

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

ORIGINAL

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 :
Letter of Notification of PPL Electric :
Utilities Corporation. Filed pursuant to : Docket No.
 52 Pa. Code Section 57.75(i)(1) with : A-110500F0333
 Respect to the Proposed West Hempfield- :
 McGovernville #1 and #2 138/69 kV Tie :
 Line To Be Constructed in East Hempfield :
 Township, Lancaster County, Commonwealth :
 of Pennsylvania. :
 :
 :
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 :
Application of PPL Electric Utilities :
Corporation. Under 15 Pa. C.S. Section : Docket No.
 1511(c) For a Finding And Determination : A-110500F0343
 That The Service To Be Furnished By The :
 Applicant Through Its Proposed Exercise :
 Of The Power of Eminent Domain To :
 Acquire Right-Of-Way For the Construction, :
 Operation And Maintenance Of The Proposed :
 West Hempfield-McGovernville #1 and #2 :
 138/69 kV Tie Line Over And Across The :
 Lands of EAST HEMPFIELD TOWNSHIP In East :
 Hempfield Township, Lancaster County, Is :
 Necessary Or Proper For The Service, :
 Accommodation, Convenience Or Safety :
 Of The Public. :
 :
 :
 ----- x

DOCUMENT

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Application of PPL Electric Utilities :
Corporation. Under 15 Pa. C. S. Section : Docket No.
 1511(c) For a Finding And Determination : A-110500F0344
 That The Service To Be Furnished By The :
 Applicant Through Its Proposed Exercise :
 Of The Power of Eminent Domain To :
 Acquire Right-Of-Way For the Construction, :
 Operation And Maintenance Of The Proposed :
 West Hempfield-McGovernville #1 and #2 :
 :

Commonwealth Reporting Company, Inc.
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Camp Hill, Pennsylvania 17011

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SEP 30 2004

138/69 kV Tie Line Over And Across The :
Lands of JOHN E. LANDIS in East :
Hempfield Township, Lancaster County, Is :
Necessary Or Proper For The Service, :
Accommodation, Convenience Or Safety :
Of The Public. :

Initial Hearing. :

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Pages 26 through 55

Hearing Room 2
Commonwealth Keystone Building
Harrisburg, Pennsylvania

Wednesday, September 1, 2004

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

SUSAN D. COLWELL, Administrative Law Judge

APPEARANCES:

ANTHONY DeCUSATIS, Esquire
Morgan, Lewis & Bockius, LLP
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FORM 1

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FORM 1

P R O C E E D I N G S

1
2 ADMINISTRATIVE LAW JUDGE SUSAN D. COLWELL: Let's go
3 on the record. This is the time and the place set for the
4 hearing in the cases listed at PUC Docket Nos.
5 A-110500F0333, F0343 and F0344. I note for the record the
6 attendance of the following counsel: Anthony DeCusatis for
7 PPL.

8 By way of background, I note the following. On July
9 10, 2003, PPL Electric Utilities filed a letter of
10 notification pursuant to 52 Pa. Code, Chapter 57, Subchapter
11 (g) with respect to its proposed proposed West Hempfield-
12 McGovernville #1 and #2 138/69 kV tie line to be constructed
13 in East Hempfield ownship, Lancaster County at PUC Docket
14 No. A-110500F0333.

15 On March 30, 2004, PPL filed three applications for a
16 finding and determination that the service to be furnished
17 by the Applicant through its proposed exercise of the power
18 of eminent domain to acquire the right-of-way for the
19 construction, operation and maintenance of the proposed West
20 Hempfield-McGovernville #1 and #2 138/69 kV tie line is
21 necessary or proper for the service, accommodation,
22 convenience or safety of the public over and across the
23 lands of, No. 1, Mahlon N. Zimmerman and Rozanne L.
24 Zimmerman2, PUC Docket No. A-110500F0342; East Hempfield
25 Township, PUC Docket No. A-110500F0343, and John E. Landis,

1 PUC Docket No. A-110500F0344.

2 On May 18, 2004, a notice was issued setting an
3 initial hearing for June 10, 2004 and appointing the case to
4 me, the four dockets having been consolidated prior to being
5 assigned to the Office of Administrative Law Judge.

6 On May 28, 2004, PPL filed a petition to withdraw its
7 application to exercise the power of eminent domain across
8 the property of Mahlon N. Zimmerman and Rozanne L. Zimmerman
9 since the Zimmermans had reached an agreement with PPL.

