**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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 : A-2011-2267349

power of eminent domain to acquire a right of way :

and easement over and across the lands of :

Michael & Logan Wendt in Perry :

Township, Snyder County, Pennsylvania :

for the proposed Richfield-Dalmatia 69 kV :

transmission tie line is necessary or proper for the :

service, accommodation, convenience or safety :

of the public :

 :

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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 : A-2011-2267352

power of eminent domain to acquire a right of way :

and easement over and across the lands of :

Randall Clark in Lower Mahanoy :

Township, Northumberland County, Pennsylvania :

for the proposed Richfield-Dalmatia 69 kV :

transmission tie line is necessary or proper for the :

service, accommodation, convenience or safety :

of the public :

 :

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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 : A-2011-2267353

power of eminent domain to acquire a right of way :

and easement over and across the lands of :

John & Evelyn Zeiders in Lower Mahanoy :

Township, Northumberland County, Pennsylvania :

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 : A-2011-2267416

power of eminent domain to acquire a right of way :

and easement over and across the lands of :

Roy & Cindy Maurer in Lower Mahanoy :

Township, Northumberland County, Pennsylvania :

for the proposed Richfield-Dalmatia 69 kV :

transmission tie line is necessary or proper for the :

service, accommodation, convenience or safety :

of the public :

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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 : A-2011-2267418

power of eminent domain to acquire a right of way :

and easement over and across the lands of :

Ronald & Dianne Mace in Lower Mahanoy :

Township, Northumberland County, Pennsylvania :

for the proposed Richfield-Dalmatia 69 kV :

transmission tie line is necessary or proper for the :

service, accommodation, convenience or safety :

of the public :

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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 : A-2011-2267426

power of eminent domain to acquire a right of way :

and easement over and across the lands of :

The Shoop Family Trust c/o Edwin & Denny Shoop :

in Lower Mahanoy Township, Northumberland :

County, Pennsylvania 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 : A-2011-2267429

power of eminent domain to acquire a right of way :

and easement over and across the lands of :

Gary & Dorene Lahr in Lower Mahanoy :

Township, Northumberland County, Pennsylvania :

for the proposed Richfield-Dalmatia 69 kV :

transmission tie line is necessary or proper for the :

service, accommodation, convenience or safety :

of the public :

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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 : A-2011-2267446

power of eminent domain to acquire a right of way :

and easement over and across the lands of :

Elijah & Faye Lahr in Lower Mahanoy :

Township, Northumberland County, Pennsylvania :

for the proposed Richfield-Dalmatia 69 kV :

transmission tie line is necessary or proper for the :

service, accommodation, convenience or safety :

of the public :

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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 :

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 :

**RECOMMENDED DECISION**

Before

David A. Salapa

Administrative Law Judge

Joel H. Cheskis

Administrative Law Judge

HISTORY OF THE PROCEEDING

 On October 11, 2011, PPL Electric Utilities Corporation (PPL) filed Applications with the Pennsylvania Public Utility Commission (Commission) requesting that the Commission make a finding and determination, pursuant to 15 Pa. C.S. §1511(c), that the service to be furnished by PPL through its proposed exercise of eminent domain to acquire a right of way and easement over the property of various individuals for its proposed Richfield-Dalmatia 69 kV transmission tie line is necessary or proper for the service, accommodation convenience or safety of the public. The Commission docketed the Applications as follows:

Lower Mahanoy Township, Northumberland County

 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

Perry Township, Snyder County

 Michael & Logan Wendt A-2011-2267349

Susquehanna Township, Juniata County

 Marvin Roger Hess & Leona Hess A-2011-2267448

Notices of PPL’s Applications were published in the November 5, 2011 Pennsylvania Bulletin at 41 Pa. B. 6062-6067 specifying a deadline of December 5, 2011, for filing protests to the Application or petitions to intervene in the proceeding. The notices also stated that we would preside over a prehearing conference to be held on December 13, 2011 at 10:00 a.m. in Hearing Room 3 of the Commonwealth Keystone Building. We issued a prehearing conference order on November 7, 2011, setting forth the procedural matters to be addressed at the prehearing conference.

 Pleadings titled “preliminary objections” were filed by the *pro se* parties. Roy & Cindy Maurer (Maurer) filed on November 25, 2011 at A-2011-2267416. Ronald & Dianne Mace (Mace) filed on December 1, 2011 at A-2011-2267418. Gary & Dorene Lahr (G. Lahr) filed on December 1, 2011 at A-2011-2267429. Elijah & Faye Lahr (E. Lahr) filed on December 1, 2011 at A-2011-2267446. Randall Clark (Clark) filed on December 5, 2011 at A-2011-2267352. John & Evelyn Zeiders (Zeiders) filed on December 5, 2011 at A-2011-2267353. The Shoop Family Trust c/o Edwin & Denny Shoop (Shoop Trust) filed on December 10, 2011 at A-2011-2267426. Counsel filed a protest on behalf of Marvin Roger Hess and Leona Hess (Hess) at A-2011-2267448 on December 5, 2011.

 By letter dated November 23, 2011, addressed to ALJ Salapa, Paul Reed requested that he be allowed to intervene in the proceeding involving the Clark Application at A-2011-2267352. Mr. Reed alleged that he owned the property next to Clark’s and that the proposed line was originally supposed to cross his property but was later relocated. Since the November 23, 2011, letter was not filed with the Commission’s Secretary or served on the parties, ALJ Salapa caused a copy of the letter to be filed with the Secretary’s Bureau on December 1, 2011 and caused the letter to be served on the other parties.

 On November 30, 2011, PPL filed a petition to withdraw the Michael Schwalm Application at A-2011-2267388. The petition stated that PPL and Mr. Schwalm had executed an agreement by which Mr. Schwalm conveyed a right of way and easement to PPL. As a result, PPL’s Application was no longer necessary.

 On December 5, 2011, Alvin C. Zeiders filed a letter requesting permission to intervene in the Zeiders proceeding at A-2011-2667353. According to the letter, Alvin Zeiders was in the process of purchasing John and Evelyn Zeiders’ property.

 We conducted the prehearing conference on December 13, 2011 at 10:00 a.m. in Harrisburg. As a result of the prehearing conference, we issued Prehearing Order #2 on December 14, 2011. Prehearing Order #2 consolidated the proceedings for purposes of hearing and decision, granted Mr. Reed’s petition to intervene in the Clark Application at A-2011-2267352, granted PPL’s petition to withdraw the Michael Schwalm Application at A-2011-2267388, directed that a public input hearing be held in Northumberland County and established a litigation schedule.

 By notice dated December 28, 2011, the Commission scheduled a public input hearing for this case on March 7, 2012 at 6:00 p.m. in Dalmatia, Northumberland County. By notice dated December 28, 2011, the Commission scheduled a hearing for the oral direct testimony of the *pro se* parties on March 20, 2012 at 10:00 a.m. and for evidentiary hearings on June 18, 19 and 20, 2012 in Hearing Room 2, Commonwealth Keystone Building, Harrisburg.

 By order dated January 10, 2012, we granted Alvin C. Zeiders’ petition to intervene in the proceeding at A-2011-2667353.

ALJ Cheskis conducted the public input hearing as scheduled on March 7, 2012. At the hearing, nineteen individuals testified under oath. Tr. 36-117.

We conducted the hearing for oral direct testimony of the *pro se* parties as scheduled on March 20, 2012. At the hearing, none of the *pro se* parties testified under oath. Tr. 118-127.

On April 23, 2012, PPL filed amendments to the Hess Application at A-2011-2267448 and the Clark Application at A-2011-2267352. The amendments stated that as originally designed, the portions of the Richfield-Dalmatia 69 kV line adjacent to the Susquehanna River required a 150 foot wide right of way. According to the amendments, PPL had determined that it was possible to use monopoles on each side of the Susquehanna River as opposed to the originally proposed H-frame structures. This in turn would require a narrower right of way. As a result, the proposed 150 foot wide right of way along portions of the Hess and Clark properties would be reduced to a 100 foot right of way.

 On May 4, 2012, PPL filed a motion for extension of the procedural schedule established by Prehearing Order #2, issued on December 14, 2011. In support of its motion, PPL asserted that the requested modification would give the parties additional time to review PPL’s amendments to two of the Applications that it filed on April 23, 2012. In addition, the modification would give the parties time to conduct additional discovery and to prepare supplemental testimony with regard to the amendments. PPL represented that it had contacted the other parties to this proceeding and none of them objected to the proposed modifications.

 As a result of PPL’s motion, we issued Prehearing Order #3 on May 7, 2012. Prehearing Order #3 modified the procedural schedule established by Prehearing Order #2.

 By notice dated June 12, 2012, the evidentiary hearings scheduled for June 18, 19 and 20, 2012 were cancelled and rescheduled for September 10, 11 and 12, 2012 in Hearing Room 3, Commonwealth Keystone Building, Harrisburg.

 The parties notified us on September 6, 2012 that they would not require three days of hearings for the case and requested that we cancel the hearing scheduled for September 10, 2012. By notice dated September 6, 2012, the evidentiary hearing scheduled for September 10, 2012 was cancelled.

We conducted the initial evidentiary hearing as scheduled on September 11 and 12, 2012. John H. Isom, Esquire and Jessica Rogers, Esquire appeared on behalf of PPL. Scott T. Wyland, Esquire and E. Lee Stinnett II, Esquire appeared on behalf of Hess, Maurer, Mace and the Shoop Trust (collectively Protestants). The hearing resulted in a transcript of 247 pages consisting of pages 128 through 375. On October 17, 2012, Main Briefs were filed by PPL and a unified brief was filed by the Protestants. On October 31, 2012, Reply Briefs were filed by PPL and the Protestants.

