

March 23, 2017

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120


Re: Application for Authorization of Pennsylvania Electric Company to Site and Construct the Bedford North-Central City West 115 kV HV New Transmission Line Construction Project Situated in Central City Borough and Shade Township, Somerset County and Napier, East St. Clair, and Bedford Townships, Bedford County, Pennsylvania; Docket No. A-2016-2565296

Dear Secretary Chiavetta:

Enclosed please find Response of Applicant Company in Opposition to Joint Motion for Continuance. The Response is filed in response to the Motion filed on or about March 21, 2017, by Intervenor in the above-captioned matter.

Copies of the Response have been served to the Intervenor and Administrative Law Judge Jeffrey A. Watson.

Very truly yours,


John L. Munsch
Attorney

JLM:slm

Enclosures

cc: Honorable Jeffrey A. Watson – Email and FedEx
Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application for Authorization of :
Pennsylvania Electric Company to Site and :
Construct the Bedford North-Central City :
West 115 kV HV New Transmission Line :
Construction Project Situated in Central : **Docket No. A-2016-2565296**
City Borough and Shade Township, :
Somerset County, and Napier, East St. :
Clair, and Bedford Townships, Bedford :
County, Pennsylvania :

Applications of the Pennsylvania Electric :
Company under 15 Pa.C.S. § 1511(c) for :
(1) 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 Over and Across the Land of: :

- **Robin F. Miller and Tammy Miller;** : **Docket No. A-2016-2565326**
- **Katherine L. Ziegler;** : **Docket No. A-2016-2565344**
- **Fritz Land Holdings, LP;** : **Docket No. A-2016-2565360**
- **James B. MacRae, Jr. and Nancy K.** : **Docket No. A-2016-2565364**
MacRae; :
- **Shirley Huston and Gary E. Lambert;** : **Docket No. A-2016-2565472**
- **Martha Lorraine Anderson and John S.** : **Docket No. A-2016-2565480**
Anderson; :
- **Dick Lohr and Karen G. Lohr;** : **Docket No. A-2016-2565502**
- **Keith Lohr** : **Docket No. A-2016-2565504**
- **Robindale Energy Services,** : **Docket No. A-2016-2565509**
Incorporated; :
- **Albert Stiles;** : **Docket No. A-2016-2565545**
- **Kathy R. Kelly and Jeffrey Kelly;** : **Docket No. A-2016-2565547**
- **Vincent Beal; and** : **Docket No. A-2016-2565635**

(2) Consolidation with Transmission Siting :
Application :

RESPONSE OF APPLICANT COMPANY IN OPPOSITION TO JOINT MOTION FOR CONTINUANCE

On March 21, 2017, Landowners, Martha L. Anderson and John S. Anderson, Keith Lohr, Shirley Huston and Gary E. Lambert, Albert Stiles, and Fritz Land Holdings, LP, and Kathy R. Kelley and Jeffrey Kelley (“Landowners”) submitted a Joint Motion for Continuance of Hearing in the above-captioned matter. The hearings are scheduled for April 4 and 5, 2017, at the Commission’s office in Pittsburgh, Pennsylvania, and have been scheduled as such since December 5, 2016. The Applicant, Pennsylvania Electric Company and Successor in Interest Mid-Atlantic Interstate Transmission, LLC (Company), hereby oppose the Motion for Continuance, request that the Motion be denied, and in support of denial submit as follows:

I. INTRODUCTION

On September 1, 2016, Pennsylvania Electric Company filed the above-captioned Application (“Application”) pursuant to the regulations of the Pennsylvania Public Utility Commission (“PUC” or “Commission”) at 52 Pa. Code Chapter 57, Subchapter G. The Application seeks siting approval for Penelec, or its successor in interest, to locate, construct, operate and maintain a high-voltage (“HV”) transmission line known as the “Bedford North-Central City West 115 kV HV Transmission Line Project” (hereinafter, the “Project”). The Company also filed 19 Applications for the exercise of eminent domain for the Project route. After public notice of the proceeding in the Pennsylvania Bulletin and local newspapers, a prehearing conference was held before Administrative Law Judge Jeffrey A. Watson on December 5, 2016, at the Commission’s offices in Pittsburgh, Pennsylvania. At the Procedural Conference and in a