10 No responses were filed to the petition was then
11 granted as a matter of course and PUC Docket No.
12 A-110500F0342 should be marked closed.

13 On June 10, 2004, the initial hearing, which took the
14 form of a prehearing conference, was held. PPL, represented
15 by Anthony DeCusatis, participated by telephone from PPL
16 headquarters in Allentown.

17 John E. Landis was represented by Attorney Brian
18 Byler who participated by telephone from his Lancaster
19 office.

20 East Hempfield Township was represented by Attorney
21 Susan Smith who participated in person in Harrisburg. The
22 conference was transcribed by a court reporter.

23 During the course of the conference, PPL explained
24 the proposed project and procedures which it has followed to
25 reach this point in the execution of the project. PPL

1 stated that it requested consolidation of the four dockets
2 because of the issues which were common to all of the cases.

3 Attorney Smith indicated at that time that East
4 Hempfield Township had no opposition to the existence or
5 siting of the proposed tie line. She also indicated that
6 preliminary discussions had occurred regarding appropriate
7 compensation for the township land needed, which is less
8 than an acre.

9 After some discussion, a schedule was followed for
10 the hearings today and for the filing of testimony. By the
11 time that the filing of PPL's direct testimony was due, the
12 only remaining application was A-110500F0344, which is the
13 application seeking a finding that the service to be
14 furnished across the land of John E. Landis is necessary or
15 proper for the service, accommodation, convenience or safety
16 of the public.

17 PPL filed its Statements 1 through 4 and Exhibits 2
18 and 3. By letter received August 2, 2004, which had been
19 dated July 30, 2004, Attorney W. Brian Byler, representing
20 John Landis, informed me that he and PPL had reached a
21 settlement agreement regarding the only outstanding
22 application. Accordingly, he would not be filing testimony
23 and exhibits for today's hearing, and in fact he has not
24 come. Therefore, I will turn the entire over to Mr.
25 DeCusatis.

1 MR. DeCUSATIS: Thank you, Your Honor.

2 Just by way of clarification, we have not filed a
3 petition to withdraw the applications for the exercise of
4 the power of eminent domain for the Landis and East
5 Hempfield Township properties, principally because the
6 agreements for the conveyance have not been consummated and
7 we are awaiting that.

8 And today what we'd like to do is to put into
9 evidence the certain exhibits and accompanying testimony
10 that pertain both to the siting letter of notification
11 principally and also to some of the issues that were in the
12 application, so they actually cover both.

13 And we have our witnesses here, and what I would
14 propose to do then is to simply start in the order in which
15 the testimony has been pre-marked and ask them to step
16 forward, be sworn, we'll authenticate them and introduce
17 them for the record and if Your Honor has any questions,
18 they are available for questioning as well.

19 By way of clarification, and I think it will be
20 helpful if I do it now, with respect to all of the four
21 statements, there is one change that was made with respect
22 to all of them and that was in the cover page.

23 I had initially put on it the docket numbers of the
24 letter of notification and the Landis application
25 principally because after the prehearing conference and

1 subsequent discussions, I thought that we would have
2 completed, consummated the deal with the township and the
3 application would have been withdrawn at that point. That
4 has not been the case, so what I did is we substituted a
5 cover page that has all three captions on it including the
6 township. And I will provide Your Honor copies of that as
7 each witness is presented.

8 The second, and we will be able to explain this in a
9 little more detail, involves PPL Statement No. 4 and that is
10 Mr. Gebhard's statement.

11 His testimony was to deal with the state of right-of-
12 way asquisition, and between July 19 when his testimony was
13 distributed and today obviously some things have changed.

14 And we thought it would be cleaner if we substituted
15 a revised statement that provided an explanation that was up
16 to date rather than putting in his initial statement that
17 was distributed on July 19 and then trying to orally revise
18 that on the witness stand.

19 So what we have is in his statement, it is marked
20 revised, although obviously we haven't put his initial
21 statement into the record but we did it just for purposes of
22 clarity. And we will walk through that. He can explain the
23 two small changes that were made in it. Thank you.

24 JUDGE COLWELL: I don't anticipate any objection.

25 MR. DeCUSATIS: Okay. Your Honor, we'll call as our

1 first witness this morning Mr. Gopi Kedia.

