

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities :
Corporation for a Finding that a Building to :
Shelter Control Equipment at the Proposed :
Long Pond 69-12 kV Substation be : Docket No. P-2013-_____
Constructed in Tobyhanna Township, :
Monroe County, Pennsylvania is Reasonably :
Necessary for the Convenience or Welfare :
of the Public :
:

PETITION OF PPL ELECTRIC UTILITIES CORPORATION

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

PPL Electric Utilities Corporation (“PPL Electric”) hereby petitions the Pennsylvania Public Utility Commission (“Commission”), pursuant to 53 P.S. § 10619 and 52 Pa. Code § 5.41, for a finding that a building to shelter control equipment (“Control Equipment Building”) at the proposed Long Pond 69-12 kV Substation (“Long Pond Substation”) in Tobyhanna Township, Monroe County, Pennsylvania is reasonably necessary for the convenience or welfare of the public and, therefore, exempt from any local zoning ordinance (“Zoning Petition”).¹ Subject to the Commission’s approval, construction of this Project is scheduled to begin in February 2014 to support an in-service date of November, 2014. PPL Electric has discussed the Project with

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

officials from Tobyhanna Township and Monroe County, and they did not oppose the Project. In support of this Zoning Petition, PPL Electric states as follows:

I. INTRODUCTION

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

2. PPL Electric's address is as follows:

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

3. PPL Electric's attorneys are:

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

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

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

II. PROJECT SUMMARY

6. Contemporaneously herewith, PPL Electric is filing a Letter of Notification seeking Commission approval to site and construct the Long Pond #1 and #2 138/69 kV Tap Line in Tobyhanna Township, Monroe County, Pennsylvania (“Long Pond LON”). PPL Electric’s Long Pond LON and supporting Attachments are incorporated herein by reference. The purpose of the Long Pond #1 and #2 138/69 kV Tap Line (“Long Pond Tap Line”) is to supply the Long Pond Substation.²

7. The Long Pond Substation and Tap Line are required to meet the increasing demand for electricity and improve reliability of service and operating flexibility in the Tobyhanna Township, Monroe County area.

² Together, the Long Pond Tap Line and the Long Pond Substation constitute the Long Pond Project.

8. The total estimated cost of the proposed Long Pond Project is approximately \$2.95 million. This amount includes approximately \$460,000 for the transmission line and approximately \$2.49 million for the substation and distribution work associated with the Project.

9. Construction is scheduled to begin in February, 2014 to support the Project's in-service date of November, 2014.

A. NEED FOR THE PROJECT

10. The Necessity Statement for the proposed Long Pond Project is provided as Attachment 1 to the Long Pond LON. As explained in the Necessity Statement, this Project is designed to address service issues identified using PPL Electric's Reliability Principles and Practices ("RP&P") and to meet increasing demand in the area.

11. PPL Electric plans its system in accordance with its RP&P guidelines, so that PPL Electric can sustain probable contingencies and disturbances with minimal customer service interruptions and can adequately serve each customer's needs with regard to capacity, voltage and reliability for all load levels throughout the daily load cycle. System Planning is the process which assures that PPL Electric's regional system can supply electricity to all customer load in a reliable and economic manner. In addition, the system is planned so that system reliability can be maintained to prevent large scale, long term, or frequent service interruptions in order to avoid adverse effects and hazards to the public.

12. The area of concern presently is served from the Lake Naomi 69-12 kV, Mount Pocono 69-12 kV and Wagners 69-12 kV Substations via 12 kV distribution lines. The associated 12 kV distribution lines include the Wagners 68-1, Mount Pocono 64-6, and the Lake Naomi 86-1, 86-2, and 86-4 distribution lines. These 12 kV lines serve more than 7,500 customers in the Tobyhanna Township area.

13. PPL Electric has identified six separate issues in the Tobyhanna Township area that will be resolved or improved by the proposed Project.

a. First, normal load growth on the Wagners 68-1 distribution line is projected to exceed the normal planning guidelines based on PPL Electric's RP&P. The existing Wagners 68-1 12 kV distribution line uses 336 aluminum conductors. The planning guideline for this type of conductor is 10,000 kVA (kilovolt Ampere). The 2013-2014 winter peak load is projected to be 11,300 kVA. Overloading the Wagners 68-1 12 kV line could result in conductor damage or failure which would interrupt service to approximately 1,650 customers until repairs could be made. As a result, the existing distribution line cannot accommodate future load growth in the area.

