

**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 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 :

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 : A-2016-2571923  
the applicant through its proposed exercise of the :  
power of eminent domain to acquire a 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 :

**INITIAL DECISION GRANTING REQUESTS  
FOR LEAVE TO WITHDRAW APPLICATIONS**

Before  
Elizabeth H. Barnes  
Administrative Law Judge

An electric distribution company filed two applications for findings and determinations pursuant to 15 Pa.C.S. § 1511(c) that the service to be furnished by it through its proposed exercise of the power of eminent domain to acquire two right-of-ways over certain portions of lands of Dalton Equity, Inc. and the Heirs of Davis Dean, respectively, in West Abington, Lackawanna County, Pennsylvania is necessary or proper for the service accommodation, convenience, or safety of the public. This decision grants the company's requests to withdraw its applications.

## HISTORY OF THE PROCEEDING

On October 14, 2016, PPL Electric Utilities Corporation (PPL) filed two applications for findings and determinations pursuant to 15 Pa.C.S. § 1511(c) that the service to be furnished by it through its proposed exercise of the power of eminent domain to acquire two right-of-ways over certain portions of lands of Dalton Equity, Inc. (A-2016-2571923) and the Heirs of Davis Dean (A-2016-2571918), respectively, in West Abington, Lackawanna County, Pennsylvania is necessary or proper for the service accommodation, convenience, or safety of the public. The applications involve the construction of a new 69 kV transmission line over the properties in order to supply electric power to a new industrial customer located in Clinton Township, Wyoming County.

On November 23, 2016, an Entry of Appearance and Petition to Intervene was filed on behalf of Dalton Equity, Inc. and the Heirs of Davis Dean. On December 14, 2016, a Procedural Order was issued granting Dalton Equity's Petition to Intervene and establishing a litigation schedule. The cases were consolidated for a hearing scheduled for April 12, 2017.

On or about April 10, 2017, PPL acquired a voluntary right-of-way permitting the use of an alternative route for the 69 kV transmission line. Accordingly, on April 11, 2017, PPL filed the instant Petition for Leave to Withdraw the Dalton Equity Condemnation Application at Docket No. A-2016-2571923 and a Petition for Leave to Withdraw the Dean Condemnation Application at Docket No. A-2016-2571918. The April 12, 2017 hearing was cancelled. The Petitions had notices to plead attached. To date, no objections to the Petitions have been filed. The record closed on April 21, 2017. The Petitions are ripe for a decision.

## FINDINGS OF FACT

1. On October 14, 2016, PPL Electric Utilities Corporation (PPL) filed two applications for findings and determinations pursuant to 15 Pa.C.S. § 1511(c) that the service to be furnished by it through its proposed exercise of the power of eminent domain to acquire two right-of-ways over certain portions of lands of Dalton Equity, Inc. (A-2016-2571923) and the

Heirs of Davis Dean (A-2016-2571918), respectively, in West Abington, Lackawanna County, Pennsylvania is necessary or proper for the service accommodation, convenience, or safety of the public.

2. The applications involve the construction of a new 69 kV transmission line over the properties in order to supply electric power to a new industrial customer located in Clinton Township, Wyoming County.

3. On November 23, 2016, an Entry of Appearance and Petition to Intervene was filed on behalf of Dalton Equity, Inc. and the Heirs of Davis Dean.

4. On December 14, 2016, a Procedural Order was issued granting Dalton Equity's Petition to Intervene and establishing a litigation schedule.

5. On or about April 10, 2017, PPL acquired a voluntary right-of-way permitting the use of an alternative route for the 69 kV transmission line.

6. On April 11, 2017, PPL filed the instant Petition for Leave to Withdraw the Dalton Equity Condemnation Application at Docket No. A-2016-2571923 and a Petition for Leave to Withdraw the Dean Condemnation Application at Docket No. A-2016-2571918.

7. The April 12, 2017 hearing was cancelled.

### DISCUSSION

The Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94(a) permit parties to withdraw pleadings in a contested proceeding. The provision at 52 Pa.Code § 5.94(a) allows withdrawal of pleadings by a petition for leave to withdraw the pleading. The petition is granted only by permission of the presiding officer or the Commission. The presiding officer or Commission must consider the petition, any objections thereto and the public interest in determining whether to permit withdrawal of the pleading. 52 Pa. Code § 5.94(a).

PPL's reason that it has acquired a voluntary right-of-way and alternative route for its proposed 69 kV transmission line to a commercial customer is a good reason to withdraw the two applications, as it appears PPL's need to condemn properties of Dalton Equity, Inc. and/or the Heirs of Davis Dean exists no more. Further, the Commission has no interest in mandating that an applicant pursue litigation in order to provide public utility service where it may not be prepared to do so. Applicant is free to file another application at any time. There are no objections to the request. The applications do not allege facts that would impact the public interest if they were to be withdrawn. Thus, I find no adverse affect on the public interest in granting leave to withdraw the applications.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties in this proceeding. 66 Pa. C.S. 501.
2. The Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94 permit parties to withdraw pleadings in a contested proceeding by permission of the Commission or presiding officer.
3. In determining whether to permit withdrawal of the pleading, the presiding officer or Commission must consider the petition, any objections thereto and the public interest. 52 Pa. Code § 5.94(a).
4. In the interest of judicial efficiency and because there is no adverse impact to the public interest, the petitions for leave to withdraw the two applications should be granted.

ORDER

THEREFORE,

IT IS ORDERED,

1. That the request for leave to withdraw the October 14, 2016 application of PPL Electric Utilities Corporation filed at Docket No. A-2016-2571923 is granted.

2. That the request for leave to withdraw the October 14, 2016 application of PPL Electric Utilities Corporation filed at Docket No. A-2016-2571918 is granted.

3. That the applications of PPL Electric Utilities Corporation filed at Docket Nos. A-2016-2571923 and A-2016-2571918 are withdrawn.

4. That the consolidated cases at Docket Nos. A-2016-2571923 and A-2016-2571918 are closed.

Dated: April 22, 2017

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/s/  
Elizabeth H. Barnes  
Administrative Law Judge