2 Whereupon,

3 GOPI R. KEDIA

4 having been duly sworn, testified as follows:

5 JUDGE COLWELL: Go ahead.

6 MR. DeCUSATIS: Thank you.

7 Your Honor, I would like to distribute for the record
8 two copies of a document that has been pre-marked PPL
9 Statement No. 1. I have a copy for Your Honor.

10 And I also would like to provide at this point, since
11 we will be referring to it in the case with three of our
12 four upcoming witnesses, a document contained in a ring
13 binder that is pre-marked as PPL Exhibit No. 1. It is going
14 to be jointly sponsored by three of our witnesses this
15 morning who have responsibility for different sections of
16 that ring binder.

17 DIRECT EXAMINATION

18 BY MR. DeCUSATIS:

19 Q. Good morning, Mr. Kedia.

20 A. Good morning.

21 Q. Could you please state your full name and spell
22 it for the record?

23 A. Yes. My full name is Gopi R. Kedia, and I'll
24 spell it. The first name, Gopi, G-O-P-I; middle initial R;
25 last name Kedia, K-E-D-I-A.

1 Q. And could you provide your business address for
2 the record?

3 A. Two North Ninth Street, Allentown, PA, 18101.

4 Q. And by whom are you employed and in what
5 capacity?

6 A. I am employed by PPL Electric Utilities as a
7 senior engineer.

8 Q. Mr. Kedia, do you have before you a copy of a
9 document which has preliminarily been marked as PPL Statement
10 No. 1?

11 A. Yes, I do.

12 Q. And does this represent your prepared direct
13 testimony in this case?

14 A. Yes, it does.

15 Q. Initially, do you have any changes or
16 corrections you need to make for the record at this point?

17 A. No, I don't have any.

18 Q. Mr. Kedia, if I were to ask you the questions
19 that are set forth in Statement No. 1, would your answers
20 today be the same as are set forth therein?

21 A. Yes, it would be the same.

22 Q. And is the information contained in Statement
23 No. 1 true and correct to the best of your knowledge,
24 information and belief?

25 A. Yes, it's true and correct.

1 Q. Mr. Kedia, you also have before you a copy of
2 the document we have pre-marked, preliminarily marked for
3 the record as PPL Exhibit No. 1, consisting of exhibits and
4 appendices that were filed in support of PPL's letter of
5 notification in this case. Do you have that?

6 A. Well, I don't have it here, but I can --

7 Q. Thank you. And as stated in your testimony, you
8 are the responsible witness for the portion of PPL Exhibit
9 No. 1 which is identified in that ring binder as Exhibit A;
10 is that correct?

11 A. Yes, that is correct.

12 Q. With respect to Exhibit A of PPL Exhibit No. 1,
13 was that information prepared by you or under your direction
14 and supervision?

15 A. It was prepared by me.

16 Q. And is that true and correct to the best of your
17 knowledge, information and belief?

18 A. It is true and correct, yes.

19 MR. DeCUSATIS: Your Honor, at this point, we would
20 request that PPL Statement No. 1 be identified for the
21 record as marked and be admitted into the record subject to
22 any timely motions and cross-examination if any.

23 JUDGE COLWELL: It is admitted.

24 (Whereupon, the document was marked
25 as PPL Statement No. 1 for

1 identification and received in
2 evidence.)

3 MR. DeCUSATIS: Your Honor, at this point, I guess
4 what I will do is I will await the completion of the three
5 witnesses who have each a portion of PPL Exhibit No. 1 and
6 then move its admission after all of them have been
7 presented.

8 JUDGE COLWELL: That's fine.

9 MR. DeCUSATIS: But I would at this point ask for the
10 identification of PPL Exhibit No. 1 as pre-marked.

11 JUDGE COLWELL: Okay.

12 (Whereupon, the document was marked
13 as PPL Exhibit No. 1 for
14 identification.)

15 MR. DeCUSATIS: With that, Your Honor, we have
16 completed our authentication and direct testimony for Mr.
17 Kedia. He's available if you have any questions.

18 JUDGE COLWELL: I don't believe I do. Thank you very
19 much, sir. You are excused.

20 THE WITNESS: Thank you, Your Honor.

21 (Witness excused.)

