

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of PPL Electric Utilities Corporation :
under 15 Pa.C.S. § 1511(c) for a finding and :
determination that the service to be furnished by :
the applicant through its proposed exercise of the :
power of eminent domain to acquire a right of way : A-2016-2571918
and easement over and 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 :

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under 15 Pa.C.S. § 1511(c) for a finding and :
determination that the service to be furnished by :
the applicant through its proposed exercise of the :
power of eminent domain to acquire a right of way : A-2016-2571923
and easement over and 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 :

**PROTEST
OF
DALTON EQUITY, INC.**

Pursuant to 52 Pa. Code § 5.51 et seq., Dalton Equity, Inc. (“Dalton”) hereby files this Protest against the Application filed by PPL Electric Utilities Corporation (“PPL”) in the above-captioned proceeding. In support of this Protest, Dalton states as follows:

1. Dalton timely filed a Petition to Intervene in this proceeding in its own right and as successor in interest to the heirs of Davis Dean on November 30, 2016. That petition was granted by Administrative Law Judge Elizabeth H. Barnes by procedural order on December 14, 2016. Dalton incorporates herein by reference all the allegations and exhibits contained in its Petition to Intervene.

2. This Protest is now being filed to clarify that Dalton opposes the Application, and is alternatively filed pursuant to 52 Pa. Code § 5.91 to amend the earlier pleading’s title from “Petition to Intervene” to “Protest” in order to be consistent with its allegations and the issues

raised therein. It is a cautionary filing to ensure that, under the Commission's regulations for formal proceedings, its opposition to PPL's Application is procedurally established to ensure that Dalton has full party status, and it is made now (with a month and half before the scheduled hearing) so as not to adversely affect PPL's substantive rights.

3. Dalton's timely petition substantively protested PPL's Application in all regards except its form, having made plain:

(a) its unequivocal opposition to the construction of PPL's intended 69-kV transmission line through its property ("Dalton Equity does not want a power line installed on its property." ¶ 6);

(b) its objection to PPL's intention to condemn its land *solely* for the benefit of a single private for-profit entity and not for a public use, resulting in a taking that is not necessary or proper for the service, accommodation, convenience, or safety of the public, ¶¶ 8 & 9;

(c) its intention "to formally object and protest to PPL's request for a determination by [the Commission] for a finding that the taking is necessary and proper (¶ 10) by "fully participat[ing] in all proceedings before the [Commission] to contest the proposed evidence" and objecting to any hearsay or improper testimony (¶ 11); and

(d) its further objection that PPL's Application fails to "demonstrate that both PPL and its proposed 'customer' had adequately addressed alternatives to the installation and siting of the proposed line," ¶ 12.

4. Subsequent to the prehearing conference, Dalton has diligently pursued discovery with PPL's full cooperation, although ALJ Barnes found it legally necessary to deny by order Dalton's application for issuance of a subpoena under the terms of Section 309 of the Public Utility Code, 66 Pa.C.S. § 309.

5. In response to Dalton's Request for Production of Documents, PPL produced more than 550 e-mails (over 200 megabytes of data), several of which contained thousands of

pages of embedded documents, including photographs, spreadsheets, and PDF images. With considerable effort, Dalton has conscientiously reviewed these multitudinous documents and images.

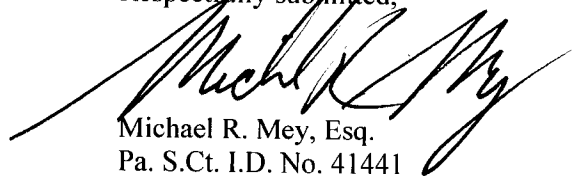
6. Permitting Dalton to amend its petition to conform its title to the provisions thereof will not prejudice or delay this matter because no new allegations or issues are being made herein, the hearing in this matter is not scheduled until April 12, 2017, and no further discovery will be conducted by Dalton if PPL is willing to stipulate as to the authenticity and admissibility into evidence of certain relevant e-mails sent or received by PPL's employees and already produced by PPL in discovery in response to Dalton's Request for Production of Documents (such stipulations are meant to pay time dividends at the evidentiary hearing; Procedural Order ¶ 14). Counsel for Dalton commits to a speedy, informal resolution of this caveat with PPL's counsel. If quick informal resolution proves elusive, Dalton intends to serve brief Requests for Admissions pursuant to 52 Pa. Code ¶ 5.350 regarding the substance of the same e-mails in order to avoid the need to seek subpoenas for the appearance of the appropriate PPL employees to authenticate the e-mails.

7. The Commission's Rules of Administrative Practice and Procedure provide for liberal construction of its provisions and authorize the Commission or a presiding officer "at any stage of an action or proceeding [to] disregard an error or defect of procedure which does not affect the substantive rights of the parties [and] when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party." 52 Pa. Code §§ 1.2(a) & (c); *see also Info Connections, Inc. v. Pa. Pub. Util. Comm'n*, 630 A.2d 498 (Pa. Cmwlth. 1993) (holding that the Commission has the authority to waive procedural defects when they do not affect the substantive rights of the parties).

WHEREFORE, Dalton protests the Application and respectfully requests that it be denied as filed. Alternatively, Dalton respectfully requests that the title to its earlier filed "Petition to Intervene" be amended to "Protest" in order to conform the pleading's title consistently with its

allegations and the issues raised therein so as to ensure that Dalton has full party status in this proceeding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael R. Mey". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

Michael R. Mey, Esq.
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Counsel for Dalton Equity, Inc.

Dated: February 21, 2017

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

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Honorable Elizabeth H. Barnes
Administrative Law Judge
Pennsylvania Public Utility Commission
P. O. Box 3265
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Date: February 21, 2017



Michael R. Mey, Esq.