BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Pennsylvania Electric Company	:	A-2016-2565296
Robin F. Miller and Tammy J. Miller	:	A-2016-2565326
Katherine L. Ziegler	:	A-2016-2565344
Fritz Land Holdings LP	:	A-2016-2565360
James B. MacRae, Jr. and Nancy K. MacRae	:	A-2016-2565364
Michael C. Long	:	A-2016-2565368
Wilmore Coal Company	:	A-2016-2565369
Frank J. Shenigo, Trustee of Frank J. Shenigo	:	A-2016-2565377
Kenneth J. Skone and Karen Jane Skone	:	A-2016-2565378
Shirley J. Huston and Gary E. Lambert	:	A-2016-2565472
Martha Lorraine Anderson and John S. Anderson	:	A-2016-2565480
Dick B. Lohr and Karen G. Lohr	:	A-2016-2565502
Keith A. Lohr	:	A-2016-2565504
Robindale Energy Services, Inc.	:	A-2016-2565509
Scott M. Andrews and Audrey A. Andrews	:	A-2016-2565543
Albert Stiles	:	A-2016-2565545
Kathy R. Kelley and Jeffrey Kelley	:	A-2016-2565547
Berwind Corporation	:	A-2016-2565549
Vincent Beal	:	A-2016-2565635
Brian C. Jones and Traci A. Jones	:	A-2016-2565644

RECOMMENDED DECISION

Before
Jeffrey A. Watson
Administrative Law Judge

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I. INTRODUCTION

This Recommended Decision grants the Application of Pennsylvania Electric Company for approval of the siting and construction of the high-voltage transmission line referred to as the Bedford North-Central City West 115 kV HV transmission line project and the Application to exercise the power of eminent domain to acquire a certain portion of the lands of Robin F. Miller and Tammy J. Miller filed at A-2016-2565326; Katherine L. Ziegler filed at A-2016-2565344; Fritz Land Holdings LP filed at A-2016-2565360; Shirley J. Huston and Gary E. Lambert filed at A-2016-2565472; Martha Lorraine Anderson and John S. Anderson filed at A-2016-2565480; Keith A. Lohr filed at A-2016-2565504; Albert Stiles filed at A-2016-2565545; and Vincent Beal filed at A-2016-2565635.

The remaining eminent domain Applications filed at Docket Nos. A-2016-2565364, A-2016-2565368, A-2016-2565369, A-2016-2565377, A-2016-2565378, A-2016-2565502, A-2016-2565509, A-2016-2565543, A-2016-2565547, A-2016-2565549 and A-2016-2565644 were withdrawn by interim orders throughout this proceeding upon Applicant obtaining right-of-ways or easements from the landowners.

II. PROCEDURAL HISTORY

On September 1, 2016, Pennsylvania Electric Company (Penelec or Applicant) filed an application at Docket No. A-2016-2565296 (Application or Siting Application) pursuant to the regulations of the Pennsylvania Public Utility Commission (PUC or Commission) at 52 Pa.Code Chapter 57, Subchapter G.[1] The Application seeks siting approval for Penelec to locate, construct, operate and maintain a high-voltage (HV) transmission line referred to as the Bedford North-Central City West 115 kV HV Transmission Line Project

[1] The Siting Application was accompanied by Exhibit Nos. 1 through 21 and include the information specified in 52 Pa.Code §§ 57.72(c)(1)-(15), including an analysis of alternative routes, an environmental inventory, aerial photographs of the proposed route and the information and analyses that the Commission, in its Interim Guidelines for Transmission Line Siting Applications at 52 Pa.Code § 69.3101 et seq., recommends that an applicant file with a siting application.

(Project).[2] The proposed Project involves constructing a new 115 kV transmission line from the existing Penelec-owned Bedford North Substation, located in Bedford Township, Bedford County, Pennsylvania, to the existing Penelec-owned Central City West Substation, located in Central City Borough, Somerset County, Pennsylvania. A portion of the Project proposes to rebuild a section of the existing Penelec-owned Bedford North-New Baltimore 115 kV Transmission Line which is located in Napier, East St. Clair, and Bedford Townships, Bedford County, Pennsylvania. Penelec has requested that the Commission approve the Project as a double-circuit, 115 kV transmission line.

On September 1, 2016, Penelec also filed 19 separate Applications to exercise the power of eminent domain (Eminent Domain Applications) to obtain property rights for the construction and operation of the Project. The 19 Eminent Domain Applications were captioned and docketed as set forth in the caption of this order.

On September 1, 2016, Penelec also filed a certificate of service along with its Application which indicated that a copy of the Application or a notice of filing, as applicable, was served upon the persons and in the manner specified in 52 Pa.Code § 57.74.

On September 15, 2016, the Commission served on Penelec its notice that an initial prehearing conference was scheduled before the undersigned presiding officer, to be held on December 5, 2016. In addition, on September 15, 2016, a prehearing conference order was entered and served upon the parties as well as the individuals and entities identified on the

[2] The Siting Application indicated that, on June 19, 2015, Penelec, Metropolitan Edison Company (Met-Ed) and Mid-Atlantic Interstate Transmission, LLC (MAIT), all of which are subsidiaries of FirstEnergy Corp. (FirstEnergy) filed a Joint Application seeking, *inter alia*, the Commission's approval for Penelec and Met-Ed to transfer their transmission assets and operations to MAIT and for the Commission to issue MAIT a certificate of public convenience to operate as a public utility in Pennsylvania. Subsequently, by its Opinion and Order entered August 24, 2016, the Commission approved the transfer of Penelec's and Met-Ed's transmission assets and operations to MAIT and granted MAIT a certificate of public convenience as a Pennsylvania public utility. Penelec, as the owner of the Bedford North and Central City West Substations, was the original Applicant. Subsequently, amendments to the Applications for siting approval were filed to substitute MAIT for Penelec as Applicant. MAIT became the successor in interest to Penelec, as Applicant, pursuant to the Final Order entered August 24, 2016, at Docket Nos. A-2015-2488903, et al.

Parties List attached to the September 15, 2016 prehearing conference order. By prehearing conference order, the parties were notified that the proceeding was assigned to the undersigned Administrative Law Judge (ALJ or Presiding Officer) for a prehearing conference on December 5, 2016, at 10:00 a.m.

On September 24, 2016, a notice of the filing of the Siting Application and of the Eminent Domain Applications was published in the *Pennsylvania Bulletin*. The notice specified that formal protests and petitions to intervene in response to the Penelec Applications must be filed and served on or before Wednesday, November 23, 2016. The *Pennsylvania Bulletin* notice specified that a prehearing conference was scheduled for Monday, December 5, 2016 at 2nd Floor Hearing Room, Piatt Place, Suite 220, 301 Fifth Avenue, Pittsburgh, Pennsylvania 15222.

A protest was filed on November 23, 2016, by landowner Nancy K. MacRae. Ms. MacRae's property is also the subject of an Eminent Domain Application of Penelec at Docket No. A-2016-2565364.

The prehearing conference proceeded as scheduled on December 5, 2016. John L. Munsch, Esquire participated at the prehearing conference on behalf of Penelec. Calvin J. Webb II, Esquire appeared on behalf of Kathy R. Kelley and Jeffrey Kelley. Peter J. Carfley, Esquire appeared on behalf of Katherine L. Ziegler, Fritz Land Holdings LP, Shirley Huston and Gary E. Lambert, Martha Lorraine Anderson and John S. Anderson, Keith A. Lohr, and Albert Stiles. Dick B. Lohr and Karen G. Lohr (Landowners or Opponents) also attended the prehearing conference.

At the prehearing conference on December 5, 2016, Penelec moved to consolidate the Siting Application proceeding with the 19 Eminent Domain Applications. No objection was made to the request to consolidate these proceedings. An interim order was entered on January 31, 2017 granting Penelec's motion to consolidate the Siting Application proceeding filed at Docket No. A-2016-2565296 with the 19 Eminent Domain Applications.

At the prehearing conference, Penelec reported that it had resolved four of its eminent domain proceedings. On October 7, 2016, Penelec filed three separate petitions for leave to withdraw and terminate the following applications of Penelec to exercise the power of eminent domain to acquire an easement and right-of-way, (petitions to withdraw) namely the Frank J. Shenigo, Trustee of the Frank J. Shenigo Revocable Living Trust application, the Kenneth J. Skone and Karen Jane Skone application, and the Brian C. Jones and Traci A. Jones application, pursuant to 52 Pa.Code §§ 1.82 and 5.94(c), and requested that the undersigned presiding officer approve the Petitions of Penelec to withdraw eminent domain proceedings pursuant to Sections 1.82 and 5.94(c) of the Commission's regulations.

On November 16, 2016, Penelec filed an additional petition, pursuant to 52 Pa.Code §§ 1.82 and 5.94(c), for leave to withdraw and terminate the Michael C. Long application of Penelec to exercise the power of eminent domain to acquire an easement and right-of-way.

No objections were filed and no objections were raised at the prehearing conference to the four petitions to withdraw filed at Docket Nos. A-2016-2565368 (property of Michael C. Long); A-2016-2565377 (property of Frank J. Shenigo, Trustee of the Frank J. Shenigo Revocable Living Trust); A-2016-2565378 (property of Kenneth J. Skone and Karen Jane Skone); and A-2016-2565644 (property of Brian C. Jones and Traci A. Jones).

In its petitions to withdraw, Penelec averred that the subject property owners entered into agreements with Penelec for the grant of rights-of-way and easements over and across their land or an option therefor, thereby rendering the four subject condemnation applications unnecessary. Accordingly, the petitions to withdraw Eminent Domain Applications of Penelec filed at Docket Nos. A-2016-2565368 (property of Michael C. Long); A-2016-2565377 (property of Frank J. Shenigo, Trustee of the Frank J. Shenigo Revocable Living Trust); A-2016-2565378 (property of Kenneth J. Skone and Karen Jane Skone); and A-2016-2565644 (property of Brian C. Jones and Traci A. Jones) were granted and the applications filed at those four enumerated Docket Numbers were dismissed by Interim Order entered on January 31, 2017.

