**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

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|  | Public Meeting held July 16, 2013 |
| Commissioners Present:  Robert F. Powelson, Chairman  John F. Coleman, Jr., Vice Chairman  Wayne E. Gardner  James H. Cawley  Pamela A. Witmer |  |

Application of PPL Electric Utilities

Corporation Under 15 Pa. C.S. § 1511(c)

for a Finding and Determination that the Service A-2011-2267349

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

Application of PPL Electric Utilities

Corporation Under 15 Pa. C.S. § 1511(c)

for a Finding and Determination that the Service A-2011-2267352

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

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for a Finding and Determination that the Service A-2011-2267353

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

Application of PPL Electric Utilities

Corporation Under 15 Pa. C.S. § 1511(c)

for a Finding and Determination that the Service A-2011-2267416

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

Application of PPL Electric Utilities

Corporation Under 15 Pa. C.S. § 1511(c)

for a Finding and Determination that the Service A-2011-2267418

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

Application of PPL Electric Utilities

Corporation Under 15 Pa. C.S. § 1511(c)

for a Finding and Determination that the Service A-2011-2267426

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

Application of PPL Electric Utilities

Corporation Under 15 Pa. C.S. §1511(c)

for a Finding and Determination that the Service A-2011-2267429

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

Application of PPL Electric Utilities

Corporation Under 15 Pa. C.S. § 1511(c)

for a Finding and Determination that the Service A-2011-2267446

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

Application of PPL Electric Utilities

Corporation under 15 Pa. C.S. § 15011(c)

for a Finding and Determination that the Service A-2011-2267448

to be Furnished by the Applicant through

the 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

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions (Exceptions) of PPL Electric Utilities Corporation (PPL) filed on January 14, 2013, to the Recommended Decision (R.D.) of Administrative Law Judges (ALJs) David A. Salapa and Joel H. Cheskis, which was issued on December 24, 2012, in the above-captioned proceedings. Replies to Exceptions were filed jointly by Marvin Roger Hess and Leona Hess, Roy and Cindy Maurer, Ronald and Dianne Mace and the Shoop Family Trust (collectively, the Protestants) on January 24, 2013. Also before the Commission is the Motion to Strike Portions of Reply Exceptions filed by PPL on February 1, 2013 and the Protestants’ Reply to that Motion filed on February 21, 2013. For the reasons stated below, we will grant PPL’s Motion to Strike; grant, in part, and deny, in part, PPL’s Exceptions; adopt the Recommended Decision as modified by this Opinion and Order; and, grant PPL’s Applications at this consolidated Docket.

**I. History of the Proceeding**

On October 11, 2011, 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 Applications or petitions to intervene in the proceeding. The notices also stated that a prehearing conference would be held on December 13, 2011, at 10:00 a.m., in Hearing Room 3 of the Commonwealth Keystone Building. A prehearing conference order was issued on November 7, 2011, setting forth the procedural matters to be addressed at the prehearing conference.

Pleadings titled “preliminary objections” were filed by the following Parties (hereafter collectively referred to as 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; and 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 as to Mr. Schwalm’s property 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.

The prehearing conference was conducted on December 13, 2011, at 10:00 a.m., in Harrisburg. As a result of the prehearing conference, Prehearing Order #2 was issued on December 14, 2011. Prehearing Order #2 consolidated the proceedings for purposes of hearing and decision, granted Mr. Reed’s request 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, the ALJs granted Alvin C. Zeiders’ request 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.

The hearing for oral direct testimony of the *pro se* Parties was conducted 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, Prehearing Order #3 was issued 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 the ALJs on September 6, 2012 that they would not require three days of hearings for the case and requested that the hearing scheduled for September 10, 2012, be cancelled. By notice dated September 6, 2012, the evidentiary hearing scheduled for September 10, 2012 was cancelled.

The initial evidentiary hearing was conducted as scheduled on September 11 and 12, 2012. PPL was represented by counsel as were the 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.

On December 24, 2012, the Recommended Decision of the ALJs was issued. The ALJs recommended a finding that PPL had failed to meet its burden of proof to show that the Richfield-Dalmatia 69 kV transmission line and the Meiserville substation “are necessary for the service, accommodation, convenience or safety of the public.” R.D. at 37, 41. The ALJs also determined that the route for the Richfield-Dalmatia 69 kV transmission line proposed by PPL did meet the applicable standards. R.D. at 38.

PPL filed Exceptions to the Recommended Decision on January 14, 2013. The Protestants filed Replies to Exceptions on January 24, 2013. On February 1, 2013, PPL filed a Motion to Strike portions of the Protestants’ Replies to Exceptions. On February 21, 2013, the Protestants filed an Answer to PPL’s Motion to Strike.

**II. Background**

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 Paragraph 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. Application at Paragraph 9. 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 Paragraph 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. Application at Paragraph 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 Paragraph 15. As of the date PPL filed its Applications, PPL had successfully obtained appropriate rights-of-way and easements from 43 landowners through voluntary transactions and was working with Norfolk to obtain the necessary easements. *Id.* The Applications represent the remaining rights-of-way needed. *Id.*

**III. Discussion**

As the proponent of a rule or order, the Applicant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Public Utility Code (Code). 66 Pa. C.S. § 332(a). “Burden of proof” means a duty to establish its case by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied,* 529 Pa. 654, 602 A.2d 863 (1992). That is, the Complainant’s evidence must be more convincing, by even the smallest amount, than that presented by the Respondent. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). Additionally, this Commission’s decision must be supported by substantial evidence in the record. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC,* 489 Pa. 109, 413 A.2d 1037 (1980).

Upon the presentation by the Applicant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the customer shifts to the opposing Parties. If the evidence presented by the opposing Parties is of co-equal value or “weight,” the burden of proof has not been satisfied. The Applicant now has to provide some additional evidence to rebut that of the opposing Parties.

While the burden of going forward with the evidence may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. PUC,* 768 A.2d 1217 (Pa. Cmwlth. 2001).

The ALJs made eighty Findings of Fact (R.D. at 5-16) and reached nine Conclusions of Law (R.D. at 40-41). The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

Before addressing the Exceptions, we note that any issue or Exception that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. [Consolidated Rail Corp. v. Pa. PUC, 625 A.2d 741 (Pa. Cmwlth. 1993);](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=5&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b625%20A.2d%20741%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=ad2b02d95c2a9216e83b92a3570d4785) *also* see, generally, [University of Pennsylvania v. Pa. PUC, 485 A.2d 1217 (Pa. Cmwlth. 1984).](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=6&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b485%20A.2d%201217%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=9b1cc8319afd12440738bb82d74455ef)

We will first review the ALJs’ Recommended Decision. Then we will address PPL’s Motion to Strike portions of the Protestants’ Reply Exceptions. Finally, we will review PPL’s Exceptions to the Recommended Decision and the Protestants’ Reply to Exceptions.