22 MR. DeCUSATIS: Our next witness, Your Honor, is
23 Kenneth B. Kuhns.

24 Whereupon,

25 KENNETH B. KUHNS

1 having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. DeCUSATIS:

4 Q. Mr. Kuhns, would you spell your last name for
5 the record, please?

6 A. Last name, Kuhns, K-U-H-N-S.

7 Q. And your business address?

8 A. Is Two North Ninth Street, Allentown,
9 Pennsylvania, 18101.

10 Q. And by whom are you employed and in what
11 capacity?

12 A. PPL Electric Utilities Corp., and I am
13 supervisor of the siting group.

14 MR. DeCUSATIS: Your Honor, I have provided to the
15 court reporter two copies of a document that's been pre-
16 marked as PPL Statement No. 2. It is captioned as the
17 direct testimony of Mr. Kuhns in this case.

18 BY MR. DeCUSATIS:

19 Q. Mr. Kuhns, do you have before you a copy of what
20 has been pre-marked as PPL Statement No. 2?

21 A. Yes, I do.

22 Q. And does this represent your prepared direct
23 testimony in this case?

24 A. Yes, it does.

25 Q. Do you have any revisions or corrections that

1 need to be made for the record this morning?

2 A. No, I do not.

3 Q. Mr. Kuhns, if I were to ask you today the
4 questions that are contained in Statement No. 2, would your
5 answers be the same as are set forth therein?

6 A. Yes, they would.

7 Q. And is that information true and correct to the
8 best of your knowledge, information and belief?

9 A. Yes, it is.

10 Q. Mr. Kuhns, we've previously identified PPL
11 Exhibit No. 1 as the ring binder containing exhibits and
12 appendices to the company's letter of notification. Am I
13 correct that you are the responsible witness for the
14 portions of PPL Exhibit No. 1 that are designated Exhibits B
15 and C as well as Appendices A through E, G and H?

16 A. Yes, I am.

17 Q. And were those portions of PPL Exhibit 1
18 prepared by you or under your direction and supervision?

19 A. Yes, they were.

20 MR. DeCUSATIS: Your Honor, I will provide to the
21 court reporter two copies of a document we've pre-marked as
22 PPL Exhibit No. 2.

23 BY MR. DeCUSATIS:

24 Q. Mr. Kuhns, do you have before you a copy of
25 what's been pre-marked as PPL Exhibit 2?

1 A. Yes, I do.

2 Q. And am I correct that this consists of a series
3 of some eight photographs as well as a two page aerial
4 photograph identifying the location where each of those
5 photographs were taken?

6 A. That's correct.

7 Q. And Mr. Kuhns, is it correct that you were
8 present when each of those eight photographs were taken?

9 A. That's correct.

10 Q. With respect to the information for which you
11 were responsible in Exhibit No. 1 and Exhibit No. 2, are
12 they true and correct to the best of your knowledge,
13 information and belief?

14 A. Yes, they are.

15 Q. And the photographs that are in Exhibit No. 2
16 are in fact photographs of the geographic areas which they
17 purport to show?

18 A. That's correct.

19 MR. DeCUSATIS: Your Honor, at this point, I would
20 first ask that Mr. Kuhns' direct statement be identified for
21 the record as PPL Statement No. 2 and PPL Exhibit No. 2 also
22 be identified for the record as marked.

23 JUDGE COLWELL: One question for you first. You
24 didn't change the cover sheet on Exhibit No. 2, but does
25 this still apply to the third docket?

1 MR. DeCUSATIS: Yes, it does.

2 JUDGE COLWELL: Okay.

3 MR. DeCUSATIS: I'm sorry, I'm missed that one.

4 JUDGE COLWELL: That's all right.

5 MR. DeCUSATIS: You are correct. It should bear a
6 third docket number of A-110500F0343.

7 JUDGE COLWELL: They are both marked.

8 (Whereupon, the documents were
9 marked as PPL Statement No. 2
10 and PPL Exhibit No. 2 for
11 identification.)

12 MR. DeCUSATIS: And we at this time would move the
13 admission into the record of PPL Statement 2 and PPL Exhibit
14 No. 2.

15 JUDGE COLWELL: They are admitted.

16 (Whereupon, the documents marked as
17 PPL Statement No. 2 and PPL Exhibit
18 No. 2 were received in evidence.)