The record closed upon receipt of the Reply Briefs. The matter is now ready for decision.

FINDINGS OF FACT

**BACKGROUND**

1. PPL is a public utility and electric distribution company subject to the regulatory jurisdiction of the Pennsylvania Public Utility Commission. PPL Ex. 1, p 1.
2. PPL furnishes electric distribution, transmission and supplier of last resort services to approximately 1.4 million customers in a service area that includes approximately 10,000 square miles covering all or portions of twenty-nine counties in eastern and central Pennsylvania. PPL Ex. 1, pp. 1-2.
3. PPL is a member of PJM Interconnection, L.L.C. (“PJM”). PPL Ex. 1, p.  3.

**The Proposed Transmission Line**

1. PPL’s transmission lines are designed to operate at specified voltage levels of 69 kV and higher. PPL St. No. 4-R, p. 6.
2. The transmission system is subdivided into bulk and non-bulk systems, with transmission lines operating at or above 100 kV constituting the bulk electric system. PPL’s 69 kV transmission system is called its regional transmission system. PPL St. No. 4-R, p. 6.
3. The regional transmission system is planned using guidelines for both transmission facilities and for distribution facilities, and the Reliability Principles and Practices (“RP&P”), that have been adopted by PPL to ensure that the system provides safe and reliable service to its customers. PPL St. No. 1, p. 3.
4. PPL plans, constructs, and operates its transmission system to adhere to the Principles outlined in the RP&P to the extent practical. PPL St. No. 4-R, p. 3.
5. The RP&P guidelines for a single circuit 69 kV transmission line allow up to 60 MW of load to be interrupted for up to 2 hours. Beyond 2 hours, not more than 30 MW of load may remain interrupted after all available field switching has been completed. PPL St. No. 4-R, p. 2.
6. PPL’s transmission planning department identified that an outage on the Juniata-Richfield 69 kV line would cause approximately 44 MW of load to remain interrupted after all field switching and load transfers to adjacent lines have been completed. This is a violation of PPL’s RP&P guidelines. PPL St. No. 4-R, pp. 2-3.
7. An outage on the Sunbury-Dauphin 69 kV transmission line would cause approximately 10 MW of load to remain interrupted after all field switching is completed. Although the situation on the Sunbury-Dauphin Transmission Line is not a violation of the RP&P guidelines, this project will resolve the load restoration issue on that line as well. PPL St. No. 4-R, pp. 2-3.
8. PPL’s Transmission Planning group assessed a variety of potential engineering solutions and selected two for more thorough assessment. Those two solutions were identified as Alternatives 1 and 2 in the Necessity Statements. PPL Ex. 1, Attachment 1, pp. 7-9.
9. In Alternative 1, PPL would construct a new 11 mile long 69 kV line with double circuit design. The line would initially be constructed with a single circuit. The proposed line would extend from the vicinity of the Richfield substation to the vicinity of the Dalmatia substation, tying together the existing Juniata-Richfield and Sunbury-Dauphin 69 kV transmission lines. PPL Ex. 1, Attachment 1, pp. 7-8.
10. The estimated cost of this alternative was $12 million, including the costs of the rights-of-way. PPL Ex. 1, Attachment 1, p. 7.
11. After investigating the two alternatives, Alternative 1 was selected as the preferred configuration. PPL Ex. 1, Attachment 1, p. 9.
12. PPL submitted the proposed Richfield-Dalmatia transmission line project to PJM in March, 2012. PPL St. No. 7-R, p. 9.
13. The PJM Board approved the inclusion of the Richfield-Dalmatia Project in the Regional Transmission Expansion Plan (RTEP) in its July 10, 2012 meeting. The project has been identified by PJM in the RTEP as b1898. PPL St. No. 4-RJ, p. 9.
14. PPL utilizes a 100 foot right-of-way for all new 69 kV transmission lines and attempts to use the 100 foot right-of-way for rebuilt lines as well. PPL St. No. 3-RJ, p. 2; PPL St. No. 4-R, pp. 15-16.
15. Under either a single or double circuit rebuild, PPL would need to build temporary facilities to continue to provide service to those customers served by the existing Sunbury-Middleburg 69 kV line. PPL St. No. 4-R, p. 16.

**The Proposed Meiserville 69-12 kV Substation**

1. The proposal to construct the Meiserville 69-12 kV substation and related distribution facilities was developed by PPL’s distribution planning department independently from the proposal to construct the Richfield-Dalmatia 69 kV Transmission Line which was developed by the transmission planning department. Tr. 162.
2. The Richfield-Dalmatia project area is currently served primarily by one 12 kV distribution line, the Dalmatia 36-02 12 kV distribution line (“Dalmatia 36-02 line”). PPL St. No. 2, pp. 3-4.
3. The Dalmatia 36-02 line has a single source of supply, the Dalmatia 69-12 kV substation, in Lower Mahanoy Township, Northumberland County. It stretches across several townships and a borough in Northumberland, Snyder, and Juniata Counties. PPL St. No. 2, p. 3.
4. The Dalmatia 36-02 circuit has historically been one of PPL’s worst performing distribution circuits. It was included in the first worst performing circuit report to the Commission, which was submitted for the third quarter of 2003. It has been on the worst performing circuits list 16 of 31 quarters thereafter, making it a chronic worst performer. PPL St. No. 5-R, p. 3.
5. The reliability issues identified by PPL in this portion of its service territory are not related to voltage concerns on the Dalmatia 36-02 line. PPL St. No. 5-RJ, p. 4.
6. When the Dalmatia 36-02 line first appeared on the list in 2003, it was approximately 260 miles long, and served more than 3,000 customers. PPL Ex. 1, Attachment 1, p. 5.
7. After PPL took engineering considerations into account, it split the line and transferred a portion of the circuit miles and customer load of the original Dalmatia 36-02 line onto a new 12 kV distribution line named the Dalmatia 36-01. Tr. 150.
8. The Company installed re-closers and fuses at the proper locations using proper coordination methods,as well as installing lightning arresters on every distribution transformer. PPL St. No. 5-RJ, p. 3.
9. Despite these measures, the Dalmatia 36-02 line has reappeared on the list of worst performing circuits. PPL St. No. 5-R, p. 4.
10. The RP&P guides the design of the system, including how much and for how long load can be interrupted for any given single contingency. The allowable time and amount of load interrupted are determined by examining historical outages, and doing a statistical analysis to establish practical values that would permit system improvements to be implemented at reasonable costs. PPL St. No. 5-R, p. 7.
11. PPL’s Distribution Planning Department determined that the Dalmatia 36-02 line does not meet the RP&P guidelines for miles of circuit and for customer count per line. PPL St. No. 2, p. 3.
12. The identified violations result in greater exposure to outages due to the length of the circuit and large amounts of load being interrupted due to the large number of customers served. PPL St. No. 2, p. 3.
13. Line exposure negatively impacts the reliability of a distribution line, such as the Dalmatia 36-02 line. PPL St. No. 5-R, p. 6; P-McGavran-D1, p. 20.
14. Fewer circuit miles per distribution line means that each distribution line has less potential exposure. Fewer circuit miles also reduces the amount of time it requires PPL to locate the cause of an outage on a distribution line. PPL St. No. 5-R, p. 10.
15. Fewer customers per feeder means that, for an individual line outage, fewer customers will be affected. PPL St. No. 5-R, p. 10.
16. The Distribution RP&P guidelines provide that no more than 1,300 customers should be served from a 12 kV line. In addition, the RP&P guidelines provide that a 12 kV line should not be more than 50 miles long. PPL St. No. 2, p. 3.
17. The Dalmatia 36-02 line currently serves more than 2,200 customers and is 194 miles long. PPL St. No. 2, p. 3.
18. The Meiserville substation will enable PPL to split the Dalmatia 36-02 Line by adding two new 12 kV distribution lines out of the Meiserville substation. PPL St. No. 2, p. 4.
19. The split brings the distribution system in the area into compliance with the RP&P guideline regarding the number of customers served by a 12 kV distribution line and enables PPL to reduce the length of the resulting lines so they are much closer to the RP&P standard. PPL St. No. 5-R, p. 7.
20. The goals of the project are not directed at reducing the number of individual outages but are instead intended to reduce the number of customers affected by each outage and the duration of each outage. PPL St. No. 5-RJ, pp. 1-2.
21. Storms cause a significant portion of outages experienced by PPL’s customers. Tr. 160.
22. PPL Electric will add automatic devices to the new lines, which will enable PPL to isolate any outage to approximately 500 customers, instead of the more than 2,200 customers who could be affected by an outage presently. PPL St. No. 5-R, p. 5.
23. The Meiserville substation will be supplied from a different 69 kV source, so that in the event of a 69 kV outage of the Meiserville substation, all customers normally served by it could be transferred to the other 69 kV source, which serves the Dalmatia substation. PPL St. No. 5-R, p. 5.

