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File #: 166395

December 9, 2016

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Application of PPL Electric Utilities Corporation Under 15 Pa.C.S. § 1511(c) For A Finding And Determination That The Service To Be Furnished By The Applicant Through Its Proposed Exercise Of The Power Of Eminent Domain To Acquire Right-of-Way And Easement Over A Certain Portion Of The Lands Of the Heirs of Davis Dean In West Abington, Lackawanna County, Pennsylvania Is Necessary Or Proper For The Service Accommodation, Convenience, Or Safety Of The Public - Docket No. A-2016-2571918

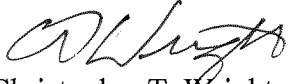
Application of PPL Electric Utilities Corporation Under 15 Pa.C.S. § 1511(c) For A Finding And Determination That The Service To Be Furnished By The Applicant Through Its Proposed Exercise Of The Power Of Eminent Domain To Acquire Right-of-Way And Easement Over A Certain Portion Of The Lands Of Dalton Equity, Inc. In West Abington, Lackawanna County, Pennsylvania Is Necessary Or Proper For The Service Accommodation, Convenience, Or Safety Of The Public Docket No. A-2016-2571923

Dear Secretary Chiavetta:

Enclosed for filing is the Prehearing Conference Memorandum of PPL Electric Utilities Corporation, in the above-referenced proceedings. Copies will be provided as indicated on the Certificate of Service.

Rosemary Chiavetta, Secretary
December 9, 2016
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Respectfully submitted,



Christopher T. Wright

CTW/jl
Enclosure

cc: Certificate of Service
Honorable Elizabeth Barnes

CERTIFICATE OF SERVICE

(Docket No. A-2016-2571918)

(Docket No. A-2016-2571923)

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL & FIRST CLASS MAIL

Michael R. Mey, Esquire
Mey & Sulla, LLP
1144 East Drinker Street
Dunmore, PA 18512
*Counsel for Dalton Equity, Inc.
& Heirs of Davis Dean*

Date: December 9, 2016



Christopher T. Wright

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application Of PPL Electric Utilities :
Corporation Under 15 Pa.C.S. § 1511(c) For A :
Finding And Determination That The Service :
To Be Furnished By The Applicant Through Its : Docket No. A-2016-2571918
Proposed Exercise Of The Power Of Eminent :
Domain To Acquire Right-of-Way And :
Easement Over A Certain Portion Of The Lands :
Of **Dalton Equity, Inc.**, In West Abington, :
Lackawanna County, Pennsylvania is Necessary :
or Proper for the Service, Accommodation, :
Convenience, or Safety of the Public :

Application Of PPL Electric Utilities :
Corporation Under 15 Pa.C.S. §1511(c) For A :
Finding And Determination That The Service :
To Be Furnished By The Applicant Through Its : Docket No. A-2016-2571923
Proposed Exercise Of The Power Of Eminent :
Domain To Acquire Right-of-Way And :
Easement Over A Certain Portion Of The Lands :
Of the **Heirs of Davis Dean**, In West Abington, :
Lackawanna County, Pennsylvania Is Necessary :
Or Proper For The Service, Accommodation, :
Convenience, Or Safety Of The Public :

**PREHEARING CONFERENCE MEMORANDUM OF
PPL ELECTRIC UTILITIES CORPORATION**

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”), pursuant to 52 Pa. Code § 5.222(d), and in compliance with the Prehearing Conference Order issued by Administrative Law Judge Elizabeth H. Barnes (“ALJ”) on November 4, 2016, hereby submits this Prehearing Memorandum in the above-captioned matter, and states as follows:

I. SERVICE OF DOCUMENTS

1. PPL Electric requests that all documents be served on:

Christopher T. Wright
Post & Schell, PC
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
cwright@postschell.com

2. PPL Electric agrees to receive service of documents electronically in this proceeding. Further, to the extent that materials are available electronically, it is requested that copies be served upon Kimberly A. Klock at kklock@pplweb.com, David B. MacGregor at dmacgregor@postschell.com, and Lindsay A. Berkstresser at lberkstresser@postschell.com.

3. PPL Electric's attorneys are authorized to accept service on behalf of the Company in this proceeding. PPL Electric requests that the Commission and all parties of record serve copies of all discovery requests and answers, correspondence, Commission Orders, and any other documents issued in this proceeding on its attorneys in Harrisburg, Pennsylvania.