At the prehearing conference the individuals in attendance agreed upon a litigation schedule and that the hearing would be held in Pittsburgh, Pennsylvania, on April 4-5, 2017, with testimony beginning each day at 10:00 a.m.

On March 1, 2017, a hearing notice was issued which scheduled the hearing in this matter for April 4-5, 2017 in Pittsburgh, beginning each day at 10:00 a.m.[3]

On March 7, 2017, a first supplemental prehearing order was entered. In that order the parties were advised that the owners of property subject to Eminent Domain Applications have automatic standing pursuant to 52 Pa.Code § 57.75(i)(3) and are also parties to this proceeding.

In addition, the March 7, 2017 order provided that any other individuals or entities that failed to file a petition to intervene or a protest would be removed from the Parties List unless they notified the undersigned presiding officer in writing by the close of business on Friday, March 17, 2017, that they wished to remain on the Parties List. Such individuals and entities were advised that if they were removed from the Parties List they would not receive further notices or documents from the Commission in this proceeding.[4]

On March 13, 2017, Applicant filed three additional petitions for leave to withdraw and terminate the following applications of Penelec to exercise the power of eminent domain to acquire an easement and right-of-way, namely the Wilmore Coal Company application filed at Docket No. A-2016-2565369; the Scott M. Andrews and Audrey A. Andrews application filed at Docket No. A-2016-2565543; and the Berwind Corporation application filed at Docket No. A-2016-2565549. No objections were filed.

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[3] A corrected hearing notice was issued on March 7, 2017, which indicated that the purpose of the corrected notice was to correct the Service List attached to the corrected notice.

[4] No individuals or entities requested to remain on the Parties List pursuant to the Order entered on March 7, 2017.

In its petitions to withdraw Eminent Domain Applications, Penelec averred that the subject property owners entered into agreements with Penelec for the grant of rights-of-way and easements over and across their land or an option therefor, thereby rendering the four subject condemnation applications unnecessary. Accordingly, an interim order was entered on March 20, 2017 which granted the Petitions to Withdraw the Application of Wilmore Coal Company filed at Docket No. A-2016-2565369; the Scott M. Andrews and Audrey A. Andrews application filed at Docket No. A-2016-2565543; and the Berwind Corporation application filed at Docket No. A-2016-2565549.

On March 16, 2017, Applicant filed Amendments to Applications for Siting Approval and for Authorization to Exercise Power of Eminent Domain Substituting Mid-Atlantic Interstate Transmission, LLC (MAIT), Successor in Interest to Pennsylvania Electric Company, as Applicant, Pursuant to the Final Order entered August 24, 2016 at Docket Nos. A-2015-2488903, *et al*. In light of the amendments to the Siting Application and Eminent Domain Applications, the term "Applicant" used in this Recommended Decision refers generally to MAIT as well as Penelec.

On March 21, 2017, a Joint Motion for Continuance of Hearing was filed by Martha Lorraine Anderson and John S. Anderson, Keith A. Lohr, Shirley Huston and Gary E. Lambert, Albert Stiles, Kathy R. Kelley and Jeffrey Kelley, and Fritz Land Holdings LP. The hearing had been scheduled in this matter for April 4-5, 2017. An interim order was issued on March 23, 2017, directing Applicant to file a response to the motion for continuance of Hearing no later than 2:00 p.m. on Monday, March 27, 2017. Applicant filed its response to the motion for continuance on March 23, 2017.

An interim order was entered on March 27, 2017 converting the hearing scheduled for April 4, 2017 to a telephonic prehearing conference beginning at 10:00 a.m. and cancelling the hearing scheduled for April 5, 2017.

The prehearing conference proceeded as scheduled on April 4, 2017. John L. Munsch, Esquire participated at the prehearing conference on behalf of Applicant. Calvin J. Webb II, Esquire appeared on behalf of Kathy R. Kelley and Jeffrey Kelley. Peter J. Carfley, Esquire appeared on behalf of Katherine L. Ziegler, Fritz Land Holdings LP, Shirley Huston and Gary E. Lambert, Martha Lorraine Anderson and John S. Anderson, Keith A. Lohr, and Albert Stiles. Nancy MacRae and Robin Miller also attended the prehearing conference. At the prehearing conference, the parties agreed to revisions to the litigation schedule in this proceeding.

An interim order was entered on April 4, 2017 rescheduling the hearing in this proceeding for Wednesday, May 24, 2017 and Thursday, May 25, 2017, in Pittsburgh. In addition, the litigation schedule was amended as follows:

a. On or before April 17, 2017, Applicant may amend its previously served testimony to reflect the substance of the Amendments to Applications for Siting Approval and for Authorization to Exercise the Power of Eminent Domain Substituting Mid-Atlantic Interstate Transmission, LLC (MAIT) Successor in Interest to Pennsylvania Electric Company, as Applicant, filed on March 16, 2017.

b. On or before April 28, 2017, the parties, including the property owners and Protestant may serve additional or supplemental direct testimony in this proceeding.

c. On or before May 8, 2017, Applicant may serve rebuttal testimony in this proceeding.

d. Main Briefs shall be filed and served on or before June 23, 2017.

e. Reply Briefs shall be filed and served on or before July 10, 2017.

On May 8, 2017, Applicant filed two separate petitions for leave to withdraw and terminate the applications to exercise the power of eminent domain to acquire an easement and right-of-way, regarding the Dick B. Lohr and Karen G. Lohr application filed at Docket No. A-2016-2565502 and the Kathy R. Kelley and Jeffrey Kelly application filed at Docket No. A-2016-2565547, pursuant to 52 Pa.Code §§ 1.82 and 5.94(c).

In its petitions to withdraw, Applicant averred that the subject property owners entered into agreements with Applicant for the grant of rights-of-way and easements over and across their land or an option therefor, thereby rendering the two subject condemnation applications unnecessary. Accordingly, the petitions to withdraw filed at Docket Nos. A-2016-2565502 (property of Dick B. Lohr and Karen G. Lohr) and A-2016-2565547 (property of Kathy R. Kelley and Jeffrey Kelly) were granted by interim order entered on May 17, 2017.

The evidentiary hearing proceeded as scheduled on May 24, 2017. John L. Munsch, Esquire participated at the hearing on behalf of Applicant. Peter J. Carfley, Esquire appeared on behalf of Katherine L. Ziegler, Fritz Land Holdings LP, Shirley Huston and Gary E. Lambert, Martha Lorraine Anderson and John S. Anderson, Keith A. Lohr, and Albert Stiles. Nancy MacRae, the sole protestant, did not attend the hearing.

An Interim Order was entered on June 16, 2017 setting requirements for the filing of briefs and setting a deadline of July 21, 2017, for the parties to file their main briefs. The deadline was extended by agreement of the parties and approval of the agreement was communicated by email to the parties. Applicant filed its Main Brief on July 26, 2017. Katherine L. Ziegler, Fritz Land Holdings LP, Shirley Huston and Gary E. Lambert, Martha Lorraine Anderson and John S. Anderson, Keith A. Lohr, and Albert Stiles filed their Brief in opposition to the application on July 27, 2017. Applicant filed a Reply Brief on August 31, 2017.

On August 29, 2017, Applicant filed petitions for Leave to Withdraw the Application to Exercise the Power of Eminent Domain to Acquire an Easement and Right-of-Way Across Property of James B. MacRae, Jr. and Nancy MacRae at Docket No. A-2016-2565364 and property of Robindale Energy Services, Inc. at Docket No. A-2016-2565509. No objections were filed to the Petitions.

On August 31, 2017, an interim order was entered granting the petition to withdraw the Applications for eminent domain regarding the property of James B. MacRae, Jr. and Nancy MacRae at Docket No. A-2016-2565364; and Robindale Energy Services, Inc. at Docket No. A-2016-2565509. In addition, the record in this proceeding was closed.

III. FINDINGS OF FACT

Introduction

1. Pennsylvania Electric Company is a public utility that provides electric distribution and transmission services in Pennsylvania, subject to the Commission's regulatory jurisdiction.

2. On June 19, 2015, Penelec, Metropolitan Edison Company (Met-Ed) and MAIT filed a Joint Application seeking, inter alia, the Commission's approval for Penelec and Met-Ed to transfer their transmission assets and operations to MAIT and for the Commission to issue MAIT a certificate of public convenience to operate as a public utility in Pennsylvania.

3. By its Opinion and Order entered August 24, 2016, at Docket Nos. A-2015-2488903, *et al*., the Commission approved the transfer of Penelec's and Met-Ed's transmission assets and operations to MAIT and granted MAIT a certificate of public convenience as a Pennsylvania public utility.[5]

4. On September 1, 2016, Penelec filed an application seeking siting approval for Applicant to locate, construct, operate and maintain a high-voltage transmission line referred to as the Bedford North-Central City West 115 kV HV Transmission Line Project.

5. The Project involves constructing a new 115 kV transmission line connecting the existing Applicant-owned Bedford North Substation, located in Bedford Township, Bedford County, Pennsylvania, to the existing Applicant-owned Central City West Substation, located in Central City Borough, Somerset County, Pennsylvania.

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[5] Joint Application Of Mid-Atlantic Interstate Transmission, LLC (MAIT); Metropolitan Edison Company (Met-Ed) And Pennsylvania Electric Company (Penelec) for: (1) A Certificate Of Public Convenience Under 66 Pa.C.S. §1102(A)(3) Authorizing The Transfer Of Certain Transmission Assets From Met-Ed And Penelec To MAIT; (2) A Certificate Of Public Convenience Conferring Upon MAIT The Status Of A Pennsylvania Public Utility Under 66 Pa.C.S. §102; And (3) Approval Of Certain Affiliate Interest Agreements Under 66 Pa.C.S. § 2102, Docket No. A-2015-2488903 (Aug. 24, 2016).