**A. ALJs’ Recommended Decision**

**1. Legal Standards**

The ALJs noted that PPL had the burden of proof in these proceedings as discussed above. They also observed that Section 1501 of the Code, 66 Pa. C.S. § 1501, 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. …

R.D. at 18.

The ALJs stated that, in applications for condemnation under the power of eminent domain, “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.” R.D. at 18. In reaching this determination, the ALJs found that the Commonwealth Court has held that “the Commission should consider the ‘electric power needs of the public, the state of the available technology and the available alternatives.’” *Id*., *citing* *Pa. Power & Light Company v. Pa. PUC*, 696 A.2d 248, 250 (Pa. Cmwlth. 1997).

The ALJs also noted that the Applications were filed pursuant to Section 1511 of the Business Corporation Law, 15 Pa. C.S. § 1511(a)(3), which 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:

**\*\*\*\*\***

(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.

R.D. at 18-19.

The ALJs further found that Section 1511(c) of the Business Corporation Law, 15 Pa. C.S. § 1511(c), provides the Commission with the power to authorize the condemnation of property as necessary for the construction of a 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. …

R.D. at 19.

The ALJs also found that PPL must satisfy its burden of proof not only on the need for the new transmission line and substation, but must also show that the site selection for the proposed line and substation are appropriate. In this instance, the ALJs correctly found that the Commission’s existing regulations regarding the siting of high voltage lines are not applicable to this proceeding because the proposed line is designed to operate at 69 kV, while the Commission’s regulations apply to lines at 100 kV or higher. R.D. at 19. However, PPL suggested that those regulations could be deemed instructive for this proceeding. *Id*.

The ALJs examined existing case law and determined 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.” R.D. at 20, *citing West Penn Power Co. v. Pa. PUC*, 184 A.2d 143 (Pa. Super. 1962) (*West Penn*). The ALJs observed that, based on the standard announced in *West Penn*, the “degree of inconvenience to the landowner” would not overcome a showing by the utility that the route selection was reasonable considering all of the factors involved. R.D. at 20. *See also*, *Stone v. Pa. PUC*, 162 A.2d 18 (Pa. Super. 1960); *Paxtowne v. Pa. PUC*, 398 A.2d 254 (Pa. Cmwlth. 1979).

In their Recommended Decision, the ALJs first examined the need for the Richfield-Dalmatia 69 kV transmission line, then discussed the need for the Meiserville substation and finally discussed PPL’s proposed route for the Richfield-Dalmatia line.

**2. Need for the Richfield-Dalmatia Line**

PPL stated that its 69 kV transmission system is known at PPL’s regional transmission system. Upgrades and modifications to that regional transmission system are planned using PPL’s 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. R.D. at 20.

According to PPL, 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. Based on system testing and modeling, PPL asserted that the Juniata-Richfield 69 kV line would cause approximately 44 MW of load to remain interrupted after field switching, thus violating PPL’s RP&P. PPL M.B. at 19. The alternative selected by PPL to bring the Juniata-Richfield line into compliance is the proposed Richfield-Dalmatia project. PPL stated that the proposed project has been approved by the Regional Transmission Operator (RTO) for this region, PJM Interconnection, LLC (PJM). PPL also stated that the proposed project would resolve a transfer of 10MW on the Sunbury-Dauphin 69 kV line, although that does not represent a violation of the RP&P. R.D. at 22.

The Protestants argued that PPL had failed to show a need for the proposed Richfield-Dalmatia 69 kV transmission line. They asserted that the RP&P were mere guidelines and not mandatory. The Protestants argued that the proposed project could not be deemed necessary for purposes of condemnation if it is based on guidelines that are not mandatory. R.D. at 22.

The Protestants argued further that PPL failed to consider alternatives to the proposed project such as upgrading conductors which would improve the carrying capacity of existing lines. In addition, the Protestants asserted that PPL was using the proposed Richfield-Dalmatia project to show the need for the Meiserville substation while the substation was said to be needed to provide power for the proposed transmission line. The Protestants argued that this was simply circular reasoning and insufficient to justify construction of the proposed line. R.D. at 22-23.

PPL responded that the upgrade solutions advanced by the Protestants would not resolve the RP&P violations, nor would they enable PPL to reduce the duration of outages and improve PPL’s ability to restore service following an outage. R.D. at 24-25. PPL continued to stress the point that the proposed Richfield-Dalmatia line will enable PPL to reduce the amount of customers affected by an outage on the Juniata-Richfield line and provide faster restoration times for those customers that are without service. PPL M.B. at 21.

**3. Need for the Meiserville Substation**

The ALJs next moved to a discussion of the need for the Meiserville Substation. PPL argued that the 69-12 kV Meiserville Substation would serve to improve reliability of the distribution service in the project area “by improving load transfer capability between distribution substations and reducing the number of customers impacted by individual distribution line outages.” PPL M.B. at 27.

PPL stated that the project area is currently served primarily by one 12 kV distribution line, the Dalmatia 36-02 line, which is not networked with any other distribution lines. That line has a single source of supply, the Dalmatia 69-12 kV substation, in Lower Mahanoy Township, Northumberland County. The Dalmatia 36-02 line currently extends 194 circuit miles and supplies approximately 2,200 customers. PPL St. No. 2 at 3. PPL also argued that the Dalmatia 36-02 line frequently appeared on the list of the 5% worst performing circuits on PPL’s system. According to PPL, this makes the Dalmatia 36-02 line a chronic worst performer. PPL asserted that factor not only raises RP&P issues but, according to PPL, also raises reliability concerns from the Commission’s perspective as set forth in the reliability requirements of Section 1501 of the Code, 66 Pa. C.S. § 1501. PPL R.B. at 15-16.

PPL argued that the Dalmatia 36-02 line fails to comply with the RP&P for circuit miles and customer count per line which results in greater exposure to outages. PPL M.B. at 29. According to PPL, 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. PPL asserted that the Meiserville Substation would allow PPL to split the Dalmatia line into three lines and bring that line into compliance with the RP&P. PPL St. 5-R at 7.