II. PROCEDURAL HISTORY

4. On October 14, 2016, PPL Electric filed the "Application Of PPL Electric Utilities Corporation Under 15 Pa.C.S. § 1511(c) For A Finding And Determination That The Service To Be Furnished By The Applicant Through Its Proposed Exercise Of The Power Of Eminent Domain To Acquire Right-of-Way And Easement Over A Certain Portion Of The Lands Of **Dalton Equity, Inc.**, In West Abington, Lackawanna County, Pennsylvania is Necessary or Proper for the Service, Accommodation, Convenience, or Safety of the Public" ("Dalton Equity Condemnation Application"), which was docketed at Docket No. A-2016-2571918.

5. Also on October 14, 2016, PPL Electric filed the “Application Of PPL Electric Utilities Corporation Under 15 Pa.C.S. §1511(c) For A Finding And Determination That The Service To Be Furnished By The Applicant Through Its Proposed Exercise Of The Power Of Eminent Domain To Acquire Right-of-Way And Easement Over A Certain Portion Of The Lands Of the **Heirs of Davis Dean**, In West Abington, Lackawanna County, Pennsylvania Is Necessary Or Proper For The Service, Accommodation, Convenience, Or Safety Of The Public” (“Dean Condemnation Application”), which was docket at Docket No. A-2016-2571923.

6. In its filings, PPL Electric requests that the Commission: (1) consolidate the Dalton Equity Condemnation Application with the Dean Condemnation Application for purposes of hearings, if necessary, and decision; and (2) determine that the service to be furnished by PPL Electric through the proposed exercise of the power of eminent domain to acquire rights-of-way across the Dalton Equity and Dean properties is necessary for the construction of a new 69 kV transmission line needed to supply electric power to a new customer located in Clinton Township, Wyoming County.

7. On October 24, 2016, a Notice was issued scheduling an Initial Prehearing Conference before the ALJ on Tuesday, December 13, 2016, in Room 4, Commonwealth Keystone Building, 400 North Street, Harrisburg, Pennsylvania 17120.

8. On November 4, 2016, the ALJ issued a Prehearing Conference Order directing the parties to, among other things, file a Prehearing Conference Memorandum pursuant to 52 Pa. Code § 5.222(d). The Prehearing Conference Order also directed PPL Electric to serve the Dalton Equity and Dean Condemnation Applications on additional mailing addresses for Dalton Equity.

9. On November 5, 2016, notice of the Dalton Equity and Dean Condemnation Applications was published in the *Pennsylvania Bulletin*. See 46 Pa.B. 7054. The notice advised interested parties of the time and place of the December 13, 2016 Prehearing Conference. The notice also set a protest and intervention deadline for December 5, 2016.

10. On November 7, 2016, PPL Electric served copies of the Dalton Equity and Dean Condemnation Applications on the additional mailing address for Dalton Equity identified in the ALJ's Prehearing Conference Order.¹ PPL Electric also filed proof of service with the Commission on November 7, 2016.

11. On November 23, 2016, an Entry of Appearance and Petition to Intervene was served on behalf of Dalton Equity, Inc. and the Heirs of Davis Dean. The Petition to Intervene avers that Dalton Equity is the owner of both the Dalton Equity property and the Dean property that are the subjects of the above-referenced Applications.

12. As of the date of this Prehearing Memorandum, no other protests, petitions to intervene, or notices of appearance have been served on PPL Electric.

III. ISSUES

13. Section 1511 of the Business Corporation Law of 1988 grants public utility corporations, such as PPL Electric, the power to take and condemn property for the purpose of providing electricity to the public. See 15 Pa.C.S. § 1511(a)(3). On an application for condemnation, the Commission must determine whether the proposed service, *i.e.*, the transmission or distribution of electricity to or for the public if the subject property is

¹ The copies of the Dalton Equity and Dean Condemnation Applications served on Mr. Thomas Sklanka as directed in the ALJ's Prehearing Conference Order were returned by the United States Postal Service as unable to forward. By correspondence dated November 1, 2016, counsel for Dalton Equity advised that Mr. Thomas Sklanka has no interest in Dalton Equity and should be removed from the service list for these proceedings. A true and correct copy of the November 11, 2016 correspondence is attached here to as Appendix A.

condemned, is necessary or proper for the service, accommodation, convenience, or safety of the public. *See* 15 Pa.C.S. § 1511(c).

14. The Commonwealth Court has explained that the Commission's only role under 15 Pa.C.S. § 1511 is to consider if the project is necessary or proper for the benefit of the public, and that the Commission is expressly barred from considering the power of the utility to condemn. *SEPTA v. Pa. PUC*, 991 A.2d 1021, 1023 (Pa. Cmwlth. 2010). Therefore, the Commission does not determine whether to grant a condemnation application on the basis of the legal authority, scope, validity, damages, or the willingness of a condemnee to negotiate.