6. Applicant's Siting Application and its accompanying exhibits (Application Exhibits) were served upon the applicable state, county and local governmental entities, including all of those specified in 52 Pa.Code § 57.74(b), and upon all the owners of property located within the proposed right-of-way (ROW) of the Bedford North Line.

7. On September 19, 2016, Applicant filed 19 separate applications for the exercise of eminent domain (Eminent Domain Applications) with respect to 19 properties in Bedford and Somerset counties for construction of the Project.

8. On September 24, 2016, a notice of the filing of the Siting Application and of the Eminent Domain Applications was published in the *Pennsylvania Bulletin*. The notice specified that formal protests and petitions to intervene in response to those applications were required to be filed and served on or before Wednesday, November 23, 2016. The *Pennsylvania Bulletin* notice specified that a prehearing conference was scheduled for Monday, December 5, 2016, at the 2nd Floor Hearing Room, Piatt Place, Suite 220, 301 Fifth Avenue, Pittsburgh, Pennsylvania.

9. On October 7, 2016, pursuant to 52 Pa.Code §§ 1.82 and 5.94(c), Applicant filed three separate petitions for leave to withdraw and terminate Eminent Domain Applications seeking approval to acquire easements and ROW across the properties of: (1) Frank J. Shenigo, Trustee of the Frank J. Shenigo Revocable Living Trust (Docket No. A-2016-2565377); (2) Kenneth J. Skone and Karen Jane Skone (Docket No. A-2016-2565378); and (3) Brian C. Jones and Traci A. Jones (Docket No. A-2016-2565644), after Applicant obtained right-of-ways or easements over these properties needed for the Project. The petitions were granted by Interim Order entered on January 31, 2017.

10. On October 10, 2016, and on October 17, 2016, Applicant published notices of the applications and of the prehearing conference in the *Bedford Gazette* and the *Somerset Daily American*, which are newspapers of general circulation in the area of the Project. Applicant Exhibit DWP-1.

11. On November 16, 2016, Applicant filed a petition, pursuant to 52 Pa.Code §§ 1.82 and 5.94(c), for leave to withdraw and terminate its Eminent Domain Application seeking to acquire an easement and ROW across the property of Michael C. Long (Docket No. A-2016-2565368) after Applicant obtained right-of-ways or easements over these properties needed for the Project. The petition was granted by Interim Order entered on January 31, 2017.

12. On January 31, 2017, the transfer of Penelec's and Met-Ed's transmission assets to MAIT occurred and MAIT succeeded to Penelec's interests in the provision of transmission service in Pennsylvania, including Penelec's interests in any regulatory filings and proceedings pending before the Commission pertaining to Penelec's transmission assets or operations.

13. An Interim Order was entered on January 31, 2017, granting Applicant's motion to consolidate the Siting Application proceeding, at Docket No. A-2016-2565296, with the 19 Eminent Domain Applications, at Docket Nos. A 2016-2565326, A-2016-2565344, A-2016-2565360, A-2016-2565364, A 2016-2565368, A 2016-2565369, A-2016-2565377, A-2016-2565378, A-2016-2565472, A 2016-2565480, A 2016-2565502, A-2016-2565504, A-2016-2565509, A-2016-2565543, A 2016-2565545, A 2016-2565547, A-2016-2565549, A-2016-2565635, and A-2016-2565644.

14. On March 13, 2017, Applicant filed three additional petitions for leave to withdraw and terminate Eminent Domain Applications seeking to acquire easements and ROW across the properties of: (1) Wilmore Coal Company (Docket No. A-2016-2565369); (2) Scott M. Andrews and Audrey A. Andrews (Docket No. A-2016-2565543); and (3) the Berwind Corporation (Docket No. A-2016-2565549) after Applicant obtained right-of-ways or easements over the properties needed for the Project. An Interim Order was entered on March 20, 2017, granting the petitions.

15. On March 16, 2017, Penelec and MAIT filed Amendments to Applications for Siting Approval and for Authorization to Exercise Power of Eminent Domain

Substituting Mid-Atlantic Interstate Transmission, LLC, Successor in Interest to Pennsylvania Electric Company, as Applicant, Pursuant to the Final Order entered August 24, 2016 at Docket Nos. A-2015-2488903, et al.

16. By that filing, Penelec and MAIT amended the Siting Application and Eminent Domain Applications to substitute MAIT for Penelec as Applicant and to request that all approvals and certificates of public convenience be granted and issued in the name of MAIT. No party objected to the amendments.

17. On May 8, 2017, Applicant filed petitions to withdraw Eminent Domain Applications seeking to acquire easements and ROW across the properties of (1) Dick B. Lohr and Karen G. Lohr (Docket No. A-2016-2565502); and (2) Kathy R. Kelley and Jeffrey Kelley (Docket No. A-2016-2565547), after obtaining right-of-ways or easements over the properties needed for the Project. No party objected to the petitions to withdraw and, by Interim Order dated May 17, 2017, the petitions to withdraw were granted.

18. On May 24, 2017, a hearing was held as scheduled on the Application presented for siting of the proposed project.

19. On August 29, 2017, Applicant filed petitions for leave to withdraw Eminent Domain Applications to acquire an easement and right-of-way across property of James B. MacRae, Jr. and Nancy MacRae at Docket No. A-2016-2565364 and property of Robindale Energy Services, Inc. at Docket No. A-2016-2565509 after obtaining right-of-ways or easements over the properties needed for the Project. No objections were filed and the Petitions were granted by interim order entered on August 31, 2017.

Existing Transmission System And Proposed Changes

20. At the time the Siting Application was filed, Penelec provided interstate electric transmission service through facilities it owned in Pennsylvania.

21. On January 31, 2017, Penelec transferred its transmission assets and operations to MAIT, and MAIT became the successor in interest to Penelec with respect to providing transmission service in the areas where Penelec was previously responsible for providing such service.

22. The transmission system of FirstEnergy subsidiaries, including MAIT, stretches across seven states and contains approximately 17,000 circuit miles of transmission line. Applicant Rebuttal Statement No. 7-R, p. 3.

23. The Project involves constructing a 17.6 mile double circuit 115 kV transmission line between the Bedford North Substation, located in Bedford Township, Bedford County, and the Central City West Substation, located in the Borough of Central City, Somerset County. Approximately 10.4 miles will require new right-of-way while the remaining 7.2 miles will be built on the ROW of the existing Bedford North-New Baltimore 115 kV Transmission Line. Application, pp. 2-7; Applicant Statement No. 4, pp. 5-6.

24. Applicant proposes to remove and rebuild the existing 7.2-mile section of the Bedford North-New Baltimore 115 kV Transmission Line, including its forty-nine existing wooden structures, which would be replaced primarily with two-pole, wooden structures. Application, pp. 3-7.

25. The ROW that forms the corridor of this portion of the Bedford North-New Baltimore 115 kV Transmission Line is 100 feet wide in some areas and 120 feet wide in other areas. Because this ROW has already been cleared of tall vegetation, the minimal additional vegetation clearing needed to construct the Project is significantly less than what would occur if an entirely new ROW were to be employed for this portion of the Project. Application, p. 6.

26. The Project would exit the west side of the Bedford North Substation, cross U.S. Route 220 and Interstate 99 (I-99), and extend west for 7.2 miles on the ROW of the existing Bedford North-New Baltimore 115 kV line, which would be rebuilt as a double-circuit

transmission line. West of State Route 96, the existing Bedford North-New Baltimore 115 kV line angles to the southwest, while the route proposed for the Project continues in a westerly direction and, in this area, would require new ROW for the remainder of its length. Application, pp. 4-5.

27. The proposed route crosses forested and agricultural lands for approximately 4.4 miles. Application, pp. 4-5.

28. At Lambert Mountain Road, the route traverses the 500-foot forested face of the Allegheny Front, extends west into Somerset County, and then crosses an isolated section of Fleegle Road. Application, p. 5.

29. The proposed route then generally parallels Lambert Mountain Road, following an alignment that Applicant coordinated with the Pennsylvania Game Commission and that Applicant designed to reduce the number of angles and limit the length of new ROW across these State Game Lands. From the western edge of State Game Lands #228, the route extends 1.5 miles through forested land to the eastern limits of Central City, where it then continues west for 1.7 miles through Central City Borough following an active Norfolk Southern rail line before heading west, along a private access road, into the Central City West Substation. Application, p. 5.

30. The remaining approximately 10.4 miles for the proposed transmission line will require the acquisition of new right-of-way area with a width of 100 feet, except for 0.3 miles of that amount which will necessitate a right-of-way 130 feet in width to traverse the Allegheny Ridge. Application, p. 6.

31. Within the 10.4 mile corridor that Penelec is attempting to acquire through negotiation or eminent domain, significant tree clearing will be necessary prior to construction and to the detriment of the environment and the individual landowners. Application, p. 6.

32. Of the approximately 17.6 linear miles that will be traversed by the Project, approximately 5.7 miles would be located in municipalities located in Somerset County (0.6 mile will be located in Central City Borough and approximately 5.1 miles will be located in Shade Township). Approximately 11.9 miles of the Project would be located in municipalities in Bedford County (approximately 9.3 miles in Napier Township, approximately 0.7 mile in East St. Clair Township, and approximately 1.9 miles in Bedford Township). Application, pp. 6-7.

33. The Project is projected to cost $48 million. Construction is scheduled to occur between early 2018 and December 2018. Statement No. 4, p. 14.