b. Second, load on the Lake Naomi 86-1 distribution line is projected to exceed the normal planning guidelines based on PPL Electric's RP&P. The existing Lake Naomi 86-1 12 kV distribution line uses 477 aluminum conductors. The planning guideline for such conductors is 11,000 kVA. The 2013-2014 winter peak load is projected to be 11,900 kVA. Overloading the Lake Naomi 86-1 12 kV line could result in conductor damage or failure which would interrupt service to approximately 1,200 customers until repairs could be made. As a result, the existing distribution line cannot accommodate future load growth in the area.

c. Third, load on the Lake Naomi 86-2 distribution line is projected to exceed the normal planning guidelines based on PPL Electric's RP&P. The existing Lake Naomi 86-2 12 kV distribution line uses 477 aluminum conductors. The planning guideline for such conductors is 11,000 kVA. The winter 2013-2014 peak load is projected to be 11,300 kVA. Overloading the Lake Naomi 86-2 12 kV line could result in conductor

damage or failure which would interrupt service to approximately 1,950 customers until repairs could be made. As a result, the existing distribution line cannot accommodate future load growth in the area.

d. Fourth, load on the Lake Naomi 86-4 distribution line is projected to exceed the normal planning guidelines based on PPL Electric's RP&P. The existing Lake Naomi 86-4 12 kV distribution line uses 477 aluminum conductors. The planning guideline for such conductors is 11,000 kVA. The 2013-2014 winter peak load is projected to be 11,100 kVA. Overloading the Lake Naomi 86-4 12 kV line could result in conductor damage or failure which would interrupt service to approximately 2,100 customers until repairs could be made. As a result, the existing distribution line cannot accommodate future load growth in the area.

e. Fifth, the existing Wagners 68-1, Lake Naomi 86-2, and 86-4 distribution lines exceed PPL Electric's RP&P guidelines for customer count per line. The RP&P guideline states that no more than 1,300 customers should be served from a 12 kV circuit. Presently these three circuits serve approximately 1,650, 1,950, and 2,100 customers, respectively.

f. Sixth, the existing system configuration, due to heavy loading of the distribution lines, has limited capability to transfer load to adjoining distribution lines so that service is not interrupted during scheduled outages for maintenance and unscheduled outages. Therefore, if one of the existing distribution lines were to fail or require maintenance, customers could not be served from a different substation. Consequently, the customers would be without service until the work could be completed.

14. In order to resolve the issues discussed above, PPL Electric seeks to construct the Long Pond Tap Line and the Long Pond Substation. Two new 12 kV distribution lines will be installed from the new Substation to serve customer load in the area. These system additions will relieve loading on the existing distribution lines and increase reliability of service and operating flexibility. The new Long Pond Substation will serve approximately 2,830 customers and 11.8 MVA of load. The new lines will reduce the number of customers per line. As an additional benefit, the new lines will also reduce the circuit length of the distribution lines in the area. The system additions, and the accompanying reductions in number of customers per circuit and circuit lengths, will reduce the customers' exposure to outages and reduce the number of customers affected by an outage.

15. One of the new 12 kV distribution lines will serve part of the load currently being supplied by the Lake Naomi 86-2 distribution line. The other new 12 kV distribution line will serve part of the load currently being supplied by the Lake Naomi 86-4 distribution line. This reinforcement Project will reduce peak loading on the Lake Naomi 86-2 and 86-4 distribution line by 7,300 and 4,500 kVA, respectively. These reductions will allow load to be transferred from the Wagners 68-1 and Lake Naomi 86-1 distribution lines to the Lake Naomi 86-2 and 86-4 distribution lines.

16. In addition, the new facilities will also reduce the customer counts on the existing distribution lines so that they are closer to the RP&P guidelines. The table on page 5 of the Necessity Statement, which is provided as Attachment 1 to the Long Pond LON, shows the projected winter 2013-2014 loads and customer counts before and after the completion of the Long Pond Project, including related distribution facilities.

17. A total of five existing distribution lines, providing service to approximately 7,500 PPL Electric customers, will gain additional transfer capability upon the completion of the new Long Pond Tap Line and Long Pond Substation. The added transfer capability provided by the two new Long Pond distribution lines will help improve reliability of service for these customers through significant reductions in their outage durations. That is to say, if an outage were to occur on one of the five existing lines, the customers on that line could be transferred to the four remaining lines, rather than having to wait until the line to be fully repaired.

