as optional by implementing projects that do not meet RP&P guidelines. Accordingly, PPL may not conjure the missing “necessity” here by speciously contending that its project is needed to correct “violations” of merely optional RP&P guidelines. It is illogical and profoundly incorrect to contend that a project is *necessary* to satisfy an *optional* standard.<sup>1</sup> Mr. Slugocki’s testimony

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<sup>1</sup> PPL’s logic should not be allowed to pass muster here. It is akin to a bank robber arguing that he “had to” rob the bank so he could buy a new sports car, or a driver saying he “needed” to speed so he could arrive home earlier.

provides a conclusive admission as to the purely optional nature of the RP&P. The 36-1 project shows that PPL treats RP&P guidelines as optional in practice as well. Accordingly, the “need” for the project is lacking entirely and cannot be supplied by an incantation of the RP&P guidelines.

PPL should not be permitted to take private real property through the use of the substantial power of eminent domain without a compelling reason – a true need – to do so. Although a government may use eminent domain to take private property for public use, investor-owned corporations normally may not do so. Where the corporation is a regulated monopoly and public utility, the law requires a clear justification for the taking; public utilities are not entrusted to make the decision alone and require regulatory approval before taking citizens’ real property from them by legal force for the purpose of erecting high voltage transmission lines. *See* 15 Pa.C.S. § 1511(c).

The keystone of the Commission’s review of a utility’s application to take private land is ensuring the taking is indeed truly necessary. *See* 52 Pa.Code § 57.6(a)(1). If it is not necessary, the utility has no right whatsoever to take the land through legal force. The law requires the Commission to act as a regulator, primarily to protect citizens and customers from potential abuse at the hands of monopolistic utilities, which otherwise would be expected to act in their own economic self-interest, and without restraint. That is the nature of unrestrained monopolies. The very reason for the Commission’s existence is to curb and restrain utilities’ behavior.

Much has been written on the topic of “regulatory capture,” the syndrome wherein the regulating entity becomes so close to the regulated business that the regulator no longer acts as an effective control mechanism for the regulated monopoly. It is no exaggeration to note that nearly every case in which an electric company has sought Commission approval to condemn

private lands was resolved in favor of the utility. Perhaps that is because utilities ask for approval only for projects that are truly necessary. Perhaps, however, it is because the regulators do not scrutinize with sufficient vigor the true need for the project. In any event, before an investor owned corporation should be empowered here to take citizens' private land holdings, the Commission should review very closely the reasoning behind the project and ascertain whether the project is absolutely and truly necessary before actively bestowing on a corporation the enormous governmental power to take a person's land over strong objections.

Here, the record shows that the project is not necessary. The transmission aspect of the project is demonstrably unnecessary; heavier conductors in existing transmission corridors, as PPL installed elsewhere on the same local transmission system, will provide the same functional solution as the proposed project with much less impact. *See P-McGavran-SR-1, Page 4, Lines 3-13; Page 8, Lines 20-23.* The distribution system can be improved by a solution already implemented in part by PPL – a third circuit from the Dalmatia substation that would halve circuit miles and customer counts using only an existing right-of-way and river crossing. N.T. 176. Importantly, this is an alternative that was not included by PPL in its Application and PPL is unsure if this alternative was ever even considered. N.T. 176. Where such alternatives exist and have so much less impact, the Commission should determine and find that the requisite necessity for the proposed project is lacking and should deny the Application.

### **1. Need for the Transmission Line**

The project as proposed by PPL has two components, the first of which is a new 69 kV transmission line across the Susquehanna River for 11.54 miles. The transmission line is designed to feed power to a proposed new 69-12 kV substation on the Hess property. But the transmission line is not required. PPL's circular logic became evident at the hearing in this

matter, as PPL attempted to justify the transmission line as a means to provide power to the Meiserville substation. N.T. 165-66. The Meiserville substation, in turn, was planned to provide a source of distribution power close to the 69 kV project, even though there is no current demand for more power in the area and no anticipated load growth in the future. N.T. 169 and 181.

No single PPL witness testified unequivocally that the transmission line is an absolutely necessary upgrade of the transmission system. There are no true reliability problems with the transmission system itself, and any shortcomings could be addressed by heavier conductor throughout the transmission system, as PPL is implementing. Rather, PPL testified to the generally beneficial results of the transmission line portion of the project, if it were built. That is *not at all the same thing as proving that the transmission line is itself absolutely necessary for the operation of the PPL transmission system.* It is not necessary. To the extent the transmission system warrants improvement, heavier conductor in existing rights-of-way is the proper solution. PPL helpfully admits that it has added or is adding heavier conductor all along the same transmission system.