34. Penelec retained AECOM Corporation (AECOM), an international engineering and environmental consulting firm, to prepare a comprehensive study of the projected environmental and socioeconomic impacts of the Project. AECOM used information obtained during the environmental siting review and field reviews to develop an "opportunity and constraint" map of the Project Study Area and ultimately six potential routes were identified for further study and evaluation.

35. The results of the study are set forth in AECOM's report titled "Transmission Line Route Selection Study" (AECOM Report). Application p. 12; Application Exhibit 8.[6] Public input was received from discussions with landowners and from a public open house held at Shade-Central City High School in the Borough of Cairnbrook on January 28, 2015, and from two open houses held at the Travelodge Bedford, near the Borough of Bedford on Thursday, January 29, 2015.

Need To Maintain Reliable Service

36. Pursuant to Section 215 of the Federal Power Act, the Federal Energy Regulatory Commission (FERC) has certified the North American Electric Reliability

[6] The line route adopted for the Project is identified as "Alternative Route 2" in the AECOM Report, and the basis for the final route selection is set forth in Section 6.0 of that Report.

Corporation (NERC) as the electric reliability organization charged with developing and enforcing mandatory reliability standards. The FERC-approved NERC reliability standards are mandatory. Applicant Statement No. 2, p. 4.

37. PJM Interconnection, LLC (PJM), a FERC-approved Regional Transmission Organization (RTO), is responsible for ensuring the reliability of the electric transmission system under its functional control and coordinating the movement of wholesale electricity in all or parts of 13 states, including Pennsylvania, and the District of Columbia. Applicant Statement No. 2, pp. 5-6.

38. PJM is also responsible for assuring compliance with NERC standards for the bulk electric system within its control area. NERC reliability standards require that the bulk electric system be designed to operate within applicable thermal and voltage criteria limits, as defined in FirstEnergy's and PJM's Planning Criteria, under various system loading conditions and in consideration of outages of elements of the bulk electric system. Applicant Statement No. 2, pp. 5-6.

39. The Project is needed to mitigate thermal and voltage reliability criteria violations of both FirstEnergy's and PJM's Planning Criteria that were identified by PJM's Regional Transmission Expansion Plan (RTEP) analysis. Applicant Statement No. 2, pp. 4-7.

40. A thermal overload occurs when the amount of power flowing on a transmission line exceeds the rated capability of that line. Applicant Statement No. 2, pp. 4-5.

41. A voltage reliability criteria violation occurs when, following an outage of facility, the voltage on the facilities that remain in service is outside their minimum or maximum voltage levels or the change in voltage before and after the events exceed plus-or-minus 10 percent for facilities (such as the proposed line) that have a nominal voltage of less than 200 kV. Applicant Statement No. 2, pp. 4-5.

42. The Project is needed to address violations of thermal and voltage criteria identified under NERC Category C conditions (as explained below) and to provide adequate transmission capacity to meet current and expected customer needs for electric service in and around Bedford County, Pennsylvania. Applicant Statement No. 2, pp. 4-7.

43. NERC Category C requires that the occurrence of any one of a set of specified contingencies[7] shall not cause loadings to exceed the seasonal emergency rating of any facility, violate the maximum voltage deviation, or violate the applicable emergency minimum or maximum voltage criteria. For purposes of complying with NERC Category C, Applicant adheres to the same voltage deviation and emergency voltage limits employed to comply with NERC Category B contingencies for facilities within the bulk electric system.[8] Statement No. 2, pp. 21-22.

44. FirstEnergy and PJM have identified Planning Criteria violations in existing facilities which will be alleviated by the Project. As part of the PJM 2013 RTEP, PJM identified thermal loading Planning Criteria violations on Applicant's Allegheny-Somerset 115 kV transmission line. If there were a loss of the Hilltop-Krayn-Rachel Hill 115 kV transmission line and the Cambria Slope-Summit 115 kV transmission line, the Allegheny-Somerset 115 kV transmission line would have to carry loads of approximately 102% of its emergency thermal rating. Additionally, voltage on the 115 kV buses at Bedford North and Snake Springs Substation is less than the Planning Criteria emergency limit of 0.92 per unit specified by applicable Planning Criteria. (Emphasis added). Applicant Statement No. 2, p. 8.

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[7] The specified contingencies for NERC Category C consist of the loss of any double circuit bulk electric system transmission line, bipolar DC line, faulted circuit breaker, bus section, the combination of events resulting from a line fault coupled with a stuck breaker, or the loss of any single generating unit, transmission line, transformer, circuit breaker, capacitor, or single pole of a bipolar DC line followed by the loss of any single generating unit, transmission line, transformer, circuit breaker, capacitor, or single pole of a bipolar DC line.

[8] NERC Category B states that the loss of any single generating unit, transmission line, transformer, circuit breaker, capacitor, or single pole of a bipolar DC line, will not cause loading on any bulk electric system facility to exceed the seasonal emergency rating of any facility, violate the maximum deviation, or violate the emergency minimum or maximum voltage criteria. As mentioned above, a voltage reliability criteria violation occurs following an outage when voltage exceeds plus-or-minus 10 percent for facilities (such as the proposed line) that have a nominal voltage of less than 200 kV.

45. These violations were identified in a model of expected system conditions for summer 2018. Similar loading on the Allegheny-Somerset 115 kV line occurs with the loss of the Cambria Slope-Summit 115 kV transmission line in combination with the loss of the Claysburg-Krayn 115 kV transmission line. Voltage on 115 kV buses at Bedford North, Claysburg, Curryville, Osterburg East, Saxton, and Snake Springs Substations is below the Planning Criteria emergency limit for this combination of line outages. Applicant Statement No. 2, p. 8.

46. PJM's 2012 RTEP analysis indicated that, following a fault on the Hilltop-Krayn-Rachel Hill 115 kV transmission line in conjunction with a stuck 115 kV circuit breaker at Krayn Substation (which also results in the outage of the Claysburg-Krayn 115 kV line and the wind generation connected to Krayn Substation), loading on the Bedford North-New Baltimore 115 kV transmission line increases to approximately 107% of its summer emergency rating. Loading on the Bedford North-New Baltimore 115 kV transmission line would also exceed its emergency rating for the following contingencies (Emphasis added):

a. A fault on Applicant's Cambria Slope-Jackson Road 115 kV transmission line with a stuck 115 kV circuit breaker at Cambria Slope Substation (which also results in the outage of the Cambria Slope-Johnstown and Cambria Slope-Summit 115 kV lines, the Cambria Slope 115/46 kV transformer, and the generation connected to the Cambria Slope 115 kV bus).

b. A faulted 115 kV bus tie circuit breaker at Applicant's Rachel Hill Substation (which causes outages of the Hooversville-Rachel Hill and Claysburg-Krayn-Rachel Hill 115 kV lines and both 115/23 kV transformers at Rachel Hill).

c. A fault on Applicant's Cambria Slope 115 kV bus (which causes outages of the Claysburg-Krayn-Rachel Hill, Cambria Slope-Jackson Road, and Cambria Slope-

Johnstown 115 kV lines, the Cambria Slope 115/46 kV transformer, and the generation connected to the Cambria Slope 115 kV bus).
Applicant Statement No. 2, pp. 8-9.

47. Constructing the Project will address violations of both the thermal and voltage Planning Criteria and will provide the added benefit of providing a fourth source of supply into the Bedford North region. Applicant Statement No. 2, p. 10.

48. The Project should allow the bulk electric system to operate reliably, provide capacity to serve future anticipated load growth, and adhere to established NERC standards. Applicant Statement No. 2, p. 10.

49. The Central City West Substation is currently served by a single 115 kV line. In the event of an outage on the existing line, the load served by the Substation would need to pass through the underlying distribution system, which greatly reduces reliability. Applicant Rebuttal Statement 7-R, pp. 3-5; Tr. 87, 96.

50. The existing Bedford North-New Baltimore 115 kV Transmission Line, which emanates from the Bedford North Substation, could not meet the requirements for the Project. Although the ROW of the existing Bedford North-New Baltimore 115 kV Transmission Line would be used jointly with the Project for approximately 7.2 miles, the existing line eventually heads south in "a completely different direction" from the Central City West Substation. Tr. 87; Application Exhibit 8, Figure 3-1.

51. Similarly, the Bedford North-Osterburg East 115 kV Transmission Line cannot serve the same function as the Project because it heads north from the Bedford North Substation – away from the Central City West Substation. Application Exhibit 8, Figure 3-1.

52. It would be extremely difficult to upgrade a distribution line, which operates at voltages under approximately 46 kV, to an HV transmission line, which operates at more than 100 kV. Tr. 95-97.

53. The transmission system is structured around Section 215 of the Federal Power Act, 16 U.S.C. § 824o. Section 215 of the Federal Power Act required the FERC, which has jurisdiction over reliability of transmission lines, to certify an electric reliability organization (ERO). The purpose of the ERO is to "establish and enforce reliability standards for the bulk-power system, subject to FERC review." 16 U.S.C. § 824o(a)(2). The ERO certified by FERC is the North American Electric Reliability Corporation (NERC).[9] Applicant Statement No. 2, p. 4.

54. NERC reliability standards are mandatory, and Section 215 of the Federal Power Act, § 824o(e)(1), provides that the FERC-certified ERO may impose penalties on transmission owners for violations of the ERO's (i.e. NERC's) reliability standards. Applicant Statement No. 2, p. 4.

55. The Commission's regulations require that utilities with transmission facilities must adhere to the policies, criteria, requirements and standards of NERC.[10]

56. PJM conducts a Regional Transmission Expansion Plan (RTEP) process on an ongoing basis to determine projects needed in the PJM control area to meet NERC reliability standards. PJM's RTEP is an annual process that undertakes a comprehensive analysis to ensure compliance with all NERC Reliability Standards.[11]

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[9] See Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards, Order No. 672, 71 Fed. Reg. 8,662 (Feb. 17, 2006).