III. THE PROPOSED BUILDING

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

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

20. The Long Pond Substation will be on an approximately 20 acre parcel of land owned in fee by PPL Electric.

IV. EXEMPTION FROM LOCAL ZONING

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

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

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

22. As explained above, and more fully in the Long Pond LON, including the supporting Attachments, the Long Pond Substation is necessary to increase the reliability of service in the Tobyhanna area. In order to operate properly, the Long Pond Substation must have certain equipment to control the flow of electric power into, within and from the Substation. In order to operate properly, this control equipment must be protected from the elements. The most efficient and appropriate means of protecting the control equipment from the elements at the Long Pond Substation is constructing a Control Equipment Building at the Substation.

23. For the foregoing reasons, the Commission should approve this Petition and find that the Control Equipment Building is reasonably necessary for the convenience or welfare of the public and, therefore, exempt from the Tobyhanna Township's local zoning ordinance pursuant to Section 619 of the MPC. *Del-AWARE Unlimited, Inc. v. Pa. P.U.C.*, 513 A.2d 593 (Pa. Cmwlth. 1986).

V. THE TOBYHANNA TOWNSHIP ZONING ORDINANCE

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

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

* * * * *

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

52 Pa. Code § 69.1101.

25. Tobyhanna Township has adopted a zoning ordinance. *See* Tobyhanna Zoning Ordinance of 1995 ("Tobyhanna Zoning Ordinance"). A copy of the Tobyhanna Zoning Ordinance is available on line at: <http://www.ecode360.com/9519580>.

26. Under the Tobyhanna Zoning Ordinance, public utility uses are permitted in any zoning district with a special exception permit. Specifically, Section 155-89 of the Tobyhanna Zoning Ordinance provides:

Public utility uses, such as dial equipment centers, high-voltage transmission lines, towers, substations and other proposed installations necessary to serve the region or area, as opposed to surrounding properties, may be permitted in any zoning district with a special exception permit. No special exception permit shall be issued unless the Zoning Hearing Board shall determine that:

- A. The proposed installation in a specific location is necessary and convenient for the efficiency of the public utility system or the satisfactory and convenient provision of service by the utility

to the neighborhood, area or region in which the particular use is to be located.

- B. The design of any building in connection with such facility conforms to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights of the zone in which it is located.
- C. Adequate and attractive fences, noise barriers and other safety devices will be provided.
- D. A buffer strip five feet in width and screening are provided and will be periodically maintained.
- E. Adequate off-street parking will be provided to meet the needs of the use.
- F. All of the area, yard and building coverage requirements of the respective zones will be met.
- G. All other items or details of construction or location are consistent with the intent of this chapter.

Thus, the Tobyhanna Zoning Ordinance purports to authorize the Zoning Hearing Board to consider, among other things, the need for the Substation, including the Control Equipment Building, the siting of the Substation, including the Control Equipment Building, the design of the Control Equipment Building and safety measures. Under the Public Utility Code, all of these matters are subject to the exclusive jurisdiction of the Commission and beyond the jurisdiction of the Tobyhanna Township Zoning Hearing Board regarding public utility substations, including control equipment buildings.

27. Further, Section 155-72 of the Tobyhanna Zoning Ordinance also provides, regarding special exceptions, that:

Where this chapter has stated, special exceptions may be granted or denied by the Board, pursuant to express standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those

expressed in this chapter, as it may deem necessary to implement the purposes of the Municipalities Planning Code.

Thus, under the Tobyhanna Zoning Ordinance, the Zoning Hearing Board may impose other conditions on the issuance of a special exception, which could place additional burdens on PPL Electric or interfere with the operation of the substation. .

28. In addition to the foregoing, a zoning permit must be obtained prior to the construction, reconstruction, addition, conversion, alteration, enlargement, repair, moving, demolition or use of any building, structure, or portion thereof. A zoning permit is also required prior to the use or change in use of a building, structure, or land. *See* TOBYHANNA TOWNSHIP ZONING ORDINANCE, Article 8, Section 800.1.

29. Further, a use certificate is required before use of any structure or land, as well as before any change in the use of a structure or land. Tobyhanna Zoning Ordinance, Section 155.131.

30. Based on the foregoing, in the absence of a finding by the Commission under Section 619 of the MPC, it is unlawful under the Tobyhanna Township Zoning Ordinance for PPL Electric to commence work on the Control Equipment Building without first obtaining a building permit from Tobyhanna Township.

31. If PPL Electric's proposed Control Equipment Building were subject to the Tobyhanna Zoning Ordinance, PPL Electric would be required to obtain a special exception for the Control Equipment Building, as well as a zoning permit. In order to obtain such approvals, PPL Electric would have to follow the permitting procedures set forth in the Zoning Ordinance, including the payment of fees.