The Protestants argued that, in the absence of the proposed Richfield-Dalmatia line, there is simply no need for the Meiserville Substation. On that basis, the Protestants argue that since the Substation is not necessary, it cannot form the basis for the forcible taking of real property. Protestants’ M.B. at 18-19. The Protestants also argued that PPL should add a second circuit to the existing line to improve reliability, rather than adding the Meiserville Substation. Protestants’ R.B. at 19.

The ALJs noted that several witnesses who testified at the public input hearing testified that PPL should improve its vegetation management efforts before seeking to implement the proposed new line and Substation. R.D. at 27.

PPL responded that vegetation management would not significantly reduce outages. PPL also asserted that the proposed project is not designed to reduce the number of outages, but to reduce the number of customers affected by each outage and improve restoration times for those which are affected. PPL also argued that it had already implemented low-cost alternatives to improve reliability in the project area, but the proposed Substation was the better engineering alternative. R.D. at 28.

**4. Route for the Richfield-Dalmatia Line**

The ALJs next discussed the proposed route for the Richfield-Dalmatia Line. PPL asserted that it undertook a detailed study of the project area “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.” R.D. at 28. Although the Commission regulations are not applicable to a 69 kV line, PPL gave substantial consideration to the numerous factors contained in the Commission’s regulations for siting HV lines at 52 Pa. Code §§ 57.75(e) and 57.76. *Id*. Based upon PPL’s analysis, it determined that there were three potential routes for the line. *Id*. at 29.

PPL stated that it then considered each of the three potential routes, considering land use, environmental impacts, social and functional considerations, construction and maintenance impediments and cost. PPL M.B. at 43; PPL St. No. 3 at 5; PPL Exh. 1, Attachment 4. According to PPL, 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 also stated that it reviewed three alternative sites for the location of the Meiserville Substation. PPL asserted that it considered various factors such as distance to the transmission line and distribution facilities to be connected, as well as environmental factors, social impacts, visual impacts and other factors. PPL stated that a major factor was the fact that the proposed location was outside of the 100-year floodplain and adjacent to an existing tree row to minimize the visual affects to adjoining properties. R.D. at 29 (citations to the record omitted).

The Protestants argued that PPL failed to establish that the proposed route will not create an unreasonable risk of danger to the health and safety of the public. The Protestants’ primary argument is that the proposed line will run directly over a major industrial operation owned by the Hess family, as well as directly over a pond, pump house and hydrant used by the Hess family to supply volunteer fireman water for their tanker trucks. Protestants’ M.B. at 20-22. The Protestants also argued that the proposed route included an unnecessary river crossing which would have a significant negative environmental impact which should be avoided. R.D. at 30.

PPL responded that it has produced substantial evidence regarding the process it used to analyze the environmental impacts of the proposed route. PPL argued that it expressly considered the different bodies of water that are in the project area, existing land use and natural features. PPL asserted that it has made a reasonable effort to identify potential impacts to the environment and mitigate those impacts where practicable. PPL R.B. at 24-28.

**5. ALJs’ Recommendation**

The ALJs reviewed two recent Commission decisions involving the need for transmission lines: *Re: Application of Trans-Allegheny Interstate Line Company*, Docket Nos. A‑110172, *et al*. (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 Nos. A-2009-2082652, *et al*., (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. PUC*, 995 A.2d 465 (Pa. Cmwlth. 2010) (*TrAILCo Appeal*) and *Energy Conservation Council of Pa. v. Pa. PUC*, 25 A.3d 440 (Pa. Cmwlth. 2011) (*Susquehanna-Roseland Appeal*).

The ALJs observed that in *TrAILCo*, the Commission focused on the use of PJM’s Regional Transmission Expansion Plan (RTEP) and supporting testimony which focused on projections which indicated future North American Electric Reliability Corporation (NERC) standard violations and heavy congestion. The ALJs noted that, on appeal, the Commonwealth Court found the testimony involving line congestion and the potential for violation of NERC standards was compelling. R.D. at 33-34. Similarly, the ALJs noted that in *Susquehanna-Roseland*, the Commission found that a need for the proposed line was based on violations of PJM’s reliability planning standards, which were required to be addressed. Again, the ALJs observed that the Commonwealth Court also focused on evidence involving PJM’s RTEP and projected violations of NERC standards when it affirmed the Commission’s finding of need in the *Susquehanna-Roseland* decision. *Id*.

The ALJs also reviewed the Commission’s 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 Nos.   
A-2010-2152104, *et al*. (Order entered March 18, 2011) (*Chestnuthill*). There, the Commission found a need for the proposed transmission line due to load growth caused by a new housing development and the number of customers was increasing between 3‑6% each year. The Commission determined that the load was approaching the point where the facility would melt. R.D. at 35.

Conversely, the ALJs pointed to the Commission’s decision in *Re: West Penn Power Co.*, 54 Pa. P.U.C. 319 (1980) (*West Penn*), as an example of a case where the utility failed to show need for a proposed transmission line. The ALJs stated that, although the utility presented evidence of load growth and impacts of the loss of a neighboring line, the Commission determined that the utility failed to meet its burden of proof because of flaws in the justification, including “that the conditions shown did not have a substantial probability of actually occurring.” R.D. at 35.

The ALJs then stated that PPL failed to show a need for both the Richfield-Dalmatia line and the Meiserville Substation. The ALJs acknowledged that PPL’s RP&P could be useful in system planning, but stated that a violation of the RP&P does not necessarily “mean that a new transmission line and substation should be constructed.” R.D. at 36. Similarly, the ALJs found that the fact that “current facilities in the project area have consistently been on the Company’s worst performing circuits list” was not persuasive. The ALJs observed that it would be appropriate to take action to improve reliability in the area, but that did not mean that a new transmission line and substation were necessary. *Id*.

The most significant aspect of the ALJs’ analysis of need in this proceeding is this portion of the Recommended Decision:

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 of 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.*

R.D. at 36-37 (emphasis added).

The following discussion is also significant to the ALJs’ determination of need in this proceeding:

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.

R.D. at 37.

The ALJs also found that PPL failed to show a need for the Meiserville Substation. The ALJs determined that the Meiserville Substation cannot be approved without the approval of the Richfield-Dalmatia line as a source of supply. Since the ALJs had already determined that there is no need for the Richfield-Dalmatia line, they determined that there was no need for the Meiserville Substation. R.D. at 39.

Although the ALJs determined that PPL failed to show a need for the Richfield-Dalmatia line or the Meiserville Substation, they did conclude that the route selected by PPL “is reasonable and satisfies all applicable standards.” R.D. at 38. In reviewing the proposed route, the ALJs looked to the case of *Payne v. Kassab*, 312 A.2d 86 (Pa. Cmwlth. 1973) (*Payne*). *Payne* set forth three factors to be considered to determine whether the route for a proposed transmission line having environmental impacts should be approved:

(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?