[10] Commission regulations at Section 57.193(a) state:

> An electric distribution company shall install and maintain its transmission facilities, and ensure that its transmission facilities are operated, in conformity with the applicable requirements of the National Electric Safety Code. An electric distribution company shall operate its transmission facilities in conformity with the operating policies, criteria, requirements and standards of NERC and the appropriate regional reliability council, or successor organizations, and other applicable requirements. 52 Pa.Code § 57.193(a).

[11] Application of PPL Elec. Utils. Corp. Filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the Pennsylvania Portion of The Proposed Susquehanna-Roseland 500 kV Transmission Line in Portions of Lackawanna, Luzerne, Monroe, Pike and Wayne Counties, Pennsylvania; Docket No. A-2009-2082652, Order entered Feb. 12, 2010, p. 165.

57. As part of its 2012 and 2013 RTEPs, PJM identified thermal and voltage Planning Criteria violations that could occur on Penelec's (now MAIT's), transmission lines in Pennsylvania. Applicant Statement No. 2, pp. 8-9.

58. Applicant has identified the contingencies that are causing NERC Planning Criteria violations which would be remedied by the Project. Specific occurrences on Applicant's transmission system cause Applicant to violate NERC's "Category C" reliability criteria. Applicant Statement No. 2, pp. 8-9.

59. The NERC Planning Criteria C reliability criteria require that the occurrence of one contingency out of a specified set of contingencies shall not cause thermal loading to exceed thermal ratings or exceed minimum or maximum voltage criteria. Applicant Statement No. 2, p. 7.

60. The transmission system must be built with sufficient strength so that if the existing transmission system suffers a breakdown, or "contingency," such as a faulted circuit breaker, then the remaining transmission system elements will continue to operate reliably and not suffer a reliability breakdown. Applicant Statement No. 2, p. 7.

61. The Project is needed to address violations of thermal and voltage criteria identified under NERC Category C conditions and to provide adequate transmission capacity to meet current and expected customer needs for electric service in and around Bedford County, Pennsylvania. Applicant Statement No. 2, pp. 4-7.

62. NERC Category C requires that the occurrence of any one of a set of specified contingencies[12] shall not cause loadings to exceed the seasonal emergency rating of any facility, violate the maximum voltage deviation, or violate the applicable emergency

[12] The specified contingencies for NERC Category C consist of the loss of any double circuit bulk electric system transmission line, bipolar DC line, faulted circuit breaker, bus section, the combination of events resulting from a line fault coupled with a stuck breaker, or the loss of any single generating unit, transmission line, transformer, circuit breaker, capacitor, or single pole of a bipolar DC line followed by the loss of any single generating unit, transmission line, transformer, circuit breaker, capacitor, or single pole of a bipolar DC line.

minimum or maximum voltage criteria. For purposes of complying with NERC Category C, Applicant adheres to the same voltage deviation and emergency voltage limits employed to comply with NERC Category B contingencies for facilities within the bulk electric system.[13] Applicant Statement No. 2, pp. 21-22.

63. FirstEnergy and PJM have identified Planning Criteria violations in existing facilities which will be alleviated by the Project. As part of the PJM 2013 RTEP, PJM identified thermal loading Planning Criteria violations on Applicant's Allegheny-Somerset 115 kV transmission line. If there were a loss of the Hilltop-Krayn-Rachel Hill 115 kV transmission line and the Cambria Slope-Summit 115 kV transmission line, the Allegheny-Somerset 115 kV transmission line would have to carry loads of approximately 102% of its emergency rating. Applicant Statement No. 2, pp. 7-8.

64. Similarly, the Bedford North-Osterburg East 115 kV Transmission Line cannot serve the same function as the Project because it heads north from the Bedford North Substation – away from the Central City West Substation. Application Exhibit 8, Figure 3-1.

65. Loading on the Bedford North-New Baltimore 115 kV transmission line would also exceed its emergency rating for the following contingencies:

a. A fault on MAIT's Cambria Slope-Jackson Road 115 kV transmission line with a stuck 115 kV circuit breaker at Cambria Slope Substation (which also results in the outage of the Cambria Slope-Johnstown and Cambria Slope-Summit 115 kV lines, the Cambria Slope 115/46 kV transformer, and the generation connected to the Cambria Slope 115 kV bus).

[13] NERC Category B states that the loss of any single generating unit, transmission line, transformer, circuit breaker, capacitor, or single pole of a bipolar DC line, will not cause loading on any bulk electric system facility to exceed the seasonal emergency rating of any facility, violate the maximum deviation, or violate the emergency minimum or maximum voltage criteria. As mentioned above, a voltage reliability criteria violation occurs following an outage when voltage exceeds plus-or-minus 10 percent for facilities (such as the proposed line) that have a nominal voltage of less than 200 kV.

b. A faulted 115 kV bus tie circuit breaker at MAIT's Rachel Hill Substation (which causes outages of the Hooversville-Rachel Hill and Claysburg-Krayn-Rachel Hill 115 kV lines and both 115/23 kV transformers at Rachel Hill).

c. A fault on MAIT's Cambria Slope 115 kV bus (which causes outages of the Claysburg-Krayn-Rachel Hill, Cambria Slope-Jackson Road, and Cambria Slope-Johnstown 115 kV lines, the Cambria Slope 115/46 kV transformer, and the generation connected to the Cambria Slope 115 kV bus).

Statement No. 2, pp. 8-9.

66. The results of PJM's RTEPs in 2012 and 2013 required Penelec to plan to resolve the Planning Criteria violations. Initially, it was determined that reconductoring existing Penelec transmission lines would remedy the thermal loading issues because the new conductors could carry more load without exceeding their design capacity as compared to the existing conductors on the specific lines. Those lines were the Bedford North-New Baltimore 115kV line and the Allegheny-Somerset 115 kV line. Applicant Statement No. 2, p. 10.

67. That solution, however, mitigated only the thermal loading Criteria C violations, not the voltage violations. Applicant Statement No. 2, pp. 10-12.

68. The Project proposed in this proceeding will allow the bulk electric system to operate reliably, provide capacity to serve future anticipated load growth, and mitigates both thermal and voltage violations and adheres to established NERC standards. Applicant Statement No. 2, p. 10.

69. The contingencies, and their resulting impacts on transmission Planning Criteria, that are described above were identified in PJM's generation deliverability test. As explained in PJM Manual 14B, Attachment C, Section C.6, this test "is applied to ensure that capacity is not 'bottled' from a reliability perspective" and "[t]his would require that each electrical area be able to export its capacity, at a minimum, during periods of peak load." Applicant Statement No. 2, p. 9.

70. FirstEnergy considered possible approaches to correct the violations of its thermal and voltage Planning Criteria that had been identified. Applicant Statement No. 2, pp. 9-10.

71. As one approach, FirstEnergy considered replacing the existing Bedford North-New Baltimore and Allegheny-Somerset 115 kV transmission lines with a higher-capacity conductor. Replacing the conductors on these transmission lines would allow the lines to carry more load without exceeding their design capacity. However, this solution would only mitigate the violations of thermal loading Planning Criteria; it would not address the voltage violations. Applicant Statement No. 2, pp. 9-10.

72. In contrast to that alternative, constructing the Project will mitigate both the loading and voltage violations and will have the added benefit of creating a fourth source supplying the Bedford North region. Thus, the Project will allow the bulk electric system to operate reliably, provide capacity to serve future anticipated load growth, and adhere to established NERC standards. Applicant Statement No. 2, p. 10.

73. For those reasons, PJM included the Project in its RTEP. PJM also determined that the cost of the Project should be allocated to Applicant's Transmission Zone. There are no other PJM RTEP Projects that have been completed or are in planning that would eliminate the need for the Project. Applicant Statement No. 2, pp. 11-12.

Health Or Safety Risks

74. The line, as proposed, would be designed and constructed as capable of becoming a double circuit line, although only a single circuit will initially be installed, to operate at 115 kV. Applicant Statement No. 4, p. 5.

75. The Project will be constructed on the centerline of the existing Bedford North-New Baltimore 115 kV Transmission Line for about 40 percent of its length (approximately 7.2 miles of its total 17.6-mile length). In this section of the Project, the

existing ROW is 100 feet in width in some places and 120 feet in width in other places. Application Exhibits 11A and 11B.

76. Upon project completion, the Bedford North-New Baltimore 115 kV line will be re-energized and share the same structures as the Project. Application Exhibit 11A, 11B and 11C.

77. Approximately 10.4 miles of the Project's length will require new 100-foot ROW. Approximately 0.3 miles of the Project's length, where the line traverses the Allegheny Front, will require new 130-foot ROW. Application Exhibit 11C; Application pp. 2-7; Applicant Statement No. 4, pp. 5-6.

78. Preliminary engineering analysis indicates that the Project will require the installation of approximately 144 structures ranging from 50 feet to 145 feet in height above ground level. The average span length is approximately 650 feet. Applicant Statement No. 6, p. 6.

79. Applicant does not anticipate the need for structures other than those shown in Exhibit Nos. 10A through 10J to the Application. However, if the situation arises where the wood pole structures shown on Exhibits 10A, 10B, 10C, and 10J are not structurally adequate, Applicant would use steel pole versions of similar dimensions as the wood poles in order to meet the strength requirements. Applicant Statement No. 4, pp. 6-9.

80. The three conductors will be 795 thousand circular mills (kcmil) 26/7 aluminum conductor, steel reinforced (ACSR). The 26/7 designation indicates the stranding of the conductor, with the 26 representing the outer 26 aluminum wires and the 7 representing the inner 7 steel wires. The shield wires will be one 7#8 alumoweld and one fiber optic. The line will be designed to operate at a maximum design temperature of 212 degree Fahrenheit. The line will meet all current requirements of the National Electric Safety Code (NESC) under all operating conditions, including meeting or exceeding the NESC requirement for minimum

conductor-to-ground clearances of 21 feet (rounded up to nearest foot) under all operating conditions. Applicant Statement No. 4, pp. 11-12.

