

: 309 LOHR ROAD
: SCHELLSBURG, PA 15559

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of
Pennsylvania Electric Company

:
: **A-2016-2565296**
: **A-2016-2565472**
:
:
: **Judge Jeffrey A. Watson**
:
:
: **Landowners:**
:
: **SHIRLEY HUSTON &**
: **GARY E. LAMBERT**
:
: **3059 LAMBERT MOUNTAIN ROAD**
: **CAIRNBROOK, PA 15924**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of
Pennsylvania Electric Company

:
: **A-2016-2565296**
: **A-2016-2565545**
:
:

: **Judge Jeffrey A. Watson**
:
:
: **Landowner:**
:
: **ALBERT STILES**
:
: **190 MOSS ROCK LANE**
: **CAIRNBROOK, PA 15924**
:
:
:

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of
Pennsylvania Electric Company

:
: **A-2016-2565296**
: **A-2016-2565547**
:
:
: **Judge Jeffrey A. Watson**
:
:
: **Landowners:**
:
: **KATHY R. KELLEY**
: **JEFFREY KELLEY**
:
: **142 MILE HILL ROAD**
: **JOHNSTOWN, PA 15909**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of :
Pennsylvania Electric Company : **A-2016-2565296**
 : **A-2016-2565360**
 :
 :
 : **Judge Jeffrey A. Watson**
 :
 :
 : **Landowners:**
 :
 : **FRITZ LAND HOLDINGS, LP**
 :
 : **620 SOUTH RICHARD ST.**
 : **BEDFORD, PA 15522**

PROPOSED ORDER

AND NOW, this _____ day of March, 2017, the Pennsylvania Public Utility Commission finding that the above-captioned Landowners have provided sufficient support for their Joint Motion for Continuance of Hearing, it is the ORDER of this Court that said Motion is hereby granted and the formal Hearing scheduled for April 4th and 5th, 2017 is continued for a period of sixty (60) days and shall be rescheduled for the first available date after that period with all additional dates established at the Pre-Hearing Conference to be adjusted consistent with this ruling.

Jeffrey A. Watson
Administrative Law Judge

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of
Pennsylvania Electric Company :
: **A-2016-2565296**
: **A-2016-2565480**
:
:
: **Judge Jeffrey A. Watson**
:
:
: **Landowners:**
:
: **MARTHA L. ANDERSON &**
: **JOHN S. ANDERSON**
:
: **710 ANDERSON ROAD**
: **SCHELLSBURG, PA 15559**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of
Pennsylvania Electric Company :
: **A-2016-2565296**
: **A-2016-2565504**
:
:
: **Judge Jeffrey A. Watson**
:
:
: **Landowner:**
:
: **KEITH A. LOHR**
:

: 309 LOHR ROAD
: SCHELLSBURG, PA 15559

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of
Pennsylvania Electric Company

:
: **A-2016-2565296**
: **A-2016-2565472**
:
:
: **Judge Jeffrey A. Watson**
:
:
: **Landowners:**
:
: **SHIRLEY HUSTON &**
: **GARY E. LAMBERT**
:
: **3059 LAMBERT MOUNTAIN ROAD**
: **CAIRNBROOK, PA 15924**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of
Pennsylvania Electric Company

:
: **A-2016-2565296**
: **A-2016-2565545**
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: **Judge Jeffrey A. Watson**
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: **Landowner:**
:
: **ALBERT STILES**
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: **190 MOSS ROCK LANE**
: **CAIRNBROOK, PA 15924**
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of
Pennsylvania Electric Company

:
: **A-2016-2565296**
: **A-2016-2565547**
:
:
: **Judge Jeffrey A. Watson**
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: **Landowners:**
:
: **KATHY R. KELLEY**
: **JEFFREY KELLEY**
:
: **142 MILE HILL ROAD**
: **JOHNSTOWN, PA 15909**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of	:	
Pennsylvania Electric Company	:	A-2016-2565296
	:	A-2016-2565360
	:	
	:	
	:	Judge Jeffrey A. Watson
	:	
	:	
	:	Landowners:
	:	
	:	FRITZ LAND HOLDINGS, LP
	:	
	:	620 SOUTH RICHARD ST.
	:	BEDFORD, PA 15522
	:	

JOINT MOTION FOR CONTINUANCE OF HEARING

AND NOW COMES, Landowners MARTHA L. ANDERSON and JOHN S. ANDERSON, KEITH A. LOHR, SHIRLEY HUSTON and GARY E. LAMBERT, ALBERT STILES, and FRITZ LAND HOLDINGS, LP who by and through their counsel, Peter J. Carfley, Esquire of Lavery Law, PC as well as Landowners KATHY R. KELLEY and JEFFREY KELLEY, who by and through their counsel Smorto, Persio, Webb and McGill, file the foregoing Joint Motion for Continuance of Hearing and respectfully aver the following:

1. On or about September 1st, 2016, the Pennsylvania Electric Company (hereafter “Penelec”) filed an application with the Pennsylvania Public Utility Commission (hereafter “PUC”) to Docket #: A-2016-2565296

seeking approval of the proposed Bedford North-Central City West 115 kV HV Transmission Line Project and provide notice to all landowners whose property is required for the proposed route and whom Penelec was unable to reach a negotiated agreement with for the right-of-ways sought.