15. PPL Electric intends to demonstrate that the service to be furnished through its proposed exercise of the power of eminent domain to acquire rights-of-way and easements over certain portions of the Dalton Equity and Dean properties is necessary for the construction of a new 69 kV transmission line needed to supply electric power to a new customer located in Clinton Township, Wyoming County.

16. PPL Electric intends to demonstrate that its request to exercise the power of eminent domain is necessary or proper for the service, accommodation, convenience, or safety of the public and meets all the requirements of 15 Pa.C.S. § 1511 and applicable Commission regulations.

IV. WITNESSES

17. Together with both Dalton Equity and Dean Condemnation Applications, PPL Electric submitted the following written direct testimony in support of the above-captioned Applications:

| <u>Witness</u> | <u>Statement No.</u> | <u>Topics</u> |
|---|------------------------------------|---|
| Laura Lehmann 2 North 9th Street, Allentown, PA 18101 | PPL Electric St. No. 1 (DALTON) | Describing the need for the proposed Project; providing an overview of the siting process used for the proposed Project; and providing a description of the proposed Project. |
| Gary Emond 303, U.S. Route 1, Freeport, Maine 04032 | PPL Electric St. No. 2 (DALTON) | Explaining the siting process and selection of the route for the proposed new 69 kV transmission line. |
| Colleen Kester 2 North Ninth Street Allentown, PA 18101 | PPL Electric St. No. 3 (DALTON) | Describing the property that is the subject of the Dalton Equity and Dean Condemnation Applications; and describing PPL Electric's proposed rights-of-way and easements over the Dalton Equity and Dean properties. |
| Laura Lehmann 2 North 9th Street, Allentown, PA 18101 | PPL Electric St. No. 1 (DEAN) | Describing the need for the proposed Project; providing an overview of the siting process used for the proposed Project; and providing a description of the proposed Project. |
| Gary Emond 303, U.S. Route 1, Freeport, Maine 04032 | PPL Electric St. No. 2 (DEAN) | Explaining the siting process and selection of the route for the proposed new 69 kV transmission line. |
| Colleen Kester 2 North Ninth Street Allentown, PA 18101 | PPL Electric St. No. 3 (DEAN) | Describing the property that is the subject of the Dalton Equity and Dean Condemnation Applications; and describing PPL Electric's proposed rights-of-way and easements over the Dalton Equity and Dean properties |

18. Consistent with the Commission's Policy Statement at 52 Pa. Code § 69.3103, PPL Electric previously filed and served copies of these statements on all parties together with the Dalton Equity and Dean Condemnation Applications.

19. PPL Electric reserves the right to call additional witnesses and to address any issues that may arise during the course of the proceedings.

V. CONSOLIDATION

20. Issues relating to the need for the Dalton Equity and Dean Condemnation Applications are interrelated and present common questions of fact and law.

21. Pursuant to 52 Pa. Code §§ 5.81, 57.75(i)(1), PPL Electric requests that these related proceedings be consolidated for purposes of hearings, if necessary, and decision.

VI. DISCOVERY

22. Section 5.331(a) of the Commission’s regulations encourages parties to initiate discovery as early as reasonably possible. 52 Pa. Code § 5.331(a). To date, PPL Electric has not received any discovery requests.

23. PPL Electric does not believe that any change or modification in the standard timelines for discovery set forth in the Commission’s regulations is necessary or appropriate.

VII. LITIGATION SCHEDULE

24. PPL Electric is prepared to discuss the litigation schedule with the parties at the Prehearing Conference.

25. To the extent that the parties are unable to agree on a schedule, PPL Electric proposes that the following schedule be adopted for resolution of this proceeding:

| | |
|---|---------------------------|
| Other Parties’ Testimony | Friday, January 27, 2017 |
| Rebuttal Testimony | Friday, February 17, 2017 |
| Surrebuttal Testimony | Friday, March 3, 2017 |
| Oral Rejoinder/ Evidentiary Hearings | Wednesday, March 8, 2017 |
| Initial Briefs | Friday, April 7, 2017 |
| Reply Briefs | Friday, April 28 2017 |

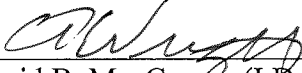
VIII. SETTLEMENT

26. As stated in PPL Electric Statement No. 3 (DALTON) and PPL Electric Statement No. 3 (DEAN), PPL Electric remains open and available for settlement discussions with the other parties and all affected landowners.

27. PPL Electric does not perceive any need to include specific dates for settlement conferences in the procedural schedule.

Respectfully submitted,

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Dated: December 9, 2016

Attorneys for PPL Electric Utilities Corporation