81. In some areas, the line is designed to consist of two independent single circuit structures that would be installed adjacent to each other when double circuit operation is required in the future. In these areas, only the Bedford North-Central City West 115 kV circuit will initially be constructed, and the other structures will be constructed when the second circuit is needed. However, a section of the new line will rebuild the existing Bedford North-New Baltimore 115 kV Line for about 7.2 miles. In the rebuild area, both circuits will be installed. Applicant Statement No. 4, pp. 6-7.

82. All right-of-way widths will provide the necessary conductor clearances and comply with applicable NESC criteria under all operating conditions.[14] Applicant Statement No. 4, pp. 9-13.

83. The Project will be designed to operate at a maximum design temperature of 212 degree Fahrenheit. The transmission line will meet all requirements of the current NESC under all operating conditions and will be designed to meet or exceed the NESC's minimum requirement of 21 feet conductor-to-ground clearance (rounded up to nearest foot) under all operating conditions. The ROW widths of 100 to 130 feet will provide necessary conductor clearances when considering structure type, span length between supporting structures, conductor sway motion, line voltage, and NESC defined weather conditions. Applicant Statement No. 4, pp. 11-12.

84. A number of landowners raised concerns regarding the spraying of herbicides and pesticides and the potential for these chemicals to affect their health, crops, water supplies and the general safety of these chemicals. Tr. 138-139, 142, 180, 187-189, 204, 212.

[14] Exhibit Nos. 10A through 10J of the Siting Application depict the various types of structures that will be used on the project.

85. Applicant's transmission corridors are on a five-year maintenance cycle with vegetation scheduled to be controlled once every five years. During each scheduled maintenance cycle, any incompatible vegetation on the corridor is identified and a control method is selected. Applicant Statement No. 4, p. 21; Applicant Rebuttal Statement 7-R, p. 7.

86. The choice of control method is based on the anticipated effectiveness, environmental impact, site characteristics, safety, and other factors. Incompatible vegetation refers to all vegetation that may grow tall enough to interfere with overhead electric facilities, impede access and/or affect the ability to visually inspect the transmission corridor from structure to structure to assure continued safe and reliable transmission service. Applicant Rebuttal Statement 7-R, p. 7.

87. All incompatible vegetation must be removed with an herbicide or be removed mechanically along with an herbicide application to prevent re-sprouting. In accordance with the Transmission Vegetation Management (TVM) Program, the only absolute way to control incompatible vegetation is to cut it and treat it with herbicide. If the vegetation is just cut or mowed, the vegetation will re-sprout and regrow denser and faster than before unless herbicides are used to control it. Applicant Rebuttal Statement No. 7-R, p. 7.

88. For new construction projects, all incompatible vegetation on the transmission corridor will be removed and controlled. Additionally, trees adjacent to the ROW will be inspected, and any priority trees will be trimmed or removed based on the tree condition. Any tree with greater than 25 percent of its crown extending into the corridor will be removed consistent with the ANSI A300 standards (Part 1 - (6.1.4 & 7.5.2). Initial clearing of the ROW will include removal of all incompatible vegetation to a width of 100 feet or 120 feet depending on the ROW. Rebuttal Statement No. 7, pp. 7, 13.

89. Applicant will initially clear the ROW to comply with FirstEnergy's vegetation management procedures, which require removing incompatible vegetation within the ROW. Overhanging vegetation will be removed, pruned to the main stem or otherwise controlled to prevent interference with the line. Vegetation that is either within the ROW or is

outside the ROW but has the potential to fall on the line will be cleared. Applicant Statement No. 4, pp. 14-17.

90. Applicant's transmission vegetation management program will comply with all state, federal and local vegetation management standards and will satisfy all the requirements imposed by NERC Reliability Standard FAC-003-3 or update FAC-003-4. Applicant Statement No. 4, p. 19; Applicant Statement No. 8-R, pp. 9-10.

91. The herbicides that Applicant proposes to use have been reviewed and registered for vegetation management by the United States Environmental Protection Agency (EPA). Applicant Rebuttal Statement No. 7-R, p. 12; Applicant Rebuttal Statement No. 8-R, p. 8.

92. All of Applicant's contractors who will apply herbicides are registered and certified as herbicide applicators by the Commonwealth of Pennsylvania. Applicant Rebuttal Statement No. 7-R, p. 12.

93. It is Applicant's standard practice to coordinate with property owners to identify water sources, wells and springs before applying herbicide and to avoid such areas. Applicant Rebuttal Statement No. 8-R, p. 11-12; No. 3R, pp. 5-7. The location of water wells will be confirmed prior to construction and the Project structures will not interfere with water wells on the properties.

94. Herbicide products applied in accordance with manufacturers' recommendations do not migrate beyond the point of application. Applicant Rebuttal Statement No. 8-R, pp. 10-12.

95. Applicant will employ manual vegetation control measures using hand-operated tools; mechanical control measures, such as aerial and equipment-mounted saws, mowers or other devices; and various herbicide application techniques, such as selective basal, stem foliage and cut stubble. Applicant will maintain the Project in accordance with best

management practice (BMP) and FirstEnergy's TVM Program. Applicant's overall goal is to prevent all vegetation-caused service interruptions at the lowest possible cost by removing potentially threatening vegetation at the most advantageous time. Applicant Statement No. 4, pp. 18-21.

96. During scheduled maintenance, Applicant will identify priority trees and will trim or remove those trees based on their condition and its assessment of the amount of work needed to maintain the ROW and the line in proper operating condition. Priority trees include those trees that are dead, dying, diseased, structurally defective, leaning or significantly encroaching such that the transmission facilities are at risk of arcing or falling should the tree or portions of the tree fall near or into the transmission facilities or if the trees continue to grow towards or into the transmission facilities. Applicant Rebuttal Statement No. 7, p. 6.

97. Some properties on or adjacent to the ROW are devoted to agriculture or are open fields. Such areas will not need clearing but may be utilized for access. Some have mixed hardwood stands of oak, hickory, ash, and maple that will need to be cleared within the limits of the ROW. In addition, priority trees located off the ROW will be removed or trimmed. Applicant Rebuttal Statement No. 7, pp. 7, 13.

98. Applicant allows the cultivation of crops in the transmission corridors to the extent that crop cultivation does not impede access to the facilities or pose a reliability risk. Applicant does not encourage property owners to plant trees on the ROW. However, Applicant will allow fruit orchards and Christmas tree cultivation to the extent that they do not impede access to the facilities or pose any potential reliability risk. Typically, the vegetation should be kept to a height of ten feet or less by the property owner. Applicant will meet with the property owners to ensure that the proposed vegetation is compatible. Applicant Rebuttal Statement No. 7-R, pp. 13-14.

99. The products used by Applicant and that Applicant intends to use are registered through the EPA for the use in utility right-of-way management, are commonly used in transmission ROW maintenance and based on the current documentation obtained by

Applicant, the chemicals are not carcinogenic, teratogenic or mutagenic. Tr. 121, 126-127; Applicant Rebuttal Statement No. 8-R, pp 9-10, 12.

100. Applicant's rebuttal witness, Salvatore A. Quattrocchi, is a recognized expert in the field of herbicides and their impact on safety and the environment. Tr. 124.

101. Mr. Quattrocchi is familiar with the herbicides currently intended for use by Applicant, which consist of Garlon 4, Milestone, Polaris and Tordon K. Applicant Rebuttal Statement No. 8-R, p. 4.

102. Species of vegetation that are compatible with a transmission corridor are not treated with herbicides. Compatible species such as grasses or monocots are not controlled by Garlon or Milestone herbicides. Corn, for example, is a species of grass. Tr. 128.

103. Selective single stem application isolates the herbicide treatment. Applicant Rebuttal Statement No. 8-R, p. 7.

104. Applicant's approach of using different herbicides to treat identified incompatible species is consistent with the BMPs for vegetation management. The strategy is considered an industry BMP based on Integrated Vegetation Management (IVM) Principles that are recognized as such within the industry and the scientific community. The safety and efficacy of this approach has been verified by 65 years of research and development data garnered from operational ROW treatments in Pennsylvania Game Lands 33 using multiple herbicides and treatment methods to identify IVM best practices. Applicant Rebuttal Statement No. 8-R, p. 6.

105. In evaluating an application for pesticide registration, the EPA assesses thousands of individual molecule tests assessing environmental fate, mammalian toxicity, chemical mode of action, etc. This screen precludes teratogenic, carcinogenic, mutagenic molecules from being registered. Registration by EPA means that the products/molecules meet or are better than all EPA molecule registration requirements associated with environmental,

mammalian, vertebrates, non-vertebrates, fish, and reptilian research and development standard laboratory practice tests required for an herbicide to be labeled for an ROW application use pattern. Applicant Rebuttal Statement No. 8-R, p. 9.

106. Herbicide products, when applied in accordance with manufacturers' recommendations, do not migrate beyond the point of application. Applicant Rebuttal Statement No. 8-R, p. 11.

107. A representative of Applicant will act as a point of contact during construction. Applicant Rebuttal Statement No. 3-R, pp. 11-12.

108. Applicant will prepare an Erosion and Sediment Control Plan as required by the PADEP to control runoff, erosion and soil migration. Applicant Rebuttal Statement No. 3-R, pp. 11-12.

109. Applicant will work with landowners during construction and maintenance of the Project and will continue to work with landowners regarding the application of herbicides, and will provide prior notice to landowners concerning maintenance. Tr. 119-122.