PPL witness Lisa Krizenoskas testified in support of the transmission upgrade even though she was not herself involved in its design. N.T. 191. PPL has upgraded the 69 kV transmission line on the west side of the river to a 556 ACSR conductor that can convey power reliably and efficiently along that corridor. N.T. 196. Just north of the Juniata substation on the west side of the river, PPL had installed an even heavier conductor, 795 aluminum, in order to increase the carrying capacity of the transmission line to the north. N.T. 231-32. In Sunbury, however, PPL has not yet installed a heavier conductor to the south on the west side of the Susquehanna River. N.T. 216. PPL could improve its transmission system by placing heavier conductor along that corridor, as it has done to the south. This is the precise alternative



advocated by Protestants' expert engineering witness, Mr. McGavran. *See, e.g.*, P-McGavran-D1 Page 10, Lines 14-22 and Page 11, Lines 1-5. A double circuit to the south from the Sunbury power supply point would allow PPL to adequately serve demand to the west (near Beavertown) and also to the south, toward the Meiserville service area, without destroying 11.54 miles of land and without a new and expensive river crossing. N.T. 234-35.

PPL, however, has chosen not to strengthen the weak spots in its transmission system but instead has applied for permission to seize tracts of privately owned land and build an entirely new transmission line across approximately 140 acres of undisturbed land now in private hands. This project is not necessary, and in fact is inconsistent with PPL's efforts to improve its overall transmission capabilities in existing corridors. PPL has actively upgraded its transmission lines with heavier conductor all around the project area, but attempts to justify the proposed new transmission line by pointing out the weak spots in that system. PPL should upgrade, not build new miles of transmission corridor.

Ms. Krizenoskas testified that a heavier conductor on an existing 69 kV corridor would improve its carrying capacity. N.T. 199. The Commission should conclude that heavier conductor on the existing 69 kV corridor would render entirely unnecessary the transmission portion of the proposed project. Ms. Krizenoskas' sole reason for avoiding the reconductoring of the 69 kV line on the existing corridor on the west side of the Susquehanna River is based on the transparent and unconvincing notion that there are fourteen "non-condemnable" properties in that corridor. N.T. 223. PPL feels that it should provide heavier conductor or double 69 kV circuits only in easement areas that are 100 feet wide, PPL's argument goes, and because a 100 foot corridor is not easily obtainable for 100 percent of the corridor, it "cannot" pursue such a solution. PPL's position is incorrect and inconsistent with its own actions. *See* N.T. 293-94.

During the course of this case, we learned that PPL is nearing completion of a reconductoring of 69 kV lines from Sunbury east and south toward Dalmatia. That corridor was reducted with heavier gauge transmission lines to strengthen the “transmission backbone” between Sunbury and Dalmatia. The poles can carry two circuits in the future. PPL has built heavier transmission conductor and double circuit poles even though there are areas of the transmission corridor of less than one hundred feet in width. N.T. 293-94. PPL’s witness Dennis Braun stated that he is familiar with situations involving 69 kV transmission facilities within fifty foot rights-of-way, including along the Sunbury-Dalmatia 69 kV transmission line that was recently reducted. N.T. 293-95. PPL should not be permitted to use the absence of “condemnable” 100 foot easement areas on the west side of the river as a pretext to avoid strengthening the existing transmission backbone to justify the proposed project, especially where PPL very recently completed a reductoring of 69 kV transmission line with easements of less than 100 feet.

Sensing she could equivocate no more, Ms. Krizenoskas admitted that if PPL were to double circuit its 69 kV line west from the Sunbury power supply point, it could accomplish an overall strengthening of its transmission system and supply more reliable backup power in the area of the proposed Meiserville substation without actually building the Meiserville substation. N.T. 234-35. Importantly, pursuing this normal and needed strengthening of its transmission line would eliminate entirely the need for the 11.54 mile corridor proposed in this Application, together with its brand new crossing of the Susquehanna River, an enormous and expensive undertaking with great impact. Moreover, Mr. McGavran testified that it would be less costly to do so. *P-McGavran-D, Pages 11-12, 18.*

Under cross examination, Ms. Krizenoskas also admitted that heavier conductor between Sunbury and Richfield would enhance PPL's ability to supply power during any periods of outage on the transmission line by allowing for back feeding. N.T. 234-35.