**reasonableness of the route**

1. PPL gave substantial weight to numerous factors including reliability of the system, safety of the facilities to the public, impact on the environment, project cost, inconvenience to the public during construction and maintenance, effect on historic areas, effect on archaeological areas and the need for the project, and based on a careful balancing of all relevant factors, PPL selected Route A for this project. PPL St. No. 3, p. 6.
2. The boundaries of the Richfield-Dalmatia Project Study Area were determined by the potential supply and destination service points viewed with consideration for man-made and natural boundaries beyond which line route alternatives would not be reasonable. PPL Ex. 1, Attachment 2, p. 3.
3. The east and west boundaries of the Study Area are generally defined by the need to connect the existing Juniata-Richfield 69 kV Line in the West Perry and Monroe Township area (Snyder and Juniata Counties) to the existing Sunbury-Dauphin 69 kV Line located in Lower Mahanoy Township, Northumberland County. PPL St. No. 3, p. 4.
4. The northern and southern Study Area boundaries represent points beyond which it becomes impractical to site a new transmission line due to increased impacts. The functional requirements define the Study Area, which is between approximately 4.9 and 4.2 miles from north to south, and is approximately 12 miles long east to west. PPL St. No. 3, p. 4.
5. PPL’s next step in the siting and route selection process was the identification of routing constraints, which included the congested area of Dalmatia, residential development along the west bank of the Susquehanna River, and the State Game Lands #194. PPL St. No. 3, p. 4.
6. PPL collected and analyzed environmental data, utilizing the Commission’s siting regulations. PPL Ex. 1, Attachment 2, pp. 5-27.
7. Utilizing its route selection criteria, PPL began to locate potential routes. Potential routes are those routes that avoid, to the extent practical, large area constraints and meet siting objectives and criteria. PPL St. No. 3, p. 4.
8. After considering the project’s functional requirements, identifying constraints, and receiving input from local governments and the public, PPL identified three possible alternative routes. PPL St. No. 3, pp. 4-5; PPL Ex. 1, Attachment No. 3.
9. The Company considered land use, environmental impacts, social and functional considerations, construction and maintenance impediments, and cost. PPL St. No. 3, p. 5.
10. PPL used an Ordinal method, Relative Maximum-Minimum method, and a Relative Z-Score method in order to determine the preferred alternative. PPL St. No. 3, p. 5; PPL Ex. 1, Attachment No. 4.
11. Using the identified criteria and mathematical methods, PPL determined that Route A was the preferred route. PPL St. No. 3, p. 6.
12. This route decision was then communicated to the public and to municipal, state and federal officials and agencies for further feedback and adjustments, where appropriate. PPL St. No. 3, pp. 5-6.
13. In siting the Meiserville substation, three alternative sites were considered. One of the alternative sites was located on the direct opposite side of Old Trail Road from the preferred substation site. The second alternative site considered was proposed by the owner of the preferred site, Mr. Hess. This site was again located on the opposite side of Old Trail Road from the preferred site and approximately 170 feet farther northeast. PPL St. No. 3-R, p. 5.
14. In selecting the preferred location for the substation, many factors were considered including: the distance to the source transmission line, distance to the distribution facilities to be connected to, environmental impacts, social impacts, visual impacts, site access, permits required to construct the project, and potential impacts to threatened and endangered species. PPL St. No. 3-R, p. 6.
15. A major factor that led to PPL’s selection of the preferred site was the fact that the preferred site is located entirely outside of a 100-year floodplain; the other two sites are at least partially in the floodplain. PPL St. No. 3-R, p. 6.
16. Avoiding the floodplain minimizes the environmental impacts and permit considerations associated with the substation site. PPL St. No. 3-R, p. 6.
17. The preferred site is situated adjacent to an existing tree row, which will minimize the visual effects to the adjoining properties. PPL St. No. 3-R, p. 6.
18. PPL has shown that it compiled a detailed environmental inventory of the project study area and attempted to avoid or minimize its impact on the natural and human environments where it was practical to do so. PPL Ex. 1, Attachment 2; PPL Ex. 1, Attachment 3.
19. The transmission line proposed by PPL will pass over the pond on the Hess property. PPL St. No. 3-R, p. 4.
20. PPL met with the Hess family on several occasions to discuss the location of the proposed route, and adjusted the route of the transmission line across the Hess property based on input from the Hess family. Tr. 335.
21. The National Fire Protection Association (NFPA) publishes a model fire code that is intended to be considered by state and local governments, or used as a guideline in establishing a fire code. PPL St. No. 10-RJ, p. 2.
22. The NFPA Fire Code is not a binding code, in and of itself, and it has not been adopted by any governing body having jurisdiction over the Hess property. PPL St. No. 10-RJ, p. 2.
23. Electric utility companies in Pennsylvania are required to follow the provisions of the National Electric Safety Code (“NESC”) pursuant to Section 2807(a) of the Public Utility Code. PPL St. No. 10-RJ, p. 3.
24. The NESC does not prohibit the storage of tires under or near transmission lines. PPL St. No. 10-RJ, p. 3.
25. PPL has significant experience in constructing and operating transmission lines that cross bodies of water, including 54 transmission lines that cross the Susquehanna River. Tr. 331.
26. PPL’s transmission lines cross numerous streams and wetlands, including 17 streams and several wetlands for this project. PPL Ex. 1, Attachment 3, p. 13.
27. In the rare event of a transmission line failure, the line has overcurrent protection that would detect a high impedance ground fault and stop the flow of electricity if the line were to fall. PPL St. No. 10-RJ, p. 3.
28. The transmission line poses little hazard to the pump house on the Hess property. PPL St. No. 10-RJ, p. 5.
29. Fire hydrants under or near transmission or distribution lines are common in PPL Electric’s service territory. PPL St. No. 10-RJ, p. 4.
30. The hydrant at the Hess property is 30 feet from the nearest edge of the right-of-way and approximately 70 feet from the nearest conductor. PPL St. No. 3-R, p. 3.
31. Many hydrants throughout PPL’s service territory are closer to the power lines than the proposed Richfield-Dalmatia transmission line will be to the fire hydrant on the Hess property. PPL St. No. 10-RJ, p. 4.
32. In situations involving first responders such as firemen, PPL defers to the expertise and experience of the first responders to determine whether the situation requires that the transmission line be de-energized in order to safely accommodate firefighters. PPL St. No. 10-R, p. 6.
33. The Project will have little, if any, impact on eagles. It is very unlikely that human activities related to the Richfield-Dalmatia Project will prevent eagles from settling in the vicinity or cause eagles to leave the area. PPL St. No. 8-R, p. 7.
34. It is PPL’s standard practice to include devices on the transmission line at the river crossing in order to make the line more visible and reduce aviation hazards, which will also make the line more visible to birds, thereby further reducing the risk that a bird will collide with the conductors. PPL St. No. 10-R, p. 11.
35. The exposure guidelines from the International Commission on Non-Ionizing Radiation Protection and the Institute of Electrical and Electronics Engineers are 2,000 mG and 9,040 mG, respectively, both of which have been endorsed by the World Health Organization. PPL St. No. 10-R, pp. 7-8.
36. The electric and/or magnetic fields (EMF) levels from the proposed transmission line will be far lower than either of these two exposure guidelines. PPL St. No. 10-R, p. 8.
37. The line will exceed NESC minimum conductor to ground clearance by approximately 10 feet, which will result in reducing the level of EMFs from the levels that would be produced by conductors at the minimum NESC permitted height. PPL St. No. 10-R, p. 8.
38. The presence of a high voltage transmission line has little or no effect on the values of residential properties. PPL St. No. 9-R, p. 11.
39. The “tree of heaven,” also known as ailanthus altissima, is a very fast growing species of tree that is easily controlled in the four year trim cycle. PPL St. No. 6-R, p. 11.

DISCUSSION

1. Description of the Project

 As stated in PPL’s Applications, PPL is proposing to construct a new 69 kV transmission tie line to be known as the Richfield-Dalmatia 69 kV tie line and a new Meiserville 69-12 kV substation. Application at para. 9; *see also*, Application at Attachment 1. The tie line will connect the existing Juniata-Richfield 69 kV line with the existing Sunbury-Dauphin 69 kV line. Id. The proposed Richfield-Dalmatia tie line will be an 11.54 mile long double circuit 69 kV line. Id. PPL stated in its Application that, initially, only one circuit will be installed but a second circuit will be added when future load growth makes it appropriate to do so. Id. The proposed line will run through portions of Snyder, Juniata and Northumberland Counties. Id.

PPL stated in its Application that the new Meiserville 69-12 kV substation will be located in Susquehanna Township, Juniata County. Id. The substation will be connected and supplied by the proposed Richfield-Dalmatia tie line and will supply two new 12 kV distribution lines to serve customer load in that area. PPL has applied for the rights to condemn the property upon which the substation will be located in the Applications. Id. PPL stated that the purpose of the Richfield-Dalmatia tie line and the Meiserville 69-12 kV substation is to resolve violations of reliability standards set forth in PPL’s Reliability Principles and Practices (RP&P) applicable to 69 kV transmission lines and 12 kV distribution lines. Id. at para. 10.

The estimated cost to construct the Richfield-Dalmatia 69 kV transmission tie line and the Meiserville 69-12 kV substation is approximately $12 million with an original in-service date of November 30, 2012. Id. at para 14. PPL noted in the Application that, in order to construct the Richfield-Dalmatia 69 kV tie line, it needs rights-of-way and easements from 54 landowners, including Norfolk Southern Corporation. Id. at para. 15. As of the date the Company filed their Applications, PPL had successfully obtained appropriate rights-of-way and easements from 43 landowners through voluntary transactions and working with Norfolk to obtain the necessary easements. Id. The Applications represented the remaining rights-of-way needed. Id.

1. Evidentiary Standard

 Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa. C.S. § 332(a). "Burden of proof" means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. Se-Ling Hosiery v. Margulies, 364 Pa. 54, 70 A.2d 854 (1950). In this proceeding, PPL seeks approval of nine Applications requesting that the Commission make a finding and determination, pursuant to 15 Pa. C.S. §1511(c), that the service to be furnished by PPL through its exercise of eminent domain to acquire a right of way and easement over the property of various individuals for its proposed Richfield-Dalmatia 69 kV transmission tie line is necessary or proper for the service, accommodation, convenience or safety of the public. As such, PPL has the burden of proof in this proceeding.