32. If PPL Electric were required to obtain zoning and/or use permits prior to the construction and use of the Control Equipment Buildings, the process, including any appeals

from adverse determinations, could consume substantial time, which could delay the construction of the Long Pond Project, which is reasonably necessary for the convenience or welfare of the public as explained above.³

33. Subject to the Commission's approval, construction of the Long Pond Project is scheduled to begin in February, 2014, to support an in-service date of November 2014.

34. PPL Electric has provided information to representatives of Tobyhanna Township and Monroe County describing the Long Pond Project. These entities have not objected to the Project. Further, as indicated in the attached certificate of service, PPL Electric is serving a copy of this Zoning Petition on the Tobyhanna Township Board of Supervisors, the Tobyhanna Zoning Hearing Board, the Monroe County Commissioners, and the Monroe County Planning Commission.

35. In addition, in all of its interactions with Monroe County, Tobyhanna Township, and their respective zoning hearing board and planning commission, PPL Electric will continue to apply its long-standing policy of cooperating with local governments.

36. For these reasons, PPL Electric requests that the Commission find that the Control Equipment Building at the proposed Long Pond Substation is reasonably necessary for the

³ The lack of authority for a local municipality to regulate the design, location, or construction of public utility facilities is consistent with the long line of cases holding that public utilities are exempt from local ordinances. See *Duquesne Light Company v. Monroeville Borough*, 449 Pa. 573, 580, 298 A.2d 252, 256 (1972) ("This Court has consistently held, however, that the Public Utility Commission has exclusive regulatory jurisdiction over the implementation of public utility facilities") (citations omitted). See, e.g., *County of Chester v. Philadelphia Elec. Co.*, 420 Pa. 422, 218 A.2d 331 (1966) (holding that regulation by a multitude of jurisdictions would result in "twisted and knotted" public utilities with consequent harm to the general welfare); *Newtown Twp. v. Philadelphia Elec. Co.*, 594 A.2d 834, 837 (Pa. Cmwlth. 1991) (noting that "it is clear that no 'implied' power exists in the MPC which would allow the Township to regulate [the Philadelphia Electric Company] through its subdivision and land development ordinance"); *Heintzel v. Zoning Hearing Bd. of Millcreek Twp.*, 533 A.2d 832 (Pa. Cmwlth. 1987) (holding that township had no power to regulate, under its zoning ordinance, city's erection of water tower because that power was under the exclusive jurisdiction of the PUC); *South Coventry Twp. v. Philadelphia Elec. Co.*, 504 A.2d 368 (Pa. Cmwlth. 1986) (noting that to possibly subject [the Philadelphia Electric Company] to a miscellaneous collection of regulations upon its system would clearly burden and indeed disable it from successfully functioning as a utility); *Commonwealth v. Delaware and Hudson Railway Co.*, 339 A.2d 155 (Pa. Cmwlth. 1975) (holding that the MPC did not authorize local governments to regulate public utilities in any manner which infringes upon the power of the Commission to so regulate).

convenience or welfare of the public and is, therefore, exempt from the requirements of the Tobyhanna Zoning Ordinance that could otherwise impose restrictions, conditions, and burdens regulation on the construction of the Control Equipment Building at the Long Pond Substation.

VI. RELATED PROCEEDINGS

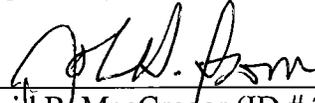
37. Contemporaneously with the filing of this Zoning Petition, PPL Electric is filing with the Commission the Long Pond LON. Therein, PPL Electric is requesting approval for the siting and construction of the Long Pond #1 and #2 138/69 kV Tap Line. Issues relating to the Tap Line are interrelated with this Zoning Petition.

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

VII. CONCLUSION

WHEREFORE, for all the foregoing reasons, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission find that Control Equipment Building at the 69-12 Long Pond Substation proposed by PPL Electric Utilities Corporation at the Long Pond 69-12 kV Substation is reasonably necessary for the convenience or welfare of the public and, therefore, is exempt from the Zoning Ordinance of 1995 of Tobyhanna Township.

Respectfully submitted,



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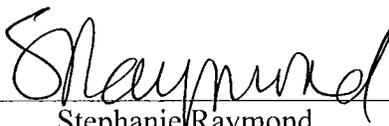
Date: February 12, 2013

Attorneys for PPL Electric Utilities Corporation

VERIFICATION

I, Stephanie Raymond, being the General Manager of Transmission and Substations of PPL Electric Utilities Corporation, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that PPL Electric Utilities Corporation to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: 2/7/13


Stephanie Raymond