In all, testimony has shown that it is nonsensical to build a 69 kV transmission across the Susquehanna River, as proposed, for the purpose of back feeding power from Sunbury in the event of any outage in the Richfield area. Ms. Krizenoskas reluctantly conceded as much under cross-examination when she at long last admitted that a reconductoring of the existing 69 kV transmission corridor between Sunbury and Richfield would perform the very same function as the proposed project with fewer miles of transmission line. N.T. 221 and 234-35. This admission by PPL on the record defeats entirely its claim that the 69 kV proposed Susquehanna River crossing is "necessary." The transmission portion of this project is not in fact necessary, and the same can be accomplished with a project identical to the one PPL is currently undertaking from Sunbury south and east toward Dalmatia. Upon reflection, PPL's application here seems nearly whimsical in its utter lack of justification and certainly is not "needed" for the proper functioning of the PPL's transmission system.

## **2. Need for the Meiserville Substation**

PPL's Howard Slugocki described the need for the Meiserville substation as a way to address the fact that the Meiserville service area, near the Hess property, currently has a circuit with too many miles and too many customers per circuit. N.T. 141. The Meiserville substation perhaps makes sense as a solution only if the 69 kV line already runs near it and supplies power to it. In the absence of the 69 kV line, which we demonstrated above is not necessary, there is no independent reason for the Meiserville substation to exist. It is certainly therefore not "necessary" and should not form the basis for the forceable taking of the Hess' real property over

their strenuous objections. Mr. Slugocki also admitted that the project proposed in the Application will not meet the RP&P guidelines after construction. Assuming *arguendo* that remedying a violation of the RP&P even qualified as a valid need, which it does not, PPL's Application fails to accomplish the stated goal of satisfying the RP&P. In fact, according to Mr. Slugocki it is entirely possible that the Meiserville substation would serve two circuits, each of which exceed the fifty mile per circuit "guideline" found in the RP&P. N.T. 156.

Several years ago, the Dalmatia substation fed a single circuit, 36-1, which included many more miles of circuit and many more customers per circuit than PPL's RP&P guidelines suggest is optimal. PPL addressed this shortcoming by adding a second circuit south from the Dalmatia substation. Mr. Slugocki testified unequivocally that, at the time the 36-1 and 36-2 circuits were split from the original 36-1 circuit emanating from the Dalmatia substation, the 36-1 new circuit did not meet PPL RP&P's. N.T. 154. This is because 36-1, from the moment it was constructed, had too many customers per circuit and too many circuit miles to meet PPL RP&P guidelines.

PPL could add a third circuit, effectively splitting the 36-2 circuit into two circuits, from the Dalmatia substation. 36-2 could serve half of the existing Meiserville load, and 36-3 could serve the other half. This would split the customer load in a way that would meet PPL's RP&P guidelines (even though they are not mandatory) and reduce the number of customers per circuit by about half. In addition, the double circuit from Dalmatia across the river would cut nearly in half the miles per circuit, again improving if not solving entirely PPL's concern in that regard. This could be done without the construction of the Meiserville substation and without the construction of the 69 kV transmission line proposed.

Evidence that this is a sensible functional alternative is obvious, given that PPL used the same approach itself in the creation of the 36-1 and 36-2 circuits. Substantial benefits would accrue to the entire distribution system by avoiding a new 69 kV river crossing, avoiding 11.54 miles of new 69 kV corridor (that expose the system to outages and that have to be maintained) and the related condemnation of the Protestants' lands, and enhancing PPL's compliance with its RP&P guidelines. Because PPL could use its own existing functional solution to the distribution problem, the Meiserville substation truly is not "necessary" and should not provide justification for taking the Hess property. PPL should be held to providing a solution consistent with what it provided with the creation of the 36-1 and 36-2 split.

**c. PPL Electric Failed to Establish that the Proposed Project Will not Create an Unreasonable Risk of Danger to the Health and Safety of the Public**

PPL proposes to run its power line directly over a major industrial operation owned by the Hess family, Mahantango Enterprises, Inc. According to Mr. Hess, several million tires are processed annually at this facility. N.T. 374. The proposed 69 kV line would pass very close to the operations and the tire storage areas. *See* P-Hess-D1, Page 12, Lines 12-17. The National Fire Protection Association Standards indicate that tires should not be stored where there is a source of ignition. *See* P-Hess-SR1, Page 3, Lines 12-16; N.T. 373-74. According to Mr. Hess, "the NFPA Standard . . . will severely limit our ability to store used tires due to the credible and recognized fire risk." *See* P-Hess-SR1, Page 4, Lines 21-22. An electric arc coming from a power line is certainly a source of ignition that has been known to cause fires including tire fires. *See* N.T. 367. PPL failed to consider the safety concerns of the route that it chose for the 69 kV project. Allowing a line so close to a tire storage processing facility proposes an unreasonable risk of fire and danger and should not be permitted near it. *See* P-McGavran-SR1, Pages 2, Lines

13-22 and Page 22, Lines 1-2. The Commission should not sanction a project that presents such a significant danger of a large and dangerous tire fire. In the event of a fire, the public will question why the Commission, having had a chance to avoid the danger, did not do so here.