If an Applicant establishes a prima faciecase, the burden of going forward with the evidence shifts to the opposing party. If an opposing party does not rebut that evidence, the Applicant will prevail. If the opposing party rebuts the Applicant’s evidence, the burden of going forward with the evidence shifts back to the Applicant, who must rebut the opposing party’s evidence by a preponderance of the evidence. The burden of going forward with the

evidence may shift from one party to another, but the burden of proof never shifts; it always remains on the Applicant. Se Ling Hosiery v. Margulies, 364 Pa. 45, 70 A.2d 854 (1950); Samuel J. Lansberry, Inc. v. Pa. P.U.C., 578 A2.d 600 (Pa. Cmwlth 1990).

1. Relevant Statutory and Case Law

Section 1501 of the Public Utility Code provides, in pertinent part:

**§1501. Character of Services and facilities.**

Every public utility shall furnish and maintain adequate, efficient, safe and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience and safety of its patrons, employees and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission. Subject to the provisions of this part and regulations or orders of the commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service. …

66 Pa. C.S. § 1501. In these Applications for condemnation, the Commission must determine whether the transmission or distribution of electricity to or for the public that will be provided if the subject properties are condemned, is necessary for the service, accommodation, convenience or safety of the public. In Pa. Power & Light Co. v. Pa. P.U.C., 696 A.2d 248 (Pa. Cmwlth. 1997), the Commonwealth Court held that the Commission should consider the “electric power needs of the public, the state of the available technology and the available alternatives.” Id. at 250.

 PPL has filed the nine Applications pursuant to Section 1511 of Business Corporation Law. Section 1511 provides, in pertinent part:

1. **General rule.--** A public utility corporation shall, in addition to any other power of eminent domain conferred by any other statute, have the right to take, occupy and condemn property for

one or more of the following principal purposes and ancillary purposes reasonably necessary or appropriate for the accomplishment of the principal purposes:

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(3) the production, generation, manufacture, transmission, storage, distribution or furnishing of natural or artificial gas, electricity, steam, air conditioning or refrigerating service or any combination thereof to or for the public.

15 Pa. C.S. § 1511(a)(3). The powers conferred by Section 1511(a), however, are restricted so that the power to exercise eminent domain shall not be exercised within 100 meters of any dwelling house or any place of public worship or burying ground. 15 Pa. C.S. § 1511(b)(1).

The Business Corporation Law also provides the Commission with the power to authorize the condemnation of property as necessary for construction of the transmission line:

1. **Public Utility Commission approval.--** The powers conferred by subsection (a) may be exercised to condemn property outside the limits of any street, highway, water or other public way or place for the purpose of erecting poles or running wires or other aerial electric, intrastate aerial telephone or intrastate aerial telegraph facilities only after the Pennsylvania Public Utility Commission, upon application of the public utility corporation, has found and determined, after notice and opportunity for hearing, that the service to be furnished by the corporation through the exercise of those powers is necessary or proper for the service, accommodation, convenience or safety of the public. …

15 Pa. C.S. § 1511(c).

 Regarding route selection issues, we note that the Commission’s regulations regarding high-voltage (HV) lines – Commission Review of Siting and Construction of Electric Transmission Lines at 52 Pa. Code §§57.71-57.77 – are not applicable to this proceeding because 52 Pa. Code §57.1 defines an HV line as 100 kilovolts (kV) or higher. PPL stated in its brief that although these regulations do not apply to this proceeding, they are instructive in determining whether the route selected for the project is reasonable. PPL M.B. 13. The Commonwealth Court has explained that the applicable legal standards for review of the selection of a route for utility lines are whether the powers conferred upon the public utility have been wantonly, capriciously or arbitrarily exercised. West Penn Power Co. v. Pa. P.U.C., 184 A.2d 143 (1962) (West Penn). The degree of inconvenience to a landowner, therefore, would not constitute grounds for withholding the exercise of the power to condemn the easement, where the record establishes that the utility’s route selection was reasonable considering all of the factors involved in the selection of the line. Stone v. Pa. P.U.C., 162 A.2d 18 (1960) (Stone); Paxtowne v. Pa. P.U.C., 398 A.2d 254, 256 (Pa. Cmwlth. 1979) (Paxtowne).

With that legal background in mind, we turn next to the position of the parties on the legal issues involved, including: 1) the need for the Richfield-Dalmatia 69 kV transmission line; 2) the need for the Meiserville substation; and 3) the reasonableness of the proposed route for the transmission line.

1. Positions of the Parties
2. **Need for Richfield-Dalmatia 69 kV Transmission line**

 PPL argued in this proceeding that the service to be furnished through the Richfield-Dalmatia 69 kV transmission line is necessary for the service, accommodation, convenience and safety of the public and therefore satisfies the statutory requirement in Section 1511 of the Business Corporation Law. PPL argued the Commission should find that the service to be provided by the Richfield-Dalmatia 69 kV transmission line is necessary or proper and authorize the use of eminent domain powers pursuant to 15 Pa. C.S. §1511(c).

 PPL supported its position that the line is necessary and proper, first, by providing a discussion of the transmission system. PPL M.B. at 14-15. PPL noted that the 69 kV transmission system is called its regional transmission system and that the regional transmission system is planned using guidelines known as the Reliability Principles and Practices (RP&P) that have been adopted by PPL to ensure that the system provides safe and reliable service to its customers. PPL added that, in the event of an outage of a transmission line, every substation served by the existing transmission line and all of the distribution lines served by those substations will be without power. PPL Electric St. 4-RJ at 1-2. PPL noted that it is responsible for analyzing and determining need for projects on its regional transmission system and then presenting those projects to the PJM RTEP process. PPL St. 7-R at 6-8.

 PPL noted that the RP&P guidelines provide several principles for the orderly and economic development of the electric power system to meet future needs while maintaining an acceptable level of reliability. Past PPL and industry-wide experience with design and operation of electric facilities and equipment provides the bases for the qualitative practices implemented through the RP&P. PPL St. 4-R at 3. The quantitative standards adopted in the RP&P assure that the regional power transmission system can supply electricity to all customer loads in a reliable and economic manner and is designed to ensure that the regional power transmission system can sustain probable contingencies and disturbances with minimal customer interruptions and adequately serve each customer’s needs with regard to capacity, voltage and reliability.

 PPL demonstrated that the RP&P guidelines for a single circuit 69 kV transmission line allow up to 60 megawatts (MW) of load to be interrupted for up to two hours but not more than 30 MW of load may remain interrupted after all available field switching has been completed. PPL St. 4-R at 2. The amount of load which is exposed to an interruption for a single contingency is derived from the emergency rating of standard a 69 kV line conductor, which is 120 MW, whereas the RP&P loading guidelines of 60 MW for a 69 kV line allows for emergency transfers to restore load from an adjacent line, if available. PPL noted that it has presented this methodology to the Commission as the basis for PPL’s planning decisions in numerous transmission projects over the last thirty years. PPL St. 4-R at 5.

 PPL also showed that its transmission planning process is based on a computer model of a future system. PPL M.B. at 18. PPL stated that a specific study year is chosen and a normalized peak load is developed. Transmission planners then test the system by simulating an outage of each regional transmission and bulk electric facility. System planners then undertake analyses to find solutions where violations are shown. Computer simulations of the system with the identified reinforcement alternatives are completed to identify the best overall reinforcement strategy to meet demand in a reliable and economic manner. PPL Exh. 1, Attachment 1 at 3.

 PPL stated that this planning process revealed that the Juniata-Richfield 69 kV line would cause approximately 44 MW of load to remain interrupted, thus causing a violation of the RP&P. PPL M.B. at 19. As a result, PPL’s transmission planning group assessed a variety of potential engineering solutions and selected two based on their ability to restore load and bring the Juniata-Richfield line into compliance with the RP&P.[[1]](#footnote-1) One of those alternatives is the Richfield-Dalmatia project that is the subject of these proceedings and requires the construction of a new 11 mile long 69 kV line with double circuit design at an estimated cost of $12 million. PPL Exh. 1, Attachment 1 at 7-8. PPL submitted the proposed Richfield-Dalmatia transmission line to PJM in March, 2012 and the PJM Board approved the inclusion of the Richfield-Dalmatia project in the RTEP in its July 10, 2012 meeting. PPL St. 4-RJ at 9.

 In response to PPL’s arguments, the Protestants advocated in this proceeding that PPL has not carried its burden to demonstrate the need for the proposed Richfield-Dalmatia line. In support of their arguments, the Protestants stated that PPL’s RP&P are just “guidelines” and are “not mandatory,” noting that PPL’s own witness testified as such. Protestants’ M.B. at 12; Tr. 145. The Protestants noted that PPL had installed a circuit, 36-1, from the Dalmatia substation that violated the RP&P even at the time it was installed, both in terms of circuit miles and customers on a single circuit. Tr. 154. The Protestants claimed that the project cannot be “necessary” if it is needed to satisfy guidelines that are not mandatory, and cite to the statutory obligations that only allow the use of eminent domain if the taking is indeed truly necessary. Protestants’ M.B. at 12-13, *citing*, 15 Pa. C.S. §1511(c) and 52 Pa. Code §57.76(a)(1). The Protestants also argued that PPL did not consider an alternative that would provide the same functional solution as the proposed project with less impact. Id. at 14.