312 A.2d at 94.

The ALJs determined that the first prong of the test does not apply because the Commission’s siting regulations at 52 Pa. Code §§ 57.75(e) and 57.76 do not apply to PPL’s proposed project. The ALJs also determined that PPL had demonstrated that it made a reasonable effort to reduce the environmental incursion to a minimum and that any environmental harm has been minimized so that the harm is clearly outweighed by any benefit that may be derived from the project. On that basis, it would not be an abuse of discretion to proceed with the proposed route. Accordingly, the ALJs determined that PPL’s proposed route satisfied the *Payne* criteria. R.D. at 38.

**B. Motion to Strike**

**1. Motion and Answer**

On February 1, 2013, PPL filed a Motion to Strike Portions of the Reply Exceptions of Protestants (Motion). PPL states that throughout the course of these proceedings, it has presented evidence that the Dalmatia 36-02 circuit was on the list filed with the Commission pursuant to 52 Pa. Code § 57.195(e) (relating to reporting requirements for the 5% worst performing circuits on a utility’s system). PPL states that the evidence presented established that the Dalmatia 36-02 circuit appeared on that worst performing list for 16 out of the last 31 quarters. According to PPL, Protestants presented no evidence challenging that assertion. Motion at 2-3.

PPL then argues that, for the first time in these proceedings, in their Reply to Exceptions, the Protestants contend that the Dalmatia 36-02 circuit has not appeared on the list of worst performing circuits with enough frequency in recent years to justify the proposed project. In order to support their argument, PPL asserts that Protestants cite to and rely upon quarterly reports on reliability filed with the Commission pursuant to 52 Pa. Code § 57.195(e) and discuss particular information contained in those reports. Motion at 3. PPL argues that the Protestants had not previously disputed that the Dalmatia 36-02 circuit was a worst performing circuit, nor have the quarterly reports filed by PPL been introduced into the record in this proceeding. *Id*.

PPL argues that the Protestants have clearly attempted to introduce new evidence and advance new argument in these proceedings at the exceptions stage. Motion at 3-4. PPL asserts that this Commission has held that new evidence is generally not admissible during the exceptions stage because it deprives parties of the opportunity to test the reasonableness of the new evidence or to present evidence in response. *Pa. PUC v. Philadelphia Gas and Water Company Water Division*, 1988 Pa. PUC LEXIS 511, \*10 (*PGW*). PPL argues further that a party is not permitted to raise new arguments that it failed to raise in its main brief during the exceptions stage of a proceeding. *Pa. PUC v. Mechanicsburg Water Company*, 1993 Pa. LEXIS 112 (Pa. PUC 1993) (*Mechanicsburg*). PPL also asserts that this Commission has held that the use of post-hearing documents to present new evidence in a contested proceeding is a violation of due process. *Enron Capital & Trade Resources Corporation v. The Peoples Natural Gas Company, et al.*, Docket No. R-00973928C0001, 1998 Pa. PUC LEXIS 199 (*Enron*).

In addition to PPL’s claim that the Protestants have improperly attempted to introduce new evidence and argument at the exceptions stage, PPL responds to the Protestants’ request that this Commission take judicial notice of the quarterly reports filed by PPL pursuant to 52 Code § 57.195(e). PPL argues that this Commission has held that taking judicial notice is not appropriate at the reply exceptions stage because the parties have no opportunity to respond to the new evidence. Motion at 4. PPL asserts that this Commission has held the following:

Pursuant to Section 5.408 of the Code, 52 Pa. Code § 5.408. in order for us to take official or judicial notice of evidence not part of the official record, the party(ies) adversely affected must be afforded the opportunity upon timely notice to review and comment on the material introduced.

*Bethlehem Steel Corp. Bar Rod and Wire Division v. Pennsylvania Electric Co.*, 1990 Pa. PUC LEXIS 153, \*28 (*Bethlehem*).

PPL argues that the issue presented by Protestants’ Reply Exceptions is very similar to the case of *Application of Apollo Gas Co.*, 1994 Pa. PUC LEXIS 45 (*Apollo*). Motion at 5-6. In *Apollo*, one of the Parties argued in its Exceptions that the Commission should rely on exhibits filed by Apollo Gas Co. in a separate proceeding before the Commission. The exhibits had not been presented as evidence in the *Apollo* proceeding and were not part of that record. This Commission held as follows:

While a litigant may be permitted under Section 5.406 to offer public documents into evidence, that section does not grant a party the right to present such evidence after the record has been closed.

*Apollo* at \*13.

PPL asserts that, just as in *Apollo*, the Protestants here have requested that facts be taken from the public record after the record in this proceeding has closed. PPL observes that the quarterly reports have been available to the Protestants throughout these proceedings, yet the Protestants never sought to introduce those reports into the record or advance arguments based upon those records until after the record closed and the cases had moved to the reply exceptions stage. PPL argues that, for the foregoing reasons, its Motion to Strike should be granted and the extra-record evidence and related argument on pages 14 through 16, 18 and 19 of the Reply Exceptions should be stricken and the material ignored. Motion at 5-7.

In the Protestants’ Answer to the Motion filed on February 21, 2013 (Answer), the Protestants argue that PPL has repeatedly stated that the Dalmatia 36-02 circuit appeared on the list of worst performing circuits in PPL’s system. According to the Protestants, they are simply relying on the same information cited by PPL during these proceedings. The Protestants further argue that, because the quarterly reports referenced by PPL have been filed with this Commission, they are “more akin to Public Utility decisions than extra-record evidence.” Answer at 5.

The Protestants also argue that their request for the Commission to take judicial notice of the quarterly reports is simply an effort “to correct PPL’s failure to include the actual reports in the record.” Answer at 5. In addition, the Protestants assert that PPL could not be prejudiced in any way by the request that the Commission take judicial notice of the reports since PPL prepared those reports and filed them with the Commission. *Id*.

The Protestants argue that they have not presented new arguments relating to the worst performing circuit issue in their Reply Exceptions. The Protestants cite to pages 19-20 of their Main Brief and page 11 of their Reply Brief as examples of prior disputes with PPL’s characterization of the Dalmatia 36-02 circuit as a worst performing circuit. Motion at 9.