In addition, PPL proposes to place its 69 kV transmission line directly over a pond, pump house and hydrant used by the Hess family to supply volunteer firemen water for their tanker trucks. *See* P-Hess-D1, Page 3, Lines 16-23, Page 4, Lines 1-21, Page 5, Lines 1-7. Trucks use the pond and hydrant to fill their tankers during fires and at all times of day and night. The high pressure pump forces water, under high pressure, from the pump house through the hydrant into hoses connected to the truck. *See* P-Hess-SR1, Page 1, Lines 18-20 and Page 2, Lines 6-14. These hoses will be very close to the proposed 69 kV transmission line. A rupture of a hose, fitting or water supply line could cause water to blast high into the air and come in contact with live power lines. *Id.* at Lines 19-22 and Page 2, Lines 6-14. In the event the project is allowed and an electrocution follows, the public will question why the Commission allowed such a potentially fatal situation to exist when it was expressly warned of the exact harm that could be expected.

While PPL did not try to ignore the substantial danger posed by its suggested alignment of the line and hydrant, its proposed solution to this problem is absurd and impractical. PPL suggested that every time a fire truck is to fill, someone should call PPL and ask it to de-energize a 69 kV transmission line for as long as the tankers need to fill. N.T. 270-73. An issue with PPL's proposed solution, previously raised by Mr. Hess, involves lack of a means for the on-site fire fighters to determine whether the line was, in fact, de-energized by PPL. *See* P-Hess-SR1, Page 4, Lines 8-9. PPL should not be permitted to locate its transmission line above this active high pressure pumping facility. In addition, or in the alternative, because the Commission is

empowered to place conditions upon such a project, it should require PPL to move its line to avoid the filling area. Another alternative would be to have PPL pay for the relocation of the filling operation. This accommodation, however, is probably impractical in that the pump house and controls need to be very close to the hydrant so that both can be operated safely.

**d. PPL Electric Failed to Establish that the Proposed Project Will Have Minimum Adverse Environmental Impacts Considering the Needs of the Public, State of Available Technology and Available Alternatives**

PPL's Application proposes to construct an 11.54 mile, 69 kV transmission line requiring a new river crossing over the Susquehanna River. An unnecessary river crossing would have a *significant negative impact upon the Susquehanna and should, therefore, be avoided. In fact, the Commission is specifically required to consider the impact of the proposed transmission line and those efforts made to minimize the impacts of the proposed HV line upon scenic rivers. 52 Pa.Code § 57.75(e)(3)(xii).* PPL failed to consider a single transmission alternative that did not involve a new river crossing over the scenic Susquehanna River. N.T. 330. The Application is devoid of any discussion concerning the impacts to the Susquehanna or those efforts made by PPL to minimize the impacts of the proposed transmission line upon the Susquehanna. PPL's failure to provide any information regarding the impact of the proposed transmission line or any efforts to minimize such impacts upon the Susquehanna has precluded the Commission from considering matters they are required to consider by regulation.

**V. Conclusion**

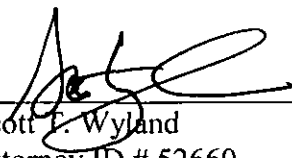
PPL's proposed project is highly unnecessary and harms private property interests without justification. PPL can avoid the destruction of 11.54 miles of 100-foot right-of-way and the confiscation of privately owned property by simply doing what it already has done: strengthening its transmission backbone through heavier conductors and splitting a single

distribution circuit. It is telling that PPL already has placed heavier conductor on most of the 69 kV transmission lines in the project area, built poles to accommodate double circuits, and split the distribution circuit once. The complete lack of demand for additional power in the Meiserville area reveals that there is no true need for the project at the local level. The Application fails to meet the standards required for approval and should be denied.

For the reasons set forth above, the Protestants respectfully request that the Application of PPL be denied in its entirety.

Respectfully Submitted,  
SALZMANN HUGHES, P.C.

Date: 10.17.12

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

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