 The Protestants argued that PPL’s support of the transmission line is circular in relation to the proposed Meiserville substation, *infra*. That is, the Protestants argue that the transmission line is a means to justify the need for the Meiserville substation and the substation in turn was designed to provide a source of power for the transmission line. The Protestants claimed, however, that there is no current demand for more power in the area and no anticipated load growth in the future. Id. at 15. The Protestants noted that no PPL witness testified that the transmission line is an absolutely necessary upgrade to the transmission system but that the line would provide “generally beneficial results of the transmission line portion of the project, if it were built.” Id. The Protestants argued that these are not the same things because “generally beneficial results” does not equate to a necessity. *See also*, Protestants’ R.B. at 2-9.

 The Protestants advocated for the use of a heavier conductor in the existing rights-of-ways as the proper solution to the extent the transmission system warrants improvement, noting other examples where such efforts were undertaken. Protestants’ M.B. at 15-17. The Protestants noted that PPL witness Krizenoskas testified that a heavier conductor on an existing 69 kV line would improve the carrying capacity and conclude that PPL should upgrade the existing line, not build new miles of transmission corridor. Id. at 16; *citing*, Tr. 199. The Protestants also argued that PPL could strengthen the line by “doubling” the 69 kV line on the existing corridor. Id. at 16-17. The Protestants concluded that the strengthening of the line would supply more reliable backup power in the area of the proposed Meiserville substation without actually building the Meiserville substation and eliminate the need for the 11.54 mile corridor proposed by PPL. Id. at 17; *see also*, Tr. 234-35.

The Protestants have argued that PPL has failed to demonstrate that it considered alternatives that may be more cost effective, noting as well recently passed legislation that would allow PPL to recover its capital investment on an accelerated basis and earn a return on investment indefinitely. Protestants’ R.B. at 5-7, *citing*, 66 Pa. C.S. §1351; *see also*, Tr. 152, 240. The Protestants also argued that PPL did not effectively refute the proposed alternatives with facts demonstrating that those alternatives should not be explored. Id. at 7-9. The Protestants concluded: “Quite simply, PPL does not ***need*** the proposed transmission tie line to provide reliable service to its customers.” Id. at 9 (emphasis in original).

Several customers who would be affected by the construction of the transmission line testified during the public input hearing held in this matter that the transmission line is unnecessary because outages have not been a problem. Tr. 51, 57, 66-69, 71, 74, 105; *see also*, Protestants’ R.B. at 3-5. For example, one witness stated: “PPL seems to claim that reliability for services is one of the big reasons that this line is going in. This is basically self-proclaimed, and there doesn’t seem to be any evidence to support it.” Tr. 57. Another witness asked: “Has PPL actually communicated directly with each of the customers they intend to better serve with this proposed power line? How many of these customers would say they truly need better service?” Tr. 66. Another witness testified: “I have to agree with many of the comments made tonight. I think tonight we all so far have stressed one thing: what is the need? Or is there a need? Go back to that.” Tr. 71.

 PPL responded to the issues raised by the Protestants and the witnesses who testified at the public input hearing. Notably, PPL responded to the Protestants’ argument that the transmission line is unnecessary because there have been few instances of any long-term outages on the Juniata-Richfield or Sunbury-Dauphin lines. PPL M.B. at 21. PPL argued that the Protestants miss the point because the proposed Richfield-Dalmatia line will reduce the duration of the outages and improve PPL’s ability to restore service following an outage, not reduce the total number of individual outages on the transmission lines. Id. at 21. PPL argued that no amount of maintenance can prevent all equipment failures and that “the real reliability issue, therefore, is whether PPL Electric has sufficient ability to restore customer load when an outage occurs.” Id. at 21-22.

PPL noted that upgrading the existing line, as the Protestants suggest, would not resolve the RP&P violations and not allow the Company to restore load like the proposed transmission line would. Id. at 23. PPL also indicated that additional rights-of-ways would be required. Id. at 23-24; Tr. 253. PPL contended that the Protestants’ arguments regarding the RP&P are inconsistent because, at some points, they criticize PPL for not resolving violations of the guidelines whereas, at other points, they claim that the guidelines do not have to be followed. PPL R.B. at 10. PPL responded that the RP&P guidelines give the Company a consistent approach to maintaining and improving service to customers. Id.; Tr. 184. PPL noted that the Protestants have ignored the importance of the role of the worst performing circuits list and the Company’s obligation to improve performance on those circuits. PPL R.B. at 11-12, *citing*, 52 Pa. Code §57.195(b)(5). PPL noted that it is obligated to address the worst performing 5% of circuits on its system and that the RP&P aids in doing that. Id.; *see also*, PPL R.B. at 14-15.

PPL also responded to the Protestants’ position that the Company should upgrade the existing transmission lines, in lieu of building the Richfield-Dalmatia line. PPL M.B. at 22-28; *see also*, PPL R.B. at 12-21. The Protestants have argued several options for upgrading the existing line, including rebuilding the existing line with either a single, double or triple circuit, and relying on a separate project that is currently being constructed.

With regard to rebuilding the existing line, PPL noted that such a resolution would not resolve the RP&P violation because of the substantial amount of customer load involved. PPL M.B. at 23; Tr. 217. PPL also noted that the rebuild would be more expensive, impractical to use and require additional rights-of-way. Id. PPL noted that it would not be possible to transfer the existing load to other lines while the rebuild occurred. Id. at 24; Tr. 224. PPL indicated that creating a double circuit for the existing line, as the Protestants propose, would not resolve congestion concerns and would be more expensive. Id. at 24-25; Tr. 226-27; *see also*, PPL R.B. at 17-19. PPL responded to the Protestants’ assertions that a third circuit could be added noting that the Protestants failed to develop this alternative in their testimony. PPL R.B. at 13-14.

PPL refuted the Protestants’ position that a separate project that is already under construction will sufficiently address the reliability concerns in the area. PPL M.B. at 25-26. The project referenced by the Protestants was the re-conductoring of the Sunbury to Dauphin 69 kV line. PPL added that neither project negates the necessity of the other and that both projects are required to fully address all reliability concerns. Id. at 26; PPL St. 4-R at 9.

1. **Need for Meiserville Substation**

 In addition to the 69 kV transmission line, PPL’s Applications also request permission for construction of a 69-12 kV substation in Meiserville. PPL M.B. at 26-37. PPL stated that the proposal to construct the Meiserville substation and related distribution facilities was developed by PPL’s distribution planning department independently from the proposal to construct the Richfield-Dalmatia transmission line. PPL M.B. at 26-27; Tr. 162. PPL claimed that the Meiserville substation will improve reliability of distribution service in the project area by improving the load transfer capability between distribution substations and reducing the number of customers impacted by individual line outages. Id. at 27.

 PPL explained the distribution system overview as it pertained to the Meiserville substation, noting that it had determined that reinforcement of the distribution system in the project area was required. PPL noted that the existing Dalmatia 12 kV distribution line extends 194 circuit miles and supplies approximately 2,200 customers. PPL St. 2 at 3. PPL also noted that this line has historically been one of PPL’s worst performing distribution circuits having appeared on the list of worst performing circuits 16 of the last 31 quarters. PPL St. 5-R at 3. PPL stated that it has taken steps to improve the reliability of this line but that none of the measures provided more than marginal improvement to the reliability concerns. Id. at 4. PPL therefore concluded that a substation is required. PPL St. 5-RJ at 3.

 To support this position, PPL again relied on its RP&P. PPL M.B. at 29-30. PPL noted that the current Dalmatia line does not comply with the RP&P for circuit miles and for customer count per line and that this results in greater exposure to outages. Id. at 29. The RP&P guidelines provide that a 12 kV line should not be more than 50 miles long and have no more than 1,300 customers but that the Dalmatia line is 194 miles long and serves more than 2,200 customers. Id. at 30. PPL contended that the Meiserville substation will allow PPL to split the Dalmatia line into three lines and bring the line into compliance with the RP&P. PPL St. 5‑R at 7.

 In response, the Protestants argued that the Meiserville substation is not necessary, noting that “the Meiserville substation perhaps makes sense as a solution only if the 69 kV line already runs near it and supplies power to it” and that “in the absence of the 69 kV line … there is no independent reason for the Meiserville substation to exist.” Protestants’ M.B. at 18. The Protestants argued that the substation is therefore not “necessary” and should not form the basis for the forcible taking of real property. Id. at 18-19.

The Protestants noted, again, that the proposed project would not meet PPL’s RP&P guidelines after construction. Protestants’ R.B. at 10-11. The Protestants also continued their advocacy of adding a second circuit to the existing line in lieu of adding the Meiserville substation, noting that PPL has taken such action in the past. Id. at 19; Tr. 154.

Several customers testified during the public input hearing held in this matter that PPL should first improve its vegetation management practices to improve reliability. Tr. 51, 57, 69, 88-91, 96 and 103. For example, one witness questioned: “What is the dollar amount spent on trimming per miles of line year by year? Maybe this might be a good area to look into for better service and less outages.” Tr. 51. Another witness testified: “We have to look in a lot of cases to see any evidence of line maintenance. In fact, if you take a short drive between Herndon and Sunbury along 147, you’ll see a lot of damage, trees on the lines already, so they don’t maintain what they already have.” Tr. 57. Another witness stated: “I’ve owned my farm for almost ten years and this was the first there was any clean-up of vegetation under the distribution lines. … Tree trimming, we all know around here that it was a very neglected thing.” Tr. 69. One resident brought an eight-foot branch of a “Tree of Heaven” to the public input to discuss its prolific growth around existing lines. Tr. 88-91. Another resident testified to recent vegetation management of otherwise “neglected” lines as “good PR” prior to the new transmission line. Tr. 96.