2. As part of the application evaluation process, the PUC held a Pre-Hearing Conference at the Pittsburgh Office for December 5th, 2016, at which time a schedule was set for the various stages of the hearing process as well as a hearing date of April 4th and 5th.
3. During the Pre-Hearing Conference, the Administrative Law Judge encouraged all parties to explore amicable resolutions to all pending matters if possible.
4. Affected Landowners Martha L. Anderson and John S. Anderson (hereafter “Anderson”), Keith A. Lohr (hereafter “Lohr”), Shirley Huston and Gary E. Lambert (hereafter “Lambert”), Albert Stiles (hereafter “Stiles”), Fritz Land Holdings, L.P. (hereafter “Fritz”) and Kathy R. Kelley and Jeffrey Kelley (hereafter “Kelley”) have all hired Appraiser Ginger Jakubowski to provide a valuation of the property rights sought to be acquired by Penelec as part of the proposed project.
5. Among the many factors that are considered by Ms. Jakubowski in reaching her conclusions in the appraisal reports are the size and location of the permanent easement as well as the size, structure and location of the poles supporting the proposed Penelec transmission lines.

6. Penelec is required to identify the specifications concerning its proposed project, by identifying the easement area and the pole locations including the height and structure of each individual pole.
7. Despite requests beginning in the first days of January 2017 and acknowledgement by Penelec representatives, all of the Landowners joining in the Motion were not provided with the pole locations in a timely fashion and have been unable to adequately negotiate or prepare their case for the formal PUC Hearing.
8. It is believed and therefore averred that the subcontractors used by Penelec to provide the pole locations and design have been used on prior Penelec projects and there have been similar issues with the timeliness of the completion of the work.
9. The majority of the Landowners joining in this Motion did not receive the planned pole locations until February 24th, 2017 and the Kelleys did not receive their information on the poles until March 14th, 2017 causing prejudice to the Landowners ability to prepare their defense and complete their appraisal report.
10. As part of the PUC Pre-Hearing Conference, a date of February 28th, 2017 was set for supplemental and rebuttal/expert testimony and reports, making it impossible for the Landowners joining in this Motion to challenge any of the job specifications relating to the pole locations and structures.

11. The delay in receiving the pole locations and related structural specifics has also prevented the Landowners' appraisal reports from being completed, which has prevented any meaningful settlement negotiations.
12. The finalized pole locations and structural specifics are essential to a thorough review of the overall project by the PUC and should have been provided to the Landowners as part of the filing of Penelec's application in September 2016.
13. Any delay caused by Penelec's failure to supply the pole locations and structural drawings has been caused solely by Penelec and its own agents and/or contractors.
14. It is a violation of the Landowners' due process rights for Penelec to attempt to take property without fully, specifically and completely identifying the terms and conditions of the taking, which includes the specific structures that will be present on the property after completion of the proposed project.
15. The delay in receiving information vital to the valuation process and relevant to the Landowners' presentation of their case at the formal PUC Hearing has prejudiced their ability to protect their property rights and challenge the Penelec application.
16. In addition to the aforementioned issues with completing the appraisal report and preparing for the PUC Hearing, Moving Party Fritz Land Holdings, L.P. has just been made aware of a potential "threatened" species

of wildlife that may be present on several of the affected properties, which could potentially force the Penelec line to be re-routed.

17. Based on discussions with Laura Jackson, a retired environmental scientist, Russell Fritz of Fritz Land Holdings, L.P. was informed that his property and several of the other properties subject to this project which contain steep mountainous terrain provide a habitat for the Allegheny Wood Rat, currently listed as a “threatened” species in Pennsylvania.
18. The Landowners joining in this Motion were not made aware of this species through the Penelec application process and wish to investigate the viability of this defense to the project’s route by providing written testimony from Laura Jackson as well as any reports she has completed on the species.
19. On March 8th, 2017, the undersigned counsel engaged in a conference call with Penelec counsel John Munsch and Penelec representative Tracey Janis to discuss the issues caused by the delay in receiving the pole locations and the possibility of a continuance of the scheduled hearing.
20. At the time of the conference call, Penelec agreed to provide the pole locations and designs to the Kelleys as soon as they became available but would not concur in a continuance that would postpone the scheduled hearing date from April 4th and 5th.
21. Landowners respectfully request a sixty (60) day continuance of the formal PUC Hearing to investigate and provide any documentation of the Allegheny Wood Rat’s presence and circumstances on the affected properties as well as to complete the appraisal reports and allow for

productive settlement negotiations and sufficiently prepare prior to participating in PUC Hearing.

22. It is believed and therefore averred that a sixty (60) day continuance will not prejudice any of the parties and will allow the Landowners to fully defend their property rights at the formal hearing.

WHEREFORE, based on the arguments and averments contained herein, Landowners, MARTHA L. ANDERSON and JOHN S. ANDERSON, KEITH A. LOHR, SHIRLEY HUSTON and GARY E. LAMBERT, ALBERT STILES, FRITZ LAND HOLDINGS, LP and KATHY R. KELLEY and JEFFREY KELLEY, respectfully request that this Honorable Court grant the foregoing Joint Motion for Continuance of Hearing and enter an Order postponing the formal PUC Hearing for sixty (60) days to allow for the completion of Landowners' appraisal reports and the investigation of the possibility of an endangered/threatened species on the relevant parcels.

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Kathy R. Kelley & Jeffrey Kelley

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Attorney for Landowners:

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Keith A. Lohr
Shirley Huston & Gary E. Lambert
Albert Stiles
Fritz Land Holdings, L.P.

Dated: March 20, 2017