110. The use of herbicides by Applicant will not prevent the farms from being organic. Tr. 122.

Electric And Magnetic Fields

111. Typical conductor arrangements for each ROW cross-section shown in Exhibits 11A through 11C have been modeled and are reported in this estimate. Application pp. 25-26; Applicant Rebuttal Statement 6-R, pp. 7-10.

112. First Energy Engineer John Toth (Mr. Toth), is an expert on electric and magnetic fields as well as EMF levels.

113. Mr. Toth could not provide a factual statement on health assessments from electric and magnetic fields, concluding there is neither proof that it does cause nor is there proof that it does not cause health risks. Tr. 115.

114. There are no national or Pennsylvania standards for EMFs from power lines or from any other sources and there is no evidence of record to suggest that EMFs from the Project will cause or contribute to adverse health effects. Statement No. 6-R, p. 6.

115. Applicant provided estimates of the EMF strengths for the Project. These estimates were prepared utilizing the Electric Power Research Institute's EMF Workstation 2015 program software. The EMF strengths directly beneath the centerline at mid-span and at the edges of the ROW of the transmission line have been estimated for the normal maximum load of the transmission line at 115 kV, and are provided in the tables below. Typical conductor arrangements for each ROW cross section as shown in Exhibits 11A through 11C have been modeled and are reported in this estimate:

Table 1: EMF Calculations for Proposed Bedford North-Central City West 115 kV and Existing Bedford North-New Baltimore 115 kV 100' Wide Corridor

EMF CALCULATIONS		Electric Field kV/meter	Magnet Field mGauss	Load (Amps) Bedford North-Central City West 115 kV	Load (Amps) Bedford North-New Baltimore 115 kV
100 ft. Existing ROW Normal Loading	Under Lowest Conductors	1.77	47.18	345.9	175
	At Right-of-Way Edges	0.22	19.97/25.33		

Table 2: EMF Calculations for Proposed Bedford North-Central City West 115 kV 100' Corridor

EMF CALCULATIONS		Electric Field kV/meter	Magnet Field mGauss	Load (Amps) Bedford Central City West 115 kV
100 ft. New ROW Normal Loading	Under Lowest Conductors	1.25	41.14	345.9
	At Right-of-Way Edges	0.02/0.21	10.10/21.2	

Application ¶ 61; Applicant Statement No. 6-R, pp. 7-8.

Compliance With Applicable Statutes And Regulations Providing For The Protection Of Natural Resources

116. Applicant will comply with all the permitting and associated environmental regulatory requirements that may be implicated by the Project, as explained in the Siting Application, Exhibit 8. Applicant Statement Nos. 3, 3-R; Applicant Additional Statement No. 3-R, 4 and 4-R.

117. As recommended in the Commission's Interim Guidelines at Section 69.3106, Applicant submitted Exhibit 9, which is a matrix showing all expected federal, state and local governmental regulatory permitting and licensing approvals that may be required for the Project, the agencies involved, the approximate timeline for obtaining the necessary approvals and the current status. Application Exhibit 9.

118. Applicant's regulatory requirements include completing the Pennsylvania Natural Diversity Inventory (PNDI) review for the Project area and consulting with, and

obtaining review by, the Pennsylvania Game Commission[15] concerning possible effects of the Project on species listed by the Game Commission as threatened or endangered. Applicant Additional Rebuttal Statement No. 3-R, p. 9.

119. Applicant has consulted with the Pennsylvania Game Commission regarding the Project. Applicant Statement No. 3; Application Exhibit 9.

120. The effect of the Project on the Allegheny Woodrat, which is listed as a threatened, but not an endangered species by the Pennsylvania Game Commission, was raised as a possible concern by several landowners. Tr. 163-165, 170-171.

121. The Pennsylvania Game Commission's letter of May 2, 2017 (Exhibit BAB-10), like the Game Commission's previous letter of 2015 (Application Exhibit BAB-11), did not mention the Allegheny Woodrat as a species of concern in the Project area. Applicant Statement 3-R; Applicant Additional Rebuttal Statement No. 3-R, p. 9.

Route Selection And Minimization Of Environmental And Other Impacts

122. AECOM prepared, on Applicant's behalf, a comprehensive study of the environmental and other impacts of the Project and assessed viable alternative routes. The results of the study are set forth in the report prepared by AECOM (AECOM Report) which was submitted as Exhibit 8 to the Siting Application. Application, pp. 12-19; Applicant Statement No. 3.

123. Applicant employed a process for its study by: (1) identifying a Study Area; (2) establishing transmission corridor siting criteria and applying accepted screening techniques (including those recommended in the Commission's Interim Guidelines to determine alternative routes for detailed study; (3) evaluating the alternative routes based on their impact

[15] The Pennsylvania Game Commission is the state regulatory agency that has primary jurisdiction to protect species that it has listed as threatened or endangered in Pennsylvania. *See* Section 304 of the Pennsylvania Game and Wildlife Code, 34 Pa.C.S. § 322.

on specific resource categories; and (4) selecting a preferred route for the Project through an objective, quantitative analysis of the impacts of each alternative route. Applicant Statement No. 3, pp. 6-21; Application, p. 18.

124. Applicant addressed other factors relevant to route selection, such as impacts on historic, scenic or wilderness areas, archeological and geologic resources and airports. Application, pp. 12-19; Application Exhibit 8.

125. Applicant established a Study Area encompassing the existing Central City West Substation on the west and the Bedford North Substation on the east with perpendicular lines running north and south through the Substations (Study Area). Application Exhibit 8, Figure 3-1.

126. To the north and south, the Study Area's principal constraints were the Bedford North-New Baltimore East 115 kV line, which forms the southern boundary of the Study Area, and the Gallitzin State Forest, which forms the northern boundary of the Study Area. The Study Area covers approximately 172 square miles in portions of Bedford, Napier, Juniata, East St. Clair, and West St. Clair Townships and the Borough of New Paris, in Bedford County, and Allegheny, Stoneycreek, Shade and Ogle Townships and Central City Borough, in Somerset County. Application Exhibit 8, Figure 3-1.

127. East of the Allegheny Front, the Project's Study Area is located within the Dunning Creek and Shawnee Branch watersheds, both of which drain into the Juniata River, then into the Susquehanna River and eventually into the Chesapeake Bay. West of the Allegheny Front the Project's Study Area is located within the Dark Shade Creek and Clear Shade Creek watersheds, both of which drain into the Conemaugh River, then into the Allegheny and Ohio Rivers and eventually into the Gulf of Mexico. Application Exhibit 8, Section 4.1.4.

128. Applicant developed alternative routes in the Project's Study Area using three main routing opportunities where viable. The first routing opportunity was to replace or upgrade existing lines, which typically minimizes natural and social impacts by keeping the

same ROW, thus eliminating or reducing additional vegetation clearing. For the Project, upgrading the existing Bedford North-New Baltimore 115 kV or the Bedford North-Osterburg East 115 line were viable options, although this opportunity is limited to only specific portions of the Study Area. Application Exhibit 8, Section 5.0.

129. The second routing opportunity is corridor sharing. Corridor sharing pairs the transmission line with existing features, such as roads and gas pipelines. Application Exhibit 8, Section 5.0.

130. The third routing opportunity consists of siting a line on undeveloped or partially developed areas such as forests, fields, and properties used for agricultural purposes. Application Exhibit 8, Section 5.0.

131. Identifying these areas involves assessing parcel boundaries and land uses to define routes that minimize impacts. Application Exhibit 8, Section 5.0.

132. The routing analysis also considered Agricultural Security Areas.[16] Application Exhibit 8, Section 4.2.3; Applicant Rebuttal Statement 3-R, pp. 6-9.

133. The development of a transmission line is not inconsistent with continued use of property for farming. In the eastern portion of the Project's Study Area, some of the affected properties in the ROW of the existing Bedford North-New Baltimore 115 kV line are registered as Agricultural Security Areas, and farming continues to be done on these properties. Applicant Statement No. 3-R, p. 8.

134. In conjunction with the routing analysis, a series of open houses were held to gather information from interested landowners and local officials. The first open house meeting was held at the Shade-Central City High School in Cairnbrook, Pennsylvania, on

[16] The locations of Agricultural Security Areas in the Project's Study Area are shown on Figure 4-5 of Exhibit 8 and on Exhibit BAB-R-1. Exhibit BAB-R-1 was submitted after Exhibit 8 was prepared and adds the Kelley property, which became an Agricultural Security Area after the Siting Application was filed.

Wednesday, January 28, 2015, at which approximately 45 attendees were present, in addition to Applicant's representatives. The second and third open house meetings were held at the Travelodge Bedford in Bedford, Pennsylvania. Approximately 30 persons attended the afternoon meeting, and approximately 24 persons attended the evening meeting. Applicant Statement No. 3, p. 16.

135. The AECOM Routing Team evaluated the potential impact of the six Alternative Routes on the "built" or "man made" environment, such as existing residential, commercial and industrial development; land uses; archaeological and historical areas; recreational and scenic resources; and terrain and landscape. Except for the developed areas surrounding the Bedford and Central City Substations, nearly the entire lengths of the Alternative Routes would cross forested or agricultural areas. The Project is not anticipated to impact any scenic, geologic or wilderness areas. Applicant Statement No. 3, p. 17.

136. The airport closest to the Project is the Bedford County Airport, which is located northeast of the Bedford Substation along US 220. The Bedford County Airport's runway is 5,000 feet long. The runway is located approximately 2,600 feet from Route 1 and 4,750 feet from the Bedford North Substation and from all of the Alternative Routes, which emanate from the Substation. Therefore, Applicant will likely need to file the appropriate documentation with the Federal Aviation Administration and the Pennsylvania Department of Transportation's Bureau of Aviation to ascertain that the Project will not be a hazard to the airport's flight operations. No other airports or heliports were identified within two miles of the Study Area. Applicant Statement No. 3, p. 17.