The Protestants also assert that the doctrine of judicial estoppel applies, which prevents PPL from distancing itself from its own quarterly reports. The Protestants state that the doctrine of judicial estoppel precludes a party from switching positions or asserting contrary positions in the same or related actions, citing *Ligon v. Middletown School District*, 584 A.2d 376 (Pa. Cmwlth. 1990) (*Ligon*).

**2. Disposition**

We will grant PPL’s Motion to Strike. We agree that the Protestants have improperly attempted to advance arguments not previously made and factual evidence not of record at the reply exception stage. We have reviewed the record in this proceeding and the Protestants have not previously contested or otherwise disputed PPL’s position that the Dalmatia 36-02 circuit has appeared on PPL’s list of worst performing circuits for 16 of 31 quarters. The Protestants had every opportunity to cross-examine PPL on this point. They had every opportunity to offer PPL’s quarterly reports into the record. They did not do so. We have reviewed the Protestants’ citations to their Main and Reply Briefs. The material referenced discussed measures PPL has taken to improve reliability, but it did not present argument or dispute the Dalmatia 36-02 circuit’s appearance on PPL’s worst performing circuits list.

For the first time in this proceeding, the Protestants are using their Reply Exceptions to introduce factual material contained in PPL’s quarterly reports filed pursuant to 52 Pa. Code § 57.195(e) in order to characterize the status of the Dalmatia 36‑02 circuit. As argued by PPL, it is too late for the Protestants to launch that argument at this stage when PPL has no opportunity to respond. *PGW*; *Mechanicsburg*; *Enron*. We also agree that this situation is very similar to *Apollo* where a litigant was prohibited from introducing Commission document filings in another proceeding after the record had closed.

We also find that this is an inappropriate stage for us to take judicial notice of PPL’s quarterly filings. *Bethlehem*. Similarly, the Protestants’ argument regarding the doctrine of judicial estoppel is inapplicable here. PPL has not endeavored to distance itself from the quarterly reports or take an opposite position from material contained therein. Accordingly, *Ligon* does not apply. In our view, rather than the Protestants attempting to correct some type of oversight by PPL, it is the Protestants who are attempting to introduce extra-record evidence and advance arguments based on that material. For the reasons discussed, this is not permitted at the reply exceptions stage.

**C. Exceptions**

As we review the Exceptions filed by PPL, we find this quote from our decision in *Susquehanna-Roseland* to be instructive:

This statute [Section 1501 of the Code, 66 Pa. C.S. § 1501] *requires* PPL to furnish adequate facilities. Therefore, if PPL recognized the need for upgraded transmission facilities and failed to provide adequate facilities in a timely manner (e.g., filing applications for upgrading and/or adding facilities), PPL would be in violation of this statutory requirement. At the same time, PPL may not make the regulated upgrades unless it can show that the project is necessary or proper, and in conformity with the regulations issued by the Commission which govern transmission line siting. It is a fine line which a public utility must walk in order to comply with this statute. Either overreaching or falling short will cause violations and by definition, will be inadequate service to the public. Whether or not PPL Electric has found that fine line in this Application is the crux of this case.

*Susquehanna-Roseland*, slip op. at 11 (emphasis added).

**1. Applicable Legal Standard**

**a. Exceptions and Replies**

PPL filed ten separate Exceptions to the Recommended Decision. The first three Exceptions assert error in the ALJs’ applied standard, the ALJs’ reliance on three prior Commission decisions and the ALJs’ reliance on the absence of a PJM or NERC violation in denying the Applications. Each of these three Exceptions is related and we will address them together.

PPL argues that the ALJs applied an incorrect and overly narrow standard that is inconsistent with the governing statute and relevant case law. Exc. at 11. PPL focuses on this statement by the ALJs: “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.” Exc. at 11, citing R.D. at 11. PPL asserts that the governing statute for the use of the power of eminent domain provides that PPL is required to show that the project is “necessary or proper for the service, convenience, or safety of the public.” 15 Pa. C.S. § 1511(c). According to PPL, the Commonwealth Court has held that a public utility meets its burden of proof under this standard if it shows “that its proposed project is in the public interest.” *Southeastern Pennsylvania Transportation Authority v. Pa. PUC*, 991 A.2d 1021, 1023 (Pa. Cmwlth. 2010).

PPL also argues that the decision in *Pennsylvania Power & Light Co. v. Pa. PUC*, 696 A.2d 248 (Pa. Cmwlth. 1997) (*PPL*), rejected a similarly narrow standard. Exc. at 13. In that case, this Commission denied an application filed by PPL which proposed to replace an existing 12 kV line with a new 69 kV line so that it could provide service at lower rates. The Commission denied the application based upon a finding that PPL failed to show that the project was needed from an engineering perspective. On appeal, the Commonwealth Court reversed stating:

Nowhere in any of the . . . statutory or regulatory provisions, nor any other regulations promulgated under the Code, is there a requirement that the *necessity* which must be shown by a public utility corporation, such as PPL, seeking to

construct a transmission line, is that of necessity from an engineering perspective as concluded by the PUC.

*PPL*, 696 A.2d at 250.

PPL also argues that the ALJs’ reliance on *West Penn* is inappropriate for two reasons. First, the Commonwealth Court expressly rejected the Commission’s reasoning in *West Penn* in the *PPL* decision. Second, PPL argues that the evidentiary failures cited by the Commission in the *West Penn* decision are not present here. PPL states that the Commission’s findings there included:

* West Penn failed to provide updated load forecast evidence;
* The load flows submitted failed to reflect additional generation that could meet forecasted peak loads;
* The peak load data included all of the interruptible load;
* Double contingencies were required to produce an overload;
* West Penn admitted that it had failed to investigate an alternative project that could address the reliability concerns at a lower cost with less impact.

Exc. at 14-15.

PPL argues that, contrary to the foregoing, PPL provided testimony that customers in the project service area are at risk of a sustained outage should a single contingency occur. PPL also presented testimony that an outage on either the Juniata-Richfield 69 kV line or the Sunbury-Dauphin 69 kV line, individually, would result in interrupted service to customers. PPL asserts that the ALJs properly found that the Dalmatia 36-02 line is a chronic worst performing line and that, at present, an outage on that line could interrupt service to more than 2,200 customers. Finally, PPL argues that the ALJs properly found that there are no remaining distribution-only solutions to the service problems in the project area. Exc. at 15.