PPL responded to the Protestants’ position and public input that the Meiserville substation is not needed. PPL responded to Protestants’ arguments that increased vegetation management and low-cost modifications to the existing system would be sufficient to resolve the problems the proposed substation is intended to resolve.

With regard to the issue of vegetation management, PPL argued that vegetation management will not significantly reduce outages. PPL M.B. at 31. This is because PPL cannot remove trees outside of the right-of-way or identify every diseased or dying tree. Id. at 32; PPL St. 6-R at 9. Any such benefits of increased vegetation management would only provide marginal benefits to reliability. Id. PPL also added that the goal of the project is not to reduce the number of outages but the number of customers affected by each outage. PPL St. 5RJ at 1-2. PPL noted that the recent change in pruning from six years to four years was not implemented in the project area until late 2010 and that “when PPL Electric shifted to the four cycle, it also instituted less aggressive pruning.” PPL M.B. at 32. PPL also stated that the Protestants were not relying on correct outage data in making their argument that increased vegetation management would be more effective. Id. at 32-34.

With regard to the issue of low-cost modifications, PPL argued that it has already implemented all of the low-cost alternatives advocated by the Protestants, such as the installation of fuses, re-closers and additional lightning arresters as well as splitting off customer load to create a new 12 kV distribution line. PPL M.B. at 34-36; *see also*, PPL R.B. at 10; PPL St. 5-RJ at 3, 7.

1. **Route for Richfield-Dalmatia Line**

 PPL advocated that the route for the Richfield-Dalmatia line is reasonable. PPL M.B. at 37-57. PPL indicated that it undertook a detailed study of the area in which the line must be constructed to accomplish its functional purposes in order to find the route that best balances the numerous competing interests that must be taken into consideration when siting a high voltage transmission line. PPL recognized that there is no “perfect” line route and that all transmission lines are built with some effects on the environment, the public and individual property owners. Id. at 37-38. In particular, PPL gave substantial consideration to the numerous factors contained in the Commission’s regulations for HV lines, *see*, 52 Pa. Code §§ 57.75(e) and 57.76, to establish the route proposed in the Application, even though the Richfield-Dalmatia line is not an HV line. PPL St. 3 at 6.

 PPL stated that the first step in determining the optimal route was to study the area in which the line can feasibly be sited to meet the functional requirements based on potential supply and destination service points viewed with consideration for man-made and natural boundaries. PPL Exh. 1, Attachment 2 at 3. PPL then identified routing constraints such as the congested area of Dalmatia, residential development along the bank of the Susquehanna River and State Game Lands. Id. PPL also analyzed environmental data to determine the impact of the route on land use, soil and sedimentation, plant and wildlife habitats, terrain and other environmental issues identified in Section 57.75(e)(3) of the Commission’s regulations. 52 Pa. Code § 57.75(e)(3). Notably, this analysis also included the potential impacts on the Susquehanna River. PPL Exh. 1, Attachment 2 at 22. From this analysis, three potential routes were identified. PPL M.B. at 42-43.

 In determining which of the three alternative routes was most appropriate for the project, PPL indicated that it considered public and government input and used three mathematical models for analyzing potential impacts of the routes. PPL M.B. at 43; PPL St. 3 at 5; PPL Exh. 1, Attachment 4. The Company considered land use, environmental impacts, social and functional considerations, construction and maintenance impediments and cost. Id. The route chosen had the lowest cumulative impact: it is the shortest of the three routes, requires the least amount of new rights-of-way, requires the least amount of tree clearing, has the shortest river crossing and has the least impact on natural areas. PPL St. 3 at 6.

PPL indicated that three alternative sites were also considered for the Meiserville substation in order to address the Company’s goal of reducing the length of the lines and the number of customers per feeder. PPL M.B. at 44; Tr. 167; PPL St. 5-R at 10-11. PPL considered various factors such as distance to the transmission line and distribution facilities to be connected, as well as environmental impacts, social impacts, visual impacts and other factors.

Id.; PPL St. 3-R at 6. PPL noted that a major factor that led to PPL’s selection of the proposed site was the fact that the location is entirely outside of the 100-year floodplain and adjacent to an existing tree row to minimize the visual effects to adjoining properties. Id.

 In response, the Protestants argued in this proceeding that PPL failed to establish that the proposed project will not create an unreasonable risk of danger to the health and safety of the public. Protestants’ M.B. at 20-22. The Protestants based this argument on the fact that PPL proposes to run its power line directly over a major industrial operation owned by one of the Protestants, the Hess family, as well as directly over a pond, pump house and hydrant used by the Hess family to supply volunteer firemen water for their tanker trucks. Id.

With regard to the issue of the power line running over the Hess tire facility, the Protestants argued that the National Fire Protection Association (NFPA) Standards indicate that tires should not be stored where there is a source of ignition and that an electric arc coming from a power line is certainly a source of ignition. P-Hess-SR1 at 3; Tr. 367, 373-374. With regard to the issue of the power line running over the pump house, the Protestants argued that fire hoses will be very close to the proposed transmission line and that a rupture of a hose, fitting or water supply could cause the water to blast high into the air and come in contact with the live power lines. P-Hess-SR1 at 1-2; Protestants’ R.B. at 12. The Protestants argued that the Commission should avoid both of these dangerous situations and that proposed solutions are reasonable. Protestants’ M.B. at 21-22. The Protestants argued that the project proposed by PPL will be a significant impediment to the future growth of the Hess facility as there will be a large swath of land that cannot be used for tire storage. Protestants’ R.B. at 12.

The Protestants also argued in this proceeding that PPL failed to establish that the project will have minimum adverse environmental impacts considering the needs of the public, the state of available technology and available alternatives. Protestants’ M.B. at 22. The Protestants reiterate their position that the Applications are devoid of any discussion regarding the impact of the line on the river or any attempts by PPL to minimize those impacts. Id. The Protestants argued that an unnecessary river crossing, which is part of the proposed line, would have a significant negative impact and should be avoided. The Protestants noted that minimizing environmental impacts is a requirement in the Commission’s HV regulations and that PPL did not consider an alternative that avoided a river crossing. Id., *citing*, 52 Pa. Code § 57.75(e)(3)(xii) and Tr. 330. Environmental impact was also raised as a concern during the public input hearing held in this matter. *See e.g.,* Tr. 52.

Other issues regarding the route of the proposed line were also discussed extensively during the public input hearing. For example, one witness testified that the transmission line will result in “loss of prime real estate for industrial growth” because the line runs along a major highway. Tr. 47. There was also significant testimony regarding the transmission line crossing the river. One witness testified:

As a fishing guide who uses this part of the river, I can assure you that a river power line crossing is not one of the most beautiful parts of the river. Hunting and fishing are multi-million dollar industries for the state, and one of the serious problems facing these industries are loss of habitat. Another power line crossing will mean loss of habitat, plus another scar upon the land.

Tr. 54. Similarly, another witness noted the fact that there already exists a river crossing one mile north of the proposed project. Tr. 72. Other witnesses testified regarding the loss of agricultural land. Tr. 60, 101-102, 105, 111-112. Several witnesses testified regarding the loss of property values. Tr. 78, 82-85, 93 (“I am currently seeking to downsize, and if my home price, as it stands today without that power line, is significantly different than when that power line runs through here, am I going to be compensated for that difference?”), 105.

 In response to the Protestants’ health and safety concerns, PPL recognized that the proposed transmission line will pass over the pond and stated that the Company met with the Hess family on a number of occasions to discuss adjustments to the proposed route. PPL M.B. at 47‑48; *see also*, PPL R.B. at 21-24. Despite those attempts, the Hess family determined to pursue their Protest. PPL argued, however, that the NFPA standards are not a binding code and that it has not been adopted by any governing body that has jurisdiction over the Hess property. Id. at 48; PPL St. 10-RJ at 2; PPL R.B. at 22. PPL argued that, in contrast, electric distribution companies in Pennsylvania are required to follow the provisions of the National Electric Safety Code (“NESC”) which does not prohibit the storage of tires under or near transmission lines. Id. PPL also stated that the transmission line will only encumber 2.43% of the Hess property so that the vast majority of their property remains available for tire storage. Id.; PPL R.B. at 23.

PPL dismissed the Hesses’ concerns regarding the location of the transmission line over the pond contending that it has shown that construction of a line over a pond is safe, noting several examples where a transmission line crosses bodies of water. PPL M.B. at 48; Tr. 331. PPL also indicated that transmission lines rarely fall so that the claim that the line will fall in the pond is unreasonable and that the line is designed to trip in the event it were to fall into a body of water. Id. at 49; PPL St. 10-RJ at 3. Similarly, PPL responded to Mr. Hess’ concern that a fire hydrant will be proximate to the transmission line by claiming that such concerns are also not founded and noting that such location is common in PPL’s service territory. Id. at 50. PPL added that the hydrant on the Hess property is 75 feet from the proposed lines and does not constitute an undue hazard. PPL R.B. at 23; Tr. 329.

 With regard to environmental concerns, PPL addressed several of the concerns raised at the public input hearing with regard to the impact of the line on bird populations. PPL M.B. at 51-54. PPL argued that the project will have little, if any, impact on eagles. Id. at 52; PPL St. 8-R at 7. PPL stated that it follows the recommendations of the United States Fish and Wildlife Services that establishes a 1,000 foot buffer around nests during construction. Id. PPL also stated that collisions between birds and the proposed line are very unlikely because none of the situations that lead to bird collisions are likely – flocking birds, poor visibility and large birds with limited maneuverability. Id. at 52-53; PPL St. 8-R at 8. PPL concluded that there is no indication that the proposed transmission line will pose any unreasonable risk to birds. Id. at 53‑54.