Procedural Order the Administrative Law Judge set a litigation schedule, with hearings to be held April 4 to 5, 2017, in Pittsburgh. The Intervenors submitted written testimony on February 3, 2017, and the Company submitted written rebuttal testimony on February 22, 2017.

On March 21, 2017, the Landowners submitted the Joint Motion for Continuance of Hearing, requesting a continuance of the April 4 to 5 hearings for a period of 60 days.

Landowners' Motion for Continuance is based on two allegations or arguments.

First, Landowners contend that the Company did not provide, in a timely fashion, the "pole locations including the height and structure of each individual pole." (Landowners' Motion, Par. 6.) The Landowners' Motion recognizes, however, that the Company provided approximate structure locations on February 24, 2017, to the majority of landowners, and on March 14, 2017, it provided approximate locations to one final landowner (Landowners' Motion, Par. 9).

Second, Landowners contend that they have "just been made aware of a potential 'threatened' species of wildlife that may be present on several of the affected properties" -- namely, the Allegheny Woodrat. (Landowners' Motion, Par. 16 and 17.) The Landowners want additional time to obtain a specialist and possibly present testimony about the species.

The Company opposes the Motion for Continuance and respectfully disagrees with both of the Landowners' bases for a request in a continuance.

II. STRUCTURE LOCATIONS HAVE BEEN PROVIDED VOLUNTARILY

The Company has met the requirements of the Commission regulations concerning the provision of information about its proposed transmission structures. The Company states that it is not required to provide the specific locations of proposed transmission structures as part of its Siting Application. However, as the Landowners recognize, the Company has provided

preliminary approximate structure locations to the Landowners in an attempt to settle the eminent domain proceedings prior to hearing.

Section 57.76 of the Commission's siting regulations provides that, in a siting Application, the Commission's responsibility with respect to the Application is to approve a corridor within which the transmission line will be placed. Commission regulations do not require a structure-by-structure locations. Section 57.76 provides:

"A Commission order granting a siting application will be deemed to include a grant of authority, subject to the provisions of law, to locate and construct the proposed HV transmission line within a corridor consisting of the area of 500 feet on each side of the centerline of the proposed HV transmission line unless the applicant requests and the Commission approves a corridor of a different size. A proposed HV transmission line may not be constructed outside the corridor, except upon petition to and approval by the Commission." 52 Pa. Code §57.76(b).

In its Application and supporting exhibits, the Company has identified a transmission corridor centerline, and a corridor with a width of 100 feet, and 130 feet in specific, steep areas. The Company's transmission structures will be placed within the specific corridor.

Apart from the general requirement that the Company request a corridor within which to place the proposed transmission line, the Commission regulations require certain information about the Project, all of which the Company has fully provided in its Application and accompanying exhibits.

Section 57.72, "Form and Content of Application" provides a list of specific information and exhibits required in the siting Application. The most detailed requirement is contained in Section 57.72 (13), which requires the Company to supply exhibits as follow:

(13) The following exhibits:

(i) A depiction of the proposed route on aerial photographs and topographic maps of suitable detail.

(ii) A description of the proposed HV line, including the length of the line, the design voltage, the size, number and materials of the conductors, the design of the supporting structures and their height, configuration and materials of construction, the average distance between supporting structures, the number of supporting structures, the line to structure clearances and the minimum conductor to ground clearance at mid-span under normal load and average weather conditions and under predicted extreme load and weather conditions.