In PPL’s second and third Exceptions, PPL asserts that the ALJs erred in their reliance on the *TrAILCo*, *Susquehanna-Roseland* and *Chestnuthill* decisions to the extent that they determined that these cases represented the universe of justifications for new transmission projects. PPL argues that *TrAILCo* and *Susquehanna-Roseland* involved extremely high-voltage lines that were subject to both PJM and NERC reliability standards. Those projects were deemed to be justified in order to address direct violations of those standards. *Chestnuthill* addressed peak load issues in an area with projected future load growth which could have resulted in damage to the existing system. However, PPL asserts that the current proceedings address worst performing circuits and extensive and repeated interruption of service during major storms and other outages. According to PPL, the ALJs’ standard would permit projects only if there were NERC violations or projected load growth sufficient to damage existing systems. Exc. at 16-17.

In its third Exception, PPL argues that the ALJs erred in relying on the absence of violations of PJM and NERC reliability standards in order to find that PPL failed to prove a need for the project. PPL asserts that the NERC/PJM standards apply to transmission systems which operate at 100 kV and above. PPL’s regional transmission system is not subject to the NERC/PJM reliability standards which is why PPL developed its RP&P to ensure reliability. Thus, by definition, there could be no NERC/PJM violations with regard to the proposed project, which will operate at 69 kV with the substation engineered for 69-12 kV. On that basis, the ALJs established an impossible standard by faulting PPL for not submitting evidence of violations of PJM/NERC standards. Exc. at 17.

The Protestants respond by asserting that the ALJs applied the correct legal standard but that PPL simply failed to meet it. The Protestants argue that PPL overstates the ALJs’ reliance on *TrAILCo* and *Susquehanna-Roseland*. According to the Protestants, the ALJs were simply stating possible justifications for projects, not providing an all-inclusive list. R.Exc. at 1-2. The Protestants further argue that PPL based its Applications on the theory that the proposed project is necessary. According to the Protestants, that is the standard used by the ALJs. *Id*. at 3-5.

The Protestants also respond to PPL’s second Exception and argue that the ALJs did not improperly rely on *TrAILCo* and *Susquehanna-Roseland* to support denial of the Applications. The Protestants assert that the ALJs simply used these cases as examples of the type of evidence needed to support a proposed project and, by example, indicated how PPL failed to provide sufficient evidentiary support. R.Exc. at 6.

Similarly, the Protestants respond to PPL’s third Exception and argue that the ALJs did not exclusively rely on the lack of PJM/NERC reliability violations to deny PPL’s Applications. According to the Protestants, PPL relied exclusively on the claim that the project area violated voluntary standards found in PPL’s RP&P guidelines and PPL’s reports on worst performing circuits. The Protestants assert that the ALJs’ reference to NERC/PJM violations was simply an example of the nature of proof required, as contrasted with voluntary guidelines and worst performing circuits. R.Exc. at 7-9.

**b. Disposition**

We will grant PPL’s first three Exceptions. At the outset, we agree with PPL that the ALJs appear to have imposed in impermissibly narrow standard in this proceeding. It is evident that, throughout the ALJs’ analysis, there was a focus on need from the standpoint of correcting or preventing violations of PJM/NERC standards which, by definition, simply would not apply to the proposed project. It is equally clear from the ALJs’ discussion of *TrAILCo* and *Susquehanna-Roseland* that they were under the impression that failure to show system problems of that nature represented a substantial evidentiary failure on PPL’s part. Similarly, the ALJs appeared to find that the failure to show projected line loading sufficient to cause system damage as was the case in *Chestnuthill* was equally problematic from their perspective.

Contrary to the Protestants’ arguments, we find that, rather than simply listing examples of circumstances which could justify a proposed transmission project, the ALJs erected an almost impossible barrier for projects operating below the bulk power system level of 100 kV. As we stated above, the ALJs focused almost exclusively on bulk power system issues inapplicable to this proceeding or demanded a showing of imminent system damage based upon projected load growth. Neither of these circumstances is essential to a showing of need. *See*, *e.g.*, *PPL*, *supra*. We agree with PPL that a combination of reliability issues, together with previous efforts at smaller system upgrades which fail to alleviate the problem, can show need in appropriate circumstances.

**2. Need for the Project**

**a. Exceptions and Replies**

In Exception No. 4, PPL claims the ALJ erred by finding that a lack of future load growth indicates that the project is not needed. PPL argues that the ALJs’ finding “incorrectly focuses on future conditions, to the exclusion of current reliability concerns.” Exc. at 18. According to PPL, case law provides that current circumstances may also justify projects: “in cases regarding utility use of the power of eminent domain to condemn an easement, a liberal consideration for the future as well as existing necessities is the test.” *Clemmer v. Pa. PUC*, 207 Pa. Super 388, 399 (Pa. Super. 1966).

PPL argues that it presented evidence which established that there are existing reliability issues on both the distribution system (resolved by the Meiserville Substation) and the transmission system (resolved by the Richfield-Dalmatia 69 kV line). According to PPL, the ALJs acknowledged that the Dalmatia 36-02 line is the worst performing, least reliable circuit on PPL’s distribution system. In addition, PPL states that the ALJs determined that there was no distribution only alternative to the proposed project. Accordingly, PPL asserts that the ALJs acknowledge that although “action is appropriate, and a transmission solution is required to improve both the distribution reliability problems and to address interrupted load during a transmission outage, the proposed project is not necessary, in part, due to the lack of future load growth.” Exc. at 18-19. PPL argues that these findings are inconsistent. *Id*.

We will quote PPL’s concluding paragraph in this Exception:

Evidence of existing reliability issues under current loading conditions must be treated as equal to, if not more urgent than, evidence of issues related to future load growth, which may or may not occur. The R.D.’s conclusion would particularly impact rural portions of PPL Electric’s system, where there is limited load growth but aging infrastructure. The rejection of this Project, based on lack of future load growth, when evidence of an existing reliability problem under current loading conditions has been presented, would create a dangerous precedent for developing appropriate infrastructure to provide reliable service.

Exc. at 19.

The Protestants argue in response that the lack of future load growth did not help PPL’s case, but that the ALJs did not insist on a showing of future load growth. R.Exc. at 9.

**b. Disposition**

We will grant this Exception. In our view, the ALJs failed to give sufficient weight to PPL’s evidence regarding current system reliability and the need to make improvements above and beyond minor system upgrades. We believe that the Protestants understate the ALJs’ apparent reliance on lack of load growth evidence in denying the Applications. PPL offered substantial evidence regarding the reliability issues with the Dalmatia 36-02 line, the inability of PPL to switch load in the event of a single contingency outage on that line, PPL’s prior efforts to improve reliability and the lack of suitable alternatives. *See*, PPL M.B. at 14-37. PPL is not arguing about potential future events. They have shown that there are current, substantial reliability issues regarding the Dalmatia 36-02 line, that customer outages will be of longer duration absent the project and that other alternatives have been explored but have been found lacking when compared to the proposed project. *Id*. Under these circumstances, a failure to show future load growth is not fatal to PPL’s Applications.