 PPL argued that it has produced substantial evidence regarding the process it undertook to analyze environmental impacts of the proposed project. PPL R.B. at 24-28. PPL stated that it considered many environmental factors including cultural and historic features, the different bodies of water that are in the project area, existing land use and natural features in the project area and that it is working with many state and federal agencies in the process. Id. at 25. PPL argued that it has made a reasonable effort to identify potential impacts to the environment and mitigate those impacts where practicable. Id.; PPL St. 8-R. PPL stated that the Protestants have identified the correct standard with regard to environmental impacts that govern this proceeding but have misapplied it. Id. at 26-28.

RECOMMENDATION

 The fundamental issue in this proceeding is whether PPL has satisfied its burden to demonstrate that the Richfield-Dalmatia 69 kV transmission line and the Meiserville substation are necessary for the service, accommodation, convenience or safety of the public.

The Commission has recently addressed the need for two transmission lines in: Re: Application of Trans-Allegheny Interstate Line Company (TrAILCo), Docket Nos. A‑110172, *et al*., Opinion and Order (entered December 12, 2008) (TrAILCo) and Application of PPL Electric Utilities Corporation Filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the Pennsylvania Portion of The Proposed Susquehanna-Roseland 500 kV Transmission Line in Portions of Lackawanna, Luzerne, Monroe, Pike and Wayne Counties, Pennsylvania, Docket No. A-2009-2082652, *et al*., Opinion and Order (entered February 12, 2010) (Susquehanna Roseland). On appeal, the Commonwealth Court affirmed both TrAILCo and Susquehanna-Roseland. *See*, Energy Conservation Council of Pa. v. Pa. P.U.C., 995 A.2d 465 (Pa. Cmwlth 2010) (TrAILCo Appeal) and Energy Conservation Council of Pa. v. Pa. P.U.C., 25 A.3d 440 (Pa. Cmwlth 2011) (Susquehanna-Roseland Appeal).

In TrAILCo, the Commission found that there was a need for the proposed transmission line based on the use of PJM’s Regional Transmission Expansion Plan (RTEP) and the supporting testimony which detailed the system stress modeling and projections relating to future National Electric Reliability Council (NERC) standard violations and heavy congestion on transmission lines. Id. at 30-31.

On appeal, the Commonwealth Court noted that, in its Opinion, the Commission was persuaded by the 2006 RTEP and TrAILCo.’s supporting testimony detailing the system stress modeling and projections relating to twelve future NERC standard violations. TrAILCo. Appeal at 472. The Court stated:

Finally, the PUC’s finding that ‘the [502 facilities are] needed to address reliability issues and [are] the best alternative available to achieve that result,’ is supported by substantial evidence. Here TrAILCo.’s evidence detailed the system stress modeling and projections relating to twelve projected NERC reliability standard violations for the PJM Region if the TrAIL Project, including the 502 facilities, is not constructed. TrAILCo.’s evidence established that the consequences of not constructing the 502 Facilities could severely affect Pennsylvania customers, particularly those in south central Pennsylvania, due to the far-reaching affects of the reliability problems caused by load pockets and overloaded lines. Moreover, TrAILCo.’s evidence, accepted by the PUC, established alternatives suggested by ECC, such as reconductoring and retensioning, address the reliability issues in a piecemeal manner and may not resolve the reliability issues. Conversely, the PUC found that the construction of the 502 Facilities is the best alternative to address the reliability issues demonstrated in the 2006 RTEP.

995 A.2d at 486 (citations omitted). The Court also quoted the Commission’s determination based on “heavily congested” lines. Id., *quoting*, TrAILCo. at 35. The Court found: “the PUC’s finding of public need for the 502 facilities based on documented future NERC reliability violations, and the consequences of those violations, is supported by substantial evidence in the record.” Id. at 487.

In Susquehanna-Roseland, the Commission found that there was a need for the proposed transmission line based on the transmission planning and analysis procedure used by PJM and the PJM finding that there existed violations of PJM’s reliability planning standards which were required to be addressed. Id. at 55 (PJM’s 2008 RTEP identified multiple future reliability violations which the proposal was intended to resolve). On appeal, the Commonwealth Court noted that:

the 2008 RTEP specifically identified twenty-three NERC Category A and B (single contingency) violations projected to occur beginning in 2012, and twenty-seven NERC Category C5 (double circuit; lower probably event) violations. Accordingly, PJM directed PPL and Public Service Electric and Gas Company (PSE&G) to construct a new line by June 1, 2012.

Susquehanna-Roseland Appeal, 25 A.3d at 443.

In another recent Commission decision, in 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 Effort Mountain #1 and #2 138 kV Taps in Chestnuthill and Polk Townships, Monroe County, Pennsylvania, Docket No. A-2010-2152104, *et al*., Opinion and Order (entered March 18, 2011) (Chestnuthill), the Commission found a need for the proposed transmission line due to load growth caused by a new housing development and that the number of customers was increasing between 3-6% each year. The load was approaching the point where the facility would melt.

In contrast, however, in Re: West Penn Power Co., 54 Pa PUC 319 (1980), the Commission found that the electric company failed to demonstrate a need for the proposed transmission line despite problems with bulk transmission capability margins, overloading of the bulk power supply system during certain contingency conditions, voltage problems and instability problems. The utility presented evidence that showed that the line was needed, in part, because a “negative transmission margin” would arise in the event of a single contingency on one of the existing transmission lines. Id. at 321. The utility also presented a series of load flow studies representing certain problems, such as the loss of a neighboring line, as well as load growth in the area of the substation, among other things, to support its position that the transmission line was needed. Id. at 322-325. In determining there was no need for the proposed transmission line, the Commission concluded that the utility failed to meet its burden of proving the need for the additional transmission capability in its transmission system, because of flaws in the justifications advanced by the utility, including that the conditions shown did not have a substantial probability of actually occurring. Id.

In the TrAILCo Appeal, the Commonwealth Court observed that the Public Utility Code did not define need. However, it also stated that Pennsylvania courts have recognized that there is a need for regional electric service reliability and a reliable regional transmission system. The Commonwealth Court concluded that ensuring the reliability of an electrical transmission system is necessary and proper for the accommodation, convenience and safety of the public.

Having reviewed the record evidence in this matter and applicable governing law, we find that PPL has failed to satisfy its burden to demonstrate that the proposed Richfield-Dalmatia 69 kV transmission line and the Meiserville substation are necessary for the service, accommodation, convenience or safety of the public. The evidence presented by PPL in support of its Applications does not demonstrate such a determination. We recommend, therefore, that PPL’s Applications be rejected.

PPL’s argument relies significantly on its own Reliability Principles and Practices. While these RP&Ps are no doubt useful in increasing electric reliability and allow PPL to monitor its entire electric system, merely because a portion of that system violates the RP&P does not mean that a new transmission line and substation is needed and should be constructed. PPL has argued that the current facilities in the project area have consistently been on the Company’s worst performing circuits list. It is appropriate, therefore, that actions be taken to improve the electric reliability in this area. That does not mean, however, that the proposed new transmission line and substation are “necessary.” This is supported by the Commission’s determination when adopting electric reliability regulations that “the analysis of an [Electric Distribution Company’s] worst performing circuits is only one aspect of reliability that is proposed to be reviewed by the Commission.” Rulemaking Re: Amending Electric Service Reliability Regulations at 52 Pa. Code Chapter 57, Docket No. L-00030161, Final Rulemaking Order (entered May 20, 2004).

PPL has not made the same demonstration of need in this case as other utilities have in other transmission line cases where the Commission has found need. As noted above, the Commission has found “need” for the construction of a new transmission line based on the use of PJM’s Regional Transmission Expansion Plan (RTEP) and related testimony detailing system stress modeling and projections relating to future violations of the National Electric Reliability Council regarding heavy congestion on transmission lines. TrAILCo, *supra*.

The Commission has also found need for the construction of a new transmission line based on PJM’s reliability planning standards where the line was intended to resolve multiple future reliability violations. Susquehanna-Roseland, *supra*. Load growth has also been used as justification for a new transmission line based on evidence demonstrating load growth due to a new housing development and an annual increase in customers of 3-6%, including where concern was expressed that facilities would melt. Chestnuthill, *supra*. The record in this case does not demonstrate a need for the transmission line and substation based on PJM violations, NERC violations, stress modeling, lack of alternatives, heavy congestion, load growth, etc.

Notably, the need for the new transmission line in TrAILCo. and Susquehanna-Roseland comes from PJM. In Susquehanna-Roseland Appeal, for example, the Commonwealth Court noted that “PJM ***directed*** PPL” and PSE&G to construct the new line. Susquehanna-Roseland Appeal, 25 A.3d 443 (emphasis added). Similarly, in TrAILCo. Appeal, the Commonwealth Court begins its decision by noting that, in May, 2005, PJM announced “Project Mountaineer” as an approach through which PJM could identify a comprehensive plan to increase the transfer of electricity from the western part of the PJM region to the eastern part of the PJM region, and that thereafter, Allegheny Energy, Inc., TrAILCo.’s parent corporation submitted a proposal outlining the TrAIL Project. TrAILCo. Appeal, 995 A.2d at 469. We recognize that PPL indicated that its proposed project in this case was ***approved*** by PJM but there is no evidence indicating that the project was ***required*** by PJM. PPL presented the Richfield-Dalmatia project to PJM; the project was not in response to a directive or larger plan dictated by PJM. There is no record evidence in this proceeding that gives rise to the level of “need” as was demonstrated in TrAILCo and Susquehanna-Roseland. Violations of PPL’s own RP&P do not equate to directives from PJM.