(iii) A simple drawing of a cross section of the proposed right-of-way of the HV line and any adjoining rights-of-way showing the placement of the supporting structures at typical locations, with the height and width of the structures, the width of the right-of-way and the lateral distance between the conductors and the edge of the right-of-way indicated.

(iv) A system map which shows in suitable detail the location and voltage of existing transmission lines and substations of the applicant and the location and voltage of the proposed HV line and associated substations.

The Company will reference the location in its Application and in its Application exhibits the information required by Section 57.72 (13). In addition, in its original Application, the Company cross-referenced each requirement in its Exhibit No. 1. The Company further references the location of the information required by the Commission, as follows:

57.72(13)(i): A depiction of the proposed route on aerial photographs and topographic maps of suitable detail.

See Company Exhibit 2, a depiction of the Project location as shown on a USGS contour map.

57.72(13)(ii): A description of the proposed HV line, including the length of the line, the design voltage, the size, number and materials of the conductors, the design of the supporting structures and their height, configuration and materials of construction, the average distance between supporting structures, the number of supporting structures, the line to structure clearances and the

minimum conductor to ground clearance at mid-span under normal load and average weather conditions and under predicted extreme load and weather conditions.

The line will be 17.6 miles long. The design voltage will be 115 kilovolts (See Application Paragraph No. 7).

The Project is designed as a 115 kV transmission line, with 795 kcmil 26/7 aluminum conductor steel reinforced conductors for each phase (See Paragraph 47 of the Application).

Paragraphs 48, 49, 50 and 51 of the Application and Exhibit 10A – 10G provide configuration of materials, and average distance between structures. There will be approximately 137 new structures. All 49 existing structures along a 7.2-mile portion of the existing Bedford North – New Baltimore 115 kV line will be replaced. The average span distance for the Project within the 100-foot right-of-way will be 600 to 700 feet, and the average span within the 130-foot right of way will be 1,600 feet. The Project line will meet or exceed the standards of the National Electric Safety Code concerning safe clearances.

Exhibit No 10, Exhibits 10A through 10J, display the transmission structure types and their approximate heights.

57.72(13)(iii): A simple drawing of a cross section of the proposed right-of-way of the HV line and any adjoining rights-of-way showing the placement of the supporting structures at typical locations, with the height and width of the structures, the width of the right-of-way and the lateral distance between the conductors and the edge of the right-of-way indicated.

The Company emphasizes that this subsection does not require identification of the specific locations of the transmission structures. The subsection requires a “simple drawing” of the “cross section of the proposed right of way” showing the heights, and right

of way widths from the conductors at typical locations. Exhibit 11, entitled “Typical Right-of-Way Cross Sections” provides such a cross-sectional drawing with more than ample information depicting the structures within the right of way cross section.

57.72(13)(iv): A system map which shows in suitable detail the location and voltage of existing transmission lines and substations of the applicant and the location and voltage of the proposed HV line and associated substations.

Exhibits 5A, 5B and 6 depict the transmission system.

With respect to the Landowners’ assertion that the Company has delayed settlement efforts, the Company recognizes that the Commission’s policies encourage settlement of disputes. 52 Pa. Code §5.231. Settlement discussions, however, are provided confidential protection under the Commission regulations. The Company disagrees with the Landowners’ assertion that the Company has prolonged settlement discussions and such assertion should not be considered.

III. THE ASSERTION THAT THE ALLEGHENY WOODRAT IS A POSSIBLE NEW, THREATENED AND ENDANGERED SPECIES IN THE PROJECT AREA SHOULD NOT DELAY THE PROCEEDING

The Company has completed all consultation with state and federal agencies concerning the possibility of encountering threatened and endangered (“T&E”) species along the Project route. The results of the consultations are reported in Exhibit 9 of the Application. The consultations were conducted by the Company and its environmental consultant, AECOM, which helped produce the Company’s Line Routing Study, Exhibit 8 of the Application.

Mr. Barry A. Baker of AECOM is identified as a Company witness and will be available to testify. Mr. Baker has submitted written direct testimony and written rebuttal testimony as Statements No. 3 and 3-R.