**3. Factual Basis for the ALJs’ Recommendation**

**a. Exceptions and Replies**

In Exceptions No. 5, 6 and 7, PPL claims factual error in the ALJs’ findings that PPL failed to perform stress modeling on the system; that no heavy congestion is associated with the proposed project; and, that PPL failed to show that it lacked suitable alternative projects. We will discuss these Exceptions together.

PPL argues that the evidence shows that PPL did, in fact, perform stress modeling to conclude that reinforcements are required in the project area to improve the reliability of service. Exc. at 19-20. PPL describes the manner in which it engages in transmission planning which includes the use of the latest load forecast, then stressing the system by simulating an outage of each regional transmission facility. When violations of PPL’s reliability criteria are revealed by the simulations, those violations are analyzed to determine solutions. PPL Exh. 1, Attachment 1 at 3.

In addition to the stress modeling described above, PPL engages in contingency planning to determine whether PPL has the physical capability to transfer load to neighboring lines when an outage occurs. If an existing line is too heavily loaded, it will not be available to receive load transfer. The ability to transfer load shortens the duration of outages. As presented in this case, PPL has no existing load transfer capability in the project area. Exc. at 20.

Similar to the foregoing discussion, PPL argues in its Exception No. 6 that the evidence shows that congestion on certain lines will prevent PPL from transferring load in the event of an outage in the project area. PPL asserts that currently, a single contingency outage on the Juniata-Richfield 69 kV line will result in substantial congestion, congestion that would prevent load transfer and leave 44 MW of load interrupted after all available load transfers have been accomplished. PPL St. 4-R at 4. According to PPL, this shows that heavy congestion is one reason why PPL is pursuing this project. Exc. at 21.

In Exception No. 7, PPL asserts that the ALJs erred when they determined that PPL failed to show that it lacked alternative solutions. PPL argues that it was not required to show that the proposed project is the only possible project, it need only show that it is the best available alternative. *TrAILCo Appeal*. According to PPL, the record shows that PPL exhausted all low-cost alternatives for resolving the distribution issues and that it examined alternative transmission projects before rejecting them in favor of the proposed project. Exc. at 22. PPL argues that a substation supplied by a transmission line was the only viable alternative to improve the reliability of service in the project area. Exc. at 23, citing PPL St. 5-RJ at 6-7. PPL examined other alternatives and found they were more expensive, less viable, or they failed to achieve the reliability objectives. PPL also reviewed an alternative suggested by the Protestants, but produced evidence which showed that alternative to be more expensive and less viable than the proposed project. Exc. at 23-24. PPL also argues that, although the ALJs suggested that PPL failed to explore other alternatives, the ALJs failed to reference any record evidence in support of their position that PPL had other available alternatives that it failed to consider. *Id*. at 25.

The Protestants respond to Exception No. 6 and assert that there is no record evidence that PPL performed stress modeling to determine the reliability issues associated with the project area. According to the Protestants, the failure of PPL to cite to any portion of the record indicates that PPL is attempting to insert facts via its Exceptions and the ALJs properly concluded that PPL failed to conduct system stress modeling. The Protestants make similar arguments relating to PPL’s Exception regarding congestion in the project area. The Protestants respond to Exception No. 8 and state that the ALJs never determined that the only way PPL could succeed was to show a lack of alternative projects. R.Exc. at 10-12.

**b. Disposition**

We will grant these Exceptions. Contrary to the Protestants’ assertions, PPL did present testimony which explained PPL’s planning process, including system modeling and congestion issues. *See,* *e.g*., PPL St. No. 1 at 3-6. Included in that testimony is a description of PPL’s regional transmission planning methodology (including stress testing) and the resulting conclusion that 44 MW of load would be interrupted for longer periods of time due to the inability of PPL to transfer load within the project area. That testimony necessarily determined that line congestion in the project area was the primary reason for the inability to transfer load. *Id*. We also agree with PPL that the record reflects that PPL considered various alternatives to the proposed project. *See*, *e.g*., PPL St. 5-RJ at 6-7 and PPL Exh. 1, Attachment 1 at 8-9.

**4. RP&P Guidelines**

**a. Exceptions and Replies**

In Exception No. 8, PPL argues that its RP&P Guidelines provide a valid basis for identifying reliability issues in the transmission and distribution system. According to PPL, the RP&P Guidelines are used to identify system weaknesses that should be investigated. PPL argues that once weaknesses are identified, further investigation is taken to confirm that system improvements are needed. PPL asserts that it has used the RP&P Guidelines for the past 30 years and has presented that process to the Commission as the basis for PPL’s planning decisions in numerous transmission projects during that period. Exc. at 28 (citations omitted). Because PJM and NERC do not address lower voltage lines, PPL argues that the RP&P Guidelines play a critical role to fill that gap. *Id*. at 29-30.

The Protestants assert that PPL has used the RP&P Guidelines regarding customers per circuit and miles per circuit to justify the proposed project. However, the Protestants argue that the Guidelines are voluntary and, as such, cannot serve as the basis for a finding of necessity for the project. R.Exc. at 12-13.

**b. Disposition**

We will grant this Exception to the extent that we agree that PPL’s RP&P provide a valid basis for identifying reliability issues. However, violations of PPL’s RP&P may provide evidence of reliability concerns, but they may not *per se* establish that a particular improvement project is necessary in a specific instance. In this case, we agree that PPL’s RP&P Guidelines serve to highlight issues involving the Dalmatia 36-02 circuit, including the number of customers served and the amount of load subject to over-long interruptions due to PPL’s inability to transfer load. However, PPL also established that the proposed project was the best alternative available and the proposed route for the project was appropriate. These factors, coupled with the Dalmatia 36-02 circuit’s status as among PPL’s worst performing circuits prove that the proposed project is necessary for the service, accommodation, convenience or safety of the public. We do not find here that a violation of PPL’s RP&P Guidelines, standing alone, would satisfy that burden.[[1]](#footnote-1)

**D. Findings**

Based upon the foregoing discussion, we find that PPL has established a need for both the Richfield-Dalmatia 69 kV line and the Meiserville Substation. PPL provided substantial evidence that the proposed project is necessary to relieve reliability concerns with one of PPL’s worst performing circuits, the Dalmatia 36-02 line, improve restoration on the Juniata-Richfield 69 kV line and will also help to relieve a lesser restoration issue with the Sunbury-Dauphin 69 kV line. As discussed above, we find that PPL has successfully shown that prior efforts at distribution only improvements have been tried, but have not fully addressed the problems. Accordingly, both the distribution (Meiserville Substation) and the transmission (Richfield-Dalmatia 69 kV line) projects are necessary. *See*, *Susquehanna-Roseland* at 11. We will adopt the Recommended Decision to the extent that it approved the proposed route for the project.