19 MR. DeCUSATIS: Thank you, Your Honor, and Mr. Kuhns
20 is also available for any questions.

21 JUDGE COLWELL: Mr. Kuhns, I don't believe I have any
22 questions for you, either.

23 THE WITNESS: Thank you, Your Honor.

24 JUDGE COLWELL: Thank you very much. You're excused.
25 (Witness excused.)

1 MR. DeCUSATIS: Your Honor, we'll call as our next
2 witness for PPL this morning Mr. Jay Alan Keeler.

3 Whereupon,

4 JAY ALAN KEELER

5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. DeCUSATIS:

8 Q. Mr. Keeler, could you spell your last name for
9 the court reporter? .

10 A. Last name Keeler, K-E-E-L-E-R.

11 Q. And also for purposes of clarity, your middle
12 name?

13 A. Alan, middle name Alan, A-L-A-N.

14 Q. Thank you. Mr. Keeler, your business address?

15 A. Two North Ninth Street, Allentown, Pennsylvania,
16 18101.

17 Q. And by whom are you employed and in what
18 capacity?

19 A. I'm employed by PPL Electric Utilities
20 Corporation and I'm s supervising engineer, transmission and
21 distribution design.

22 MR. DeCUSATIS: Your Honor, I am providing for the
23 reporter two copies of a document pre-marked as PPL
24 Statement No. 3 which is captioned, direct testimony of Jay
25 Alan Keeler, and we would ask that it be identified for the

1 record as marked.

2 JUDGE COLWELL: It is so marked.

3 (Whereupon, the document was marked
4 as PPL Statement No. 3 for
5 identification.)

6 BY MR. DeCUSATIS:

7 Q. Mr. Keeler, do you have before you a copy of the
8 document we've just identified as Statement No. 3?

9 A. Yes, I do.

10 Q. Initially, do you have any corrections or
11 revisions you need to make for the record to that statement?

12 A. No, I do not.

13 Q. Mr. Keeler, if I were to ask you the questions
14 that are contained in Statement No. 3, would your answers
15 today be the same as are set forth therein?

16 A. Yes, they would.

17 Q. And is that information true and correct to the
18 best of your knowledge, information and belief?

19 A. Yes, it is.

20 Q. And Mr. Keeler, am I correct that you are also
21 responsible for and sponsoring the portion of PPL Exhibit
22 No. 1 that is designated Exhibit D as well as Appendix F,
23 PPL design criteria and safety practices?

24 A. Yes. That's correct.

25 Q. And were those portions of PPL Exhibit No. 1

1 prepared by you or under your direction and supervision?

2 A. Yes, they were.

3 Q. And is that information true and correct to the
4 best of your knowledge, information and belief?

5 A. Yes, it is.

6 MR. DeCUSATIS: Thank you, Mr. Keeler.

7 Your Honor, we would move the admission of PPL
8 Statement No. 3 and also the admission of PPL Exhibit No. 1
9 since at this point we've now identified and authenticated
10 the entirety of that exhibit.

11 (Pause.)

12 JUDGE COLWELL: Just checking to make sure you did.

13 MR. DeCUSATIS: Okay.

14 JUDGE COLWELL: I think you did. Okay, it's
15 admitted.

16 (Whereupon, the documents marked as
17 PPL Statement No. 3 and PPL Exhibit
18 No. 1 were received in evidence.)

19 MR. DeCUSATIS: Thank you. Mr. Keeler is available
20 for any questions.

21 JUDGE COLWELL: I have no questions for you, Mr.
22 Keeler. Thank you very much. You're excused.

23 THE WITNESS: Thank you, Your Honor.

24 (Witness excused.)

25 MR. DeCUSATIS: Your Honor, our next witness this

1 morning is Barry L. Gebhard.

2 Whereupon,

3 BARRY L. GEBHARD

4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. DeCUSATIS:

7 Q. Mr. Gebhard, could you state your full name and
8 spell your last name for the record?

9 A. Barry L. Gebhard, G-E-B-H-A-R-D.

10 Q. And Mr. Gebhard, your business address, please?

11 A. Two North Ninth Street, Allentown, Pennsylvania,
12 18101.

13 Q. And by whom are you employed and in what
14 capacity?

15 A. I'm employed by PPL Electric Utilities
16 Corporation as a system property land manager in real estate
17 services.

18 MR. DeCUSATIS: Your Honor, at this time I'd like to
19 provide for the record two copies of a document pre-marked
20 as PPL Statement No. 4. As we indicated earlier, the cover
21 page, we've noted revised to reflect the fact that there are
22 some small changes in this document from the one that had
23 previously been distributed but had not been entered on the
24 record.

25 BY MR. DeCUSATIS:

1 Q. Mr. Gebhard, do you have before you a copy of
2 the document which is pre-marked PPL Statement No. 4?

3 A. Yes, I do.

4 MR. DeCUSATIS: Your Honor, we would request that
5 this document be identified for the record as PPL Statement
6 No. 4.