The RP&P is a helpful tool in increasing electric reliability on PPL’s system but does not give rise *per se* to the need for the transmission line and substation. This is especially true in light of the Commonwealth Court’s directive to consider “the electric power needs of the public, the state of the available technology and the available alternatives.” PP&L, *supra*, at 250.

Having found that PPL has not satisfied its burden to demonstrate a need for the transmission line or the Meiserville substation, it is not necessary to address the issue of the route proposed by PPL for the transmission line. However, in the interest of providing a complete decision for the Commission to review, we will discuss the proposed route. We find that the route of the transmission line is reasonable and satisfies all applicable standards. We recognize, as PPL notes, that there is no “perfect” route that will not have at least some impact on the environment, the public and individual property owners.

The relevant case law regarding environmental impact provides a three-part test the Commission uses to determine whether a proposed transmission line having environmental impacts should be approved. That test is:

1. Was there compliance with all applicable statutes and regulations relevant to the protection of the Commonwealth’s environment? (2) Does the record demonstrate a reasonable effort to reduce the environmental incursion to a minimum? (3) Does the environmental harm which would 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 (Pa. Cmwlth. 1973) (Payne). We find that PPL has satisfied all three prongs of this test and, therefore, the Protestants’ arguments are rejected.

First, the first prong does not apply because the Commission’s regulations governing line siting do not pertain to this proceeding as the Richfield-Dalmatia line is not an HV line. Second, PPL has demonstrated that it has made a reasonable effort to reduce the environmental incursion to a minimum. For example, PPL stated that it considered environmental issues, such as impact on bald eagles, when establishing the route and that it compiled a detailed environmental inventory of the project study area. *See*, PPL Exh. 1, Attachments 2 and 3. Third, any environmental harm has been minimized so that the harm is clearly outweighed by any benefit that may be derived from the project and therefore not an abuse of discretion. As such, all three prongs of Payne are satisfied.

The Protestants argued that the route selected should be rejected based on environmental concerns because “an unnecessary river crossing would have a significant negative impact upon the Susquehanna [River] and should, therefore, be avoided.” Protestants’ M.B. at 22. In doing so, the Protestants cite to the Commission’s regulations to note that “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.” Id.; *citing*, 52 Pa. Code § 57.75(e)(3)(xii). The Protestants’ reliance on Section 57.75(e)(3)(xii) is misplaced because that regulation applies to HV lines and this proceeding does not involve an HV line. 52 Pa. Code §57.1.

As a result, the issues raised by the Protestants in opposition to the proposed route, including the environmental and health and safety issues, have been properly rebutted by the Company. Nothing raised by the Protestants would justify altering the route proposed by PPL.

Finally, because we find that PPL has failed to satisfy its burden to demonstrate that the proposed transmission line is not necessary for the service, accommodation, convenience or safety of the public, for the same reasons, we likewise find that the Meiserville substation is also not necessary. In response to the testimony of the Protestants’ witness that the Company should have considered alternative projects that involved distribution only upgrades, PPL witness Slugocki testified that a distribution only solution is not viable for this project because:

First, the only solution of that type available to PPL Electric in the project area would have involved building a tie line between the two stations. Such a line, however, was not feasible because the substations in the area do not have sufficient capacity to supply a new tie line. Second, such a solution would not resolve the transmission reliability concerns that were identified by PPL Electric’s transmission planning department. Thus, the alternatives selected by PPL Electric resolve both the distribution reliability concerns in the project area and the transmission reliability concerns.

PPL M.B. at 36-37; *citing*, PPL St. 5-RJ at 5. As a result, based on the Company’s own witness, the Meiserville substation cannot be approved without the transmission line also being approved. As the Protestants stated in their Main Brief: “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 … there is no independent reason for the Meiserville substation to exist.” Protestants’ M.B. at 18.

In summary, PPL has failed to satisfy its burden to demonstrate that the proposed Richfield-Dalmatia 69 kV transmission line and the Meiserville substation are necessary for the service, accommodation, convenience or safety of the public. We recommend, therefore, that PPL’s Applications be rejected.

CONCLUSIONS OF LAW

1. Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa. C.S. § 332(a).
2. "Burden of proof" means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. Se-Ling Hosiery v. Margulies, 364 Pa. 54, 70 A.2d 854 (1950).
3. If an Applicant establishes a prima faciecase, the burden of going forward with the evidence shifts to the opposing party. If an opposing party does not rebut that evidence, the Applicant will prevail. If the opposing party rebuts the Applicant’s evidence, the burden of going forward with the evidence shifts back to the Applicant, who must rebut the opposing party’s evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains on the Applicant. Se Ling Hosiery v. Margulies, 364 Pa. 45, 70 A.2d 854 (1950); Samuel J. Lansberry, Inc. v. Pa. P.U.C., 578 A2.d 600 (Pa. Cmwlth 1990).
4. Every public utility shall furnish and maintain adequate, efficient, safe and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience and safety of its patrons, employees and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. 66 Pa. C.S. § 1501.
5. A public utility corporation shall, in addition to any other power of eminent domain conferred by any other statute, have the right to take, occupy and condemn property for one or more of the following principal purposes and ancillary purposes reasonably necessary or appropriate for the accomplishment of the principal purposes, including the production, generation, manufacture, transmission, storage, distribution or furnishing of natural or artificial gas, electricity, steam, air conditioning or refrigerating service or any combination thereof to or for the public. 15 Pa. C.S. § 1511(a)(3).
6. The power to exercise eminent domain shall not be exercised within 100 meters of any dwelling house or any place of public worship or burying ground. 15 Pa. C.S. § 1511(b)(1).
7. The powers of eminent domain may be exercised to condemn property outside the limits of any street, highway, water or other public way or place for the purpose of erecting poles or running wires or other aerial electric, intrastate aerial telephone or intrastate aerial telegraph facilities only after the Pennsylvania Public Utility Commission, upon application of the public utility corporation, has found and determined, after notice and opportunity for hearing, that the service to be furnished by the corporation through the exercise of those powers is necessary or proper for the service, accommodation, convenience or safety of the public. 15 Pa. C.S. § 1511(c).
8. PPL failed to satisfy its burden to demonstrate that the proposed Richfield-Dalmatia 69 kV transmission line and the Meiserville substation are necessary for the service, accommodation, convenience or safety of the public.
9. The above-captioned Applications filed by PPL Electric Utilities Corporation should be rejected.

ORDER

 THEREFORE,

 IT IS RECOMMENDED:

1. That the 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 and easement over and across the lands of Michael and Logan Wendt in Perry Township, Snyder County, Pennsylvania for the proposed Richfield-Dalmatia 69 kV transmission tie line is necessary or proper for the service, accommodation, convenience or safety of the public at Docket Number A-2011-2267349 is denied.
2. That the 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 and easement over and across the lands of Randall Clark in Lower Mahanoy Township, Northumberland County, Pennsylvania for the proposed Richfield-Dalmatia 69 kV transmission tie line is necessary or proper for the service, accommodation, convenience or safety of the public at Docket Number A-2011-2267352 is denied.
3. That the 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 and easement over and across the lands of John and Evelyn Zeiders in Lower Mahanoy Township, Northumberland County, Pennsylvania for the proposed Richfield-Dalmatia 69 kV transmission tie line is necessary or proper for the service, accommodation, convenience or safety of the public at Docket Number A-2011-2267353 is denied.
4. That the 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 and easement over and across the lands of Roy and Cindy Maurer in Lower Mahanoy Township, Northumberland County, Pennsylvania for the proposed Richfield-Dalmatia 69 kV transmission tie line is necessary or proper for the service, accommodation, convenience or safety of the public at Docket Number A-2011-2267416 is denied.
5. That the 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 and easement over and across the lands of Ronald and Dianne Mace in Lower Mahanoy Township, Northumberland County, Pennsylvania for the proposed Richfield-Dalmatia 69 kV transmission tie line is necessary or proper for the service, accommodation, convenience or safety of the public at Docket Number A-2011-2267418 is denied.
6. That the 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 and easement over and across the lands of The Shoop Family Trust c/o Edwin and Denny Shoop in Lower Mahanoy Township, Northumberland County, Pennsylvania for the proposed Richfield-Dalmatia 69 kV transmission tie line is necessary or proper for the service, accommodation, convenience or safety of the public at Docket Number A-2011-2267426 is denied.
7. That the 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 and easement over and across the lands of Gary and Dorene Lahr in Lower Mahanoy Township, Northumberland County, Pennsylvania for the proposed Richfield-Dalmatia 69 kV transmission tie line is necessary or proper for the service, accommodation, convenience or safety of the public at Docket Number A-2011-2267429 is denied.
8. That the 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 and easement over and across the lands of Elijah and Faye Lahr in Lower Mahanoy Township, Northumberland County, Pennsylvania for the proposed Richfield-Dalmatia 69 kV transmission tie line is necessary or proper for the service, accommodation, convenience or safety of the public at Docket Number A-2011-2267446 is denied.
9. That the 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 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 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 at Docket Number A-2011-2267448 is denied.

Date: December 19, 2012

 David A. Salapa

 Administrative Law Judge

 Joel H. Cheskis

 Administrative Law Judge

1. PPL noted that the alternatives would also resolve a transfer of 10MW on the Sunbury- Dauphin 69 kV transmission line, even though that does not represent a violation of the RP&P. PPL St. 4-R at 2-3. [↑](#footnote-ref-1)