Upon review of the evidentiary record in this proceeding, the Main Briefs, Reply Briefs, Recommended Decision, Exceptions and Reply Exceptions, we make the following findings:

1. PPL has shown that the proposed Richfield-Dalmatia 69 kV transmission tie line and the Meiserville 69-12 kV substation are necessary or proper for the service, accommodation, convenience, or safety of its patrons, employees, and the public;

2. PPL has shown that the proposed Richfield-Dalmatia transmission tie line and the Meiserville 69-12 kV substation will not create an unreasonable risk of danger to the health and safety of the public;

3. PPL has shown that it is in compliance with the applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth;

4. PPL has shown that the proposed route for the Richfield-Dalmatia 69 kV transmission tie line will have minimum adverse impact, considering the electric power needs of the public, the state of available technology and the available alternatives;

5. PPL has shown that the selection of the proposed route for the Richfield-Dalmatia transmission tie line was reasonable and not selected wantonly, capriciously, or arbitrarily;

6. PPL has shown that the proposed location of the Meiserville Substation is reasonably necessary for the convenience or welfare of the public and, therefore, exempt from any local zoning ordinance pursuant to Section 619 of the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, as amended, 53 P.S. § 10619;

7. The service to be furnished by PPL 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;

8. The service to be furnished by PPL 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;

9. The service to be furnished by PPL 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 & 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;

10. The service to be furnished by PPL 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 & 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;

11. The service to be furnished by PPL 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 & 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;

12. The service to be furnished by PPL 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 & 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;

13. The service to be furnished by PPL 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 & 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;

14. The service to be furnished by PPL 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 & 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.

15. The service to be furnished by PPL 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.

**IV. Conclusion**

Based upon the foregoing discussion, we shall grant PPL’s Motion to Strike; grant, in part, and deny, in part, PPL’s Exceptions; modify the Recommended Decision; and grant the Applications in this consolidated proceeding, consistent with this Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

1. That the Motion to Strike Portions of Protestants’ Reply Exceptions, filed by PPL Electric Utilities Corporation on February 1, 2013, is granted. Consistent with this Opinion and Order, the material on Pages 14 through 16, 18 and 19 of the Protestants’ Reply Exceptions, which details extra-record facts and advances arguments based on those extra-record facts, is stricken, consistent with this Opinion and Order.

2. That the Exceptions of PPL Electric Utilities Corporation are granted, in part, and denied, in part, consistent with this Opinion and Order.

3. That the Recommended Decision of Administrative Law Judges David A. Salapa and Joel H. Cheskis is adopted as modified, consistent with this Opinion and Order.

4. That the Application of PPL Electric Utilities Corporation filed at Docket No. A-2011-2267349 pursuant to 15 Pa. C.S. § 1511(c) for a finding that the service to be furnished by PPL Electric Utilities Corporation 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 is granted, consistent with this Opinion and Order.

5. That the Application of PPL Electric Utilities Corporation filed at Docket No. A-2011-2267352 pursuant to 15 Pa. C.S. § 1511(c) for a finding that the service to be furnished by PPL Electric Utilities Corporation 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 is granted, consistent with this Opinion and Order.

6. That the Application of PPL Electric Utilities Corporation filed at Docket No. A-2011-2267353 pursuant to 15 Pa. C.S. § 1511(c) for a finding that the service to be furnished by PPL Electric Utilities Corporation 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 & 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 is granted, consistent with this Opinion and Order.

7. That the Application of PPL Electric Utilities Corporation filed at Docket No. A-2011-2267416 pursuant to 15 Pa. C.S. § 1511(c) for a finding that the service to be furnished by PPL Electric Utilities Corporation 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 & 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 is granted, consistent with this Opinion and Order.

8. That the Application of PPL Electric Utilities Corporation filed at Docket No. A-2011-2267418 pursuant to 15 Pa. C.S. § 1511(c) for a finding that the service to be furnished by PPL Electric Utilities Corporation 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 is granted, consistent with this Opinion and Order.

9. That the Application of PPL Electric Utilities Corporation filed at Docket No. A-2011-2267426 pursuant to 15 Pa. C.S. § 1511(c) for a finding that the service to be furnished by PPL Electric Utilities Corporation 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 & 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 is granted, consistent with this Opinion and Order.

10. That the Application of PPL Electric Utilities Corporation filed at Docket No. A-2011-2267429 pursuant to 15 Pa. C.S. § 1511(c) for a finding that the service to be furnished by PPL Electric Utilities Corporation 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 is granted, consistent with this Opinion and Order.

11. That the Application of PPL Electric Utilities Corporation filed at Docket No. A-2011-2267446 pursuant to 15 Pa. C.S. § 1511(c) for a finding that the service to be furnished by PPL Electric Utilities Corporation 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 is granted, consistent with this Opinion and Order.

12. That the Application of PPL Electric Utilities Corporation filed at Docket No. A-2011-2267448 pursuant to 15 Pa. C.S. § 1511(c) for a finding that the service to be furnished by PPL Electric Utilities Corporation 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 is granted, consistent with this Opinion and Order.

13. That the record at Docket Nos. A-2011-2267349; A-2011-2267352; A-2011-2267353; A-2011-2267416; A-2011-2267418; A-2011-2267426; A‑2011‑2267429; A-2011-2267446; and, A-2011-2267448 be marked closed.

**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: July 16, 2013

ORDER ENTERED: July 16, 2013

1. Because we have found that PPL has satisfied its burden of showing a need for both the Richfield-Dalmatia 69 kV transmission tie line and the Meiserville 69-12 kV Substation, and we will adopt the ALJs’ recommended finding regarding the proposed route for the project, PPL’s Exceptions No. 9 and 10 are moot. PPL’s Exception No. 9 argues that the Recommended Decision is inconsistent with various Commission Regulations and policies. Exc. at 30-36. Exception No. 10 suggests that several Findings of Fact made by the ALJs actually support a grant of the Applications. Exc. 37-38. Given our disposition of the first eight Exceptions, we need not address the final two Exceptions and they will be dismissed as moot. [↑](#footnote-ref-1)