7 JUDGE COLWELL: It is so marked.

8 (Whereupon, the document was marked
9 as PPL Statement No. 4 for
10 identification.)

11 BY MR. DeCUSATIS:

12 Q. Mr. Gebhard, we just talked about the fact that
13 there are some revisions in this document from the prepared
14 testimony that had been distributed on July 19th. Could you
15 very briefly explain how the statement being offered for the
16 record today differs from the one that was distributed
17 earlier?

18 A. There are just two revisions. First, starting
19 on page three and continuing to page four, I have identified
20 and described PPL Exhibit No. 4 which contains the exhibits
21 of PPL's application to exercise the power of eminent domain
22 over the property of East Hempfield Township.

23 Secondly, beginning on page 18 -- on line 18, I'm
24 sorry of page four and continuing to page five, I have
25 updated the status of PPL's negotiations to acquire

1 right-of-way from the township and from Mr. Landis.

2 Q. Thank you. And Mr. Gebhard, are there any
3 corrections that need to be made to the prepared statement
4 for purposes of the record this morning?

5 A. Yes. I have one correction, please. On page
6 three, line 21, I would like to remove the word "three." It
7 has, "PPL has proposed to obtain will cross over one of two
8 tracks as noted in Exhibit B." Strike the word "three."

9 Q. Thank you. Mr. Gebhard, subject to the
10 correction you've just provided to us, if I were to ask you
11 the questions that are contained in PPL Statement No. 4,
12 would your answers be the same as are set forth therein?

13 A. Yes, they would.

14 Q. And is this information true and correct to the
15 best of your knowledge, information and belief?

16 A. Yes, it is.

17 MR. DeCUSATIS: Your Honor, I've provided to the
18 court reporter two copies of documents that have been pre-
19 marked as PPL Exhibit Nos. 3 and 4, representing the
20 exhibits that were filed for PPL's applications to obtain
21 approval to exercise the power of eminent domain with
22 respect to the properties of Mr. Landis and East Hempfield
23 Township. We have copies for Your Honor as well.

24 JUDGE COLWELL: Thank you.

25 BY MR. DeCUSATIS:

1 Q. Mr. Gebhard, do you have with you at the witness
2 stand copies of the two documents which have been pre-marked
3 as PPL Exhibit Nos. 3 and 4?

4 A. Yes, I do.

5 MR. DeCUSATIS: Your Honor, I guess at this point I
6 should ask that they be identified for the record as marked.

7 JUDGE COLWELL: They are marked.

8 (Whereupon, the documents were
9 marked as PPL Exhibits Nos. 3 and
10 4 for identification.)

11 BY MR. DeCUSATIS:

12 Q. Mr. Gebhard, are these both true and correct
13 copies of the exhibits that had been filed by PPL in this
14 matter requesting approval to exercise the power of eminent
15 domain across the properties of Mr. Landis and East
16 Hempfield Township, respectively?

17 A. Yes, they are.

18 Q. And is the information contained in each of
19 those exhibits true and correct to the best of your
20 knowledge, information and belief?

21 A. Yes, it is.

22 MR. DeCUSATIS: Your Honor, we would move the
23 admission of PPL Statement No. 4 and PPL Exhibits 3 and 4 at
24 this time.

25 JUDGE COLWELL: They are admitted.

1 (Whereupon, the documents marked as
2 PPL Statement No. 4 and PPL
3 Exhibits Nos. 3 and 4 were
4 received in evidence.)

5 MR. DeCUSATIS: And Mr. Gebhard is also available for
6 any questions.

7 (Pause.)

8 JUDGE COLWELL: I can't come up with any. I have no
9 questions. Thank you. You are excused.

10 THE WITNESS: Thank you, Your Honor.

11 (Witness excused.)

12 MR. DeCUSATIS: Your Honor, I think it might be
13 helpful to just take a moment and talk a little bit about I
14 guess the status of the case, where we stand, what our hopes
15 and expectations are.

16 As explained in Mr. Gebhard's Statement No. 4 and as
17 Your Honor is aware from Mr. Byler's July 30 letter, Mr.
18 Landis through his counsel had orally accepted an offer for
19 conveyance of a right-of-way that the company had requested
20 across the Landis property.