In terms of T&E species, the Company has completed the Pennsylvania Department of Environmental Protection (PADEP) required coordination, known as the Pennsylvania National Diversity Inventory (“PNDI”). PNDI coordination and information was included in the Application in Exhibit 9. Following is the feedback from the agencies and the current status of agency coordination:

1. **Pennsylvania Fish & Boat Commission** (fish, reptiles, amphibians, aquatic invertebrates only): No species were identified and no further action is needed.
2. **Pennsylvania Game Commission (“Game Commission”)** (birds and mammals only): The Indiana Bat was the only T&E species identified and, because the Indiana Bat is a federally listed species, coordination is turned over to the United States Fish & Wildlife Service (“USFWS”). At this time no further coordination with Game Commission is necessary for Indiana Bats.
3. **Pennsylvania Department of Conservation & Natural Resources (“DCNR”)** (plants, terrestrial invertebrates, natural communities, and geologic features only): Two species were identified – the Yellow-fringed Orchid and the Mountain Bellwort. The associated studies have been completed and the Company received clearance from DCNR in February 2017.
4. **United States Fish & Wildlife Service (“USFWS”)** (federally listed species): both the Indiana Bat and Northern Long Eared bat were identified in the USFWS response to the Company’s inquiry. Since the presence of Indiana Bat is already known in the project study area, USFWS has required that time-of-year tree clearing restrictions be put in place for the Project to avoid interference with the bats.

At this time the T&E coordination is effectively complete. As the Project goes through the permitting review process the Company will likely have further coordination with the USFWS concerning tree clearing, but this is a normal part of the permitting process. Additionally, the Company may need to resubmit its PNDI request as it is getting near to the end of the two-year time frame from the original. The Game Commission as part of the State Game Lands discussion may bring up the Allegheny Woodrat (since it would fall under the Game Commission's purview), but the Game Commission did not identify the Allegheny Woodrat in the Game Commission's original PNDI response.

The Company submits that the purported emergence of the Allegheny Woodrat should not be a key consideration for the Presiding Officer or the Commission in this proceeding. Coordination for T&E species is handled by the agencies listed above and PADEP. The Company is following all the coordination that is necessary as part of the permitting process. Any resulting requirements that are conditions of the permits will also be implemented and adhered to during Project construction.

IV. CONCLUSION

WHEREFORE, Pennsylvania Electric Company and its successor in interest Mid-Atlantic Interstate Transmission, LLC respectfully requests that the Joint Motion for Continuance of Hearing be denied.

In the Alternative, in the event that a continuance is granted for the purposes of settlement, the Company requests that the continuance be of minimal duration less than 60 days and, further, that the hearing scheduled for April 4, 2017, be converted to a procedural conference.

Respectfully Submitted,



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Dated: March 23, 2017

*Counsel for Mid-Atlantic Interstate
Transmission, LLC and Pennsylvania
Electric Company*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**APPLICATION FOR AUTHORIZATION OF :
PENNSYLVANIA ELECTRIC COMPANY TO :
SITE AND CONSTRUCT THE BEDOFRD :
NORTH-CENTRAL CITY WEST 115 KV HV :
NEW TRANSMISSION LINE :
CONSTRUCTION PROJECT SITUATED IN :
CENTRAL CITY BOROUGH AND SHADE :
TOWNSHIP, SOMERSET COUNTY, AND :
NAPIER, EAST ST. CLAIR, AND BEDFORD :
TOWNSHIPS, BEDFORD COUNTY, :
PENNSYLVANIA :**

Docket No: A-2016-2565296

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Response of Applicant Company in Opposition to Joint Motion for Continuance** has been served upon the following persons, by Fed Ex, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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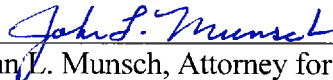
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Date: March 23, 2016



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