21 There were certain terms of that agreement which were
22 incorporated in a draft of settlement document that I
23 prepared and sent out to Mr. Byler on I believe August 19th.
24 We are awaiting word from them. He obviously needs to
25 review it along with his client, and we're waiting to hear

1 back from them. It has not yet been executed, but we would
2 not anticipate that that would be a problem. We obviously
3 can't speak for Mr. Byler or his client.

4 As you are aware from the prehearing conference, the
5 township of East Hempfield had indicated it had no objection
6 with respect to the existence or siting of the proposed
7 line. There had been discussions about acquiring the
8 necessary right-of-way. Subsequent to the prehearing
9 conference at the request of Ms. Smith, which was made on
10 the record -- I believe was made on the record during that
11 hearing, we did indeed get back in touch with the township
12 to continue certain discussions about the terms of a
13 conveyance.

14 There had been subsequently an indication that they
15 would accept the terms of an offer by the company to acquire
16 the right-of-way. We subsequently submitted the necessary
17 documents for the conveyance of the right-of-way.

18 We are awaiting the completion and delivery of those
19 documents to us. There was some indication, not from Ms.
20 Smith but from the township manager, that their willingness
21 to do that might have been in some doubt, but subsequently
22 an indication that they now believed that they were prepared
23 to execute the documents necessary to complete that
24 transaction.

25 The latest information we have about that was an

1 indication to us, again not from Ms. Smith but from the
2 township manager, that they anticipated that that might be
3 done at a supervisors meeting that's going to take place
4 this week, so hopefully we will get some clarity and if all
5 goes well we'll have good news to report to you on that.

6 I think at this point, however, it was very helpful
7 since we had pre-scheduled these hearings to show up not
8 only for the benefit of the parties who had up to this point
9 intervened but, given the nature of these cases, in case
10 there was anybody else who was relying on the hearing
11 schedule and hoped to be able to come here. Obviously, that
12 was not the case. But in any event, it also provided us the
13 opportunity to place into the record the support for our
14 letter of notification.

15 I guess the way this could play out will depend on
16 what we see happening, and hopefully if everything falls
17 into place we will have no need to follow up on the
18 applications for condemnation.

19 If that indeed turns out to be the case, there are I
20 guess two routes we could follow or have been followed when
21 that's occurred, and I guess both of them are available.

22 One would be, assuming the applications are resolved
23 and we are able to file petitions to withdraw them so that
24 only the letter of notification is outstanding, in one other
25 case which we had where it initially was assigned to the

1 Office of Administrative Law Judge but opposition later was
2 withdrawn to the letter of notification, Judge Cocheres was
3 able to essentially assign it back to the Bureau of Fixed
4 Utility Services as a non-contested letter of notification,
5 at which point Fixed Utility Services prepared a report and
6 it went to the Commission in the same way in which a letter
7 of notification if not initially contested would be handled.

8 So that option is one that remains open to us if, as
9 I said, as we hope and anticipate, that the applications for
10 eminent domain do not become necessary.

11 So I would suggest I guess at this point that maybe I
12 could schedule or plan to get back in touch with Your Honor,
13 say by the end of next week and provide you with a status
14 report and let you know where we are. Does that sound like
15 a good idea?

16 JUDGE COLWELL: Sure. That's fine with me.

17 MR. DeCUSATIS: And if for some reason, and we
18 certainly wouldn't anticipate it given everything we've
19 heard from the other parties, but if anything changes and it
20 somehow becomes necessary for us to move forward with this
21 to an initial decision because of the need to get findings
22 for the applications, we'll obviously let you know at the
23 earliest opportunity and bring you up to date on that.
24 We're obviously very hopeful that won't be the case.

25 JUDGE COLWELL: So either way, you're going to let me

1 know?

2 MR. DeCUSATIS: I will.

3 JUDGE COLWELL: I won't do anything unless I hear
4 from you.

5 MR. DeCUSATIS: Okay. And I will plan to get back in
6 touch with you next week, again, one way or another.

7 JUDGE COLWELL: Fair enough. Does that wrap it up?

8 MR. DeCUSATIS: I think we're concluded.

9 JUDGE COLWELL: Okay. Then we can go off the record.

10 (Whereupon, at 10:40 a.m., the proceedings were
11 concluded.)

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I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me and thereafter reduced to typewriting by me or under my direction, and that this transcript is a true and accurate record to the best of my ability.

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By: John A. Kelly

John A. Kelly,
Certified Verbatim Reporter

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