137. Options other than Route 2, which was selected, would require significantly more new ROW. Although Route 2 crosses within 300 feet of more residences than other options, many of these residences are already located within 300 feet of the existing Bedford North-New Baltimore 115 kV line or are located in the developed areas along the railroad corridor that the Project will parallel through Central City Borough. Therefore, Route 2 is expected to result in minimal incremental impacts to land use, cultural resources and the existing view shed. Applicant Statement No. 3, pp. 16-18.

138. Applicant also considered the impact the alternative routes would have on the natural environment, which include potential impacts to vegetation and habitat, surface waters, and conservation and recreation lands. Potential impacts were evaluated based on publicly available maps and data as well as consultation with federal and state agencies. All six Alternative Routes would cross the forested slopes of the Allegheny Front. Most of the vegetation crossed by the Alternative Routes consists of forest cover. In forested areas, a 100-foot-wide ROW will be maintained in accordance with Applicant's Vegetation Management Program. Approximately seven miles of Route 2 would be constructed within an existing 100-foot-wide ROW that is presently cleared. Therefore, approximately 10 miles of new ROW would need to be cleared to construct this option. Applicant Statement No. 3, p. 18.

139. Field wetland delineations will be conducted for the preferred route and for the necessary access roads in order to determine the exact location of any wetlands or waterways. Applicant anticipates that the Project will be designed and engineered to minimize the impact on wetlands and streams by spanning and avoiding sensitive areas. Applicant will obtain and adhere to all required state and federal permits. Applicant Statement No. 3, pp. 19-20.

140. AECOM's routing study employed a quantitative weighting analysis of the alternative routes. The study assigned a relative weight to specific metrics. For example, proximity to residences was assigned a weight of 25 percent, while proximity to industrial buildings was assigned a weight of 4 percent. Each total value was then applied against the assigned weight for the perspective (35% for the built environment and natural environment, and 30% for engineering considerations). Application Exhibit 8, Table 5-3.

141. Several landowners testified regarding the ability to continue to use their properties as they have for various purposes including farming, recreation, hunting, timber and the opportunity to explore available development options in the future. Tr. 136, 140, 154-155, 162, 176-179, 191-192, 195-197, 209-211, 216-217.

142. The proposed line will result in loss of road frontage and may limit the ability to subdivide the property owned by Martha Lorraine Anderson and John S. Anderson (Anderson property) into lots for homes for family members as was planned. Tr. 136-137, 141.

143. The proposed line will result in the loss of road frontage of the property owned by Fritz Land Holdings LP (Fritz property). Tr. 153-154, 160.

144. Several property owners have raised concerns that the location of the proposed line would alter or prevent future development plans, increase noise and safety concerns and impair the view of and from their properties. Tr. 198-199.

145. The current and future planned use of various properties would likely be impaired to some extent by the Project. Tr. 155-158.

146. Although the Allegheny Wood Rat has been known to establish a habitat within areas of terrain similar to the Allegheny Ridge, no evidence established their presence within the proposed route. Tr. 163-165, 170-171.

147. The Game Commission raised the possibility of the endangered Indiana Bat within the proposed route. Tr. 166-167.

148. The only known source of water for the Anderson property is an artesian well used for the last 18 years where the actual water line would run underneath the contemplated HV line with the well head within 50 feet of the proposed right-of-way. Tr. 138-139, 146-147.

149. Several property owners expressed their concerns about the water flow quantity and water quality of the Anderson well being affected and with the ability to drill a substitute well since multiple attempts have failed. Tr. 138-139, 146-147.

150. Route 2 is shorter, requires fewer angled structures compared to the other Alternative Routes, will require significantly fewer acres of forest clearing and minimizes the number of new stream crossings. Applicant Statement No. 3, pp. 19-21.

151. Applicant would use a significant portion of the existing 115 kV ROW to build a new double-circuit line. Using the existing ROW will greatly minimize the amount of new easements required to build the Project and will significantly reduce the amount of vegetation clearance required, thereby reducing the overall Project cost and environmental impact. Applicant Statement No. 3, pp. 19-21.

152. Route 2 would rebuild existing transmission infrastructure for a significant length, which minimizes changes to the existing view shed compared to constructing an all new transmission line. Applicant Statement No. 3, pp. 19-21.

153. Route 2 would be the least costly of the Alternative Routes. Applicant evaluated the Alternative Routes from a cost perspective based on estimates from siting, real estate, engineering, procurement, and construction. Applicant Statement No. 3, pp. 19-21.

154. Applicant will continue to coordinate with the relevant state and federal agencies to obtain the permits needed to construct the Project. Applicant will adhere to the conditions set forth in those permits. Application Exhibit 9; Applicant Statement No. 3, pp. 19-20.

Eminent Domain

155. Applicant has requested authorization to exercise the power of eminent domain because it could not obtain all the property rights needed to site, construct and/or operate the Project solely by agreements with the affected landowners. Applicant Statement No. 5, pp. 8-46.

156. Applicant originally identified 19 parcels for which it sought the right to exercise eminent domain to obtain property rights to locate and construct the Project. During the course of this proceeding, however, Applicant submitted Petitions to Withdraw eleven of the 19 Eminent Domain Applications because it had reached agreements with the affected landowners to obtain the necessary property rights, or options therefor, over their properties for the Project. Interim Order entered August 31, 2017.

157. The remaining eight parcels, for which Eminent Domain Applications remain active, are as follows:

> A-2016-2565326. Application of [MAIT as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Robin F. Miller & Tammy J. Miller in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North-Central City West 115 kV HV Transmission Line Project.
>
> A-2016-2565344. Application of [MAIT as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Katherine L. Ziegler in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North-Central City West 115 kV HV Transmission Line Project.
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> A-2016-2565360. Application of [MAIT as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Fritz Land Holdings LP in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North-Central City West115 kV HV Transmission Line Project.
>
> A-2016-2565472. Application of [MAIT as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Shirley Huston & Gary E. Lambert in the Shade Township, Somerset County and

Motion for Consolidation with Siting Application for Bedford North-Central City West 115 kV HV Transmission Line Project.

A-2016-2565480. Application of [MAIT as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Martha Lorraine Anderson & John S. Anderson in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North-Central City West 115 kV HV Transmission Line Project.

A-2016-2565504. Application of [MAIT as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Keith A. Lohr in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North-Central City West 115 kV HV Transmission Line Project.

A-2016-2565545. Application of [MAIT as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Albert Stiles in Shade Township, Somerset County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565635. Application of [MAIT as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Vincent Beal in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North-Central City West 115 kV HV Transmission Line Project.

158. Applicant must be able to obtain the necessary ROW over the eight properties that are the subject of the pending Eminent Domain Applications in order to locate, construct and operate the Project and, thereby, relieve the transmission reliability conditions identified by FirstEnergy and PJM, as previously described by Applicant. Consequently,

locating and constructing the Project on the preferred route is necessary for the service, accommodation, convenience or safety of the public. Applicant Statement No. 2; Applicant Statement No. 5; Interim Order entered August 31, 2017.

159. Applicant has attempted to acquire the ROW and easements over the eight tracts of land that are the subject of pending Eminent Domain Applications but has been unable to reach agreements with the property owners. Applicant Statement No. 5, pp. 9-45; Interim Order entered August 31, 2017.

160. Most farming practices should be compatible with the use of the ROW for the Project. Applicant Statement No. 3-R, pp. 7-9.

161. Since the original routing study was completed, the Kelley property has become an Agricultural Security Area. Applicant petitioned to withdraw its Eminent Domain Application for the Kelley property, filed at Docket No. A-2016-2565547, because it reached an agreement with the Kelleys to acquire the necessary ROW across their property for the Project. Applicant's Petition to Withdraw was granted by Interim Order dated May 17, 2017. Applicant Statement No. 3-R, pp. 8-9; Applicant Statement No. 5-R, p. 5; Interim Order entered August 31, 2017.

162. The easements to be obtained by Applicant upon the eight properties for which Eminent Domain Applications are still pending will not be located within 100 meters of a dwelling, nor do the subject properties contain a place of public worship or a burying ground. Applicant Statement No. 5, pp. 9-45; Interim Order entered August 31, 2017.

163. Wetlands exist on several properties identified in the route proposed by Applicant. Tr. 161, 186, 201, 215.

IV. DISCUSSION

A. Summary of the Project

Before discussing the burden of proof and standards for approval of the applications, I will provide a brief summary of the Project. Exhibit Nos. 1 through 21 attached to the Siting Application, include an analysis of alternative routes, an environmental inventory, and aerial photographs of the proposed route.

The Siting Application seeks approval for Applicant to locate, construct, operate and maintain a high-voltage transmission line referred to as the Bedford North-Central City West 115 kV HV Transmission Line Project. The Project involves constructing a new 115 kV transmission line from the existing Applicant-owned Bedford North Substation, located in Bedford Township, Bedford County, Pennsylvania, to the existing Applicant-owned Central City West Substation, located in Central City Borough, Somerset County, Pennsylvania. A portion of the Project will involve rebuilding a section of the existing Bedford North-New Baltimore 115 kV Transmission Line, which is located in Napier, East St. Clair, and Bedford Townships, Bedford County, Pennsylvania. Applicant requested that the Commission approve the Project as a double-circuit, 115 kV transmission line.

The Siting Application states that, on June 19, 2015, Penelec, Met-Ed and MAIT, all of which are subsidiaries of FirstEnergy Corp. filed a Joint Application seeking, *inter alia*, the Commission's approval for Penelec and Met-Ed to transfer their transmission assets and operations to MAIT and for the Commission to issue MAIT a certificate of public convenience to operate as a public utility in Pennsylvania. Subsequently, by its Opinion and Order entered August 24, 2016, the Commission approved the transfer of Penelec's

and Met-Ed's transmission assets and operations to MAIT and granted MAIT a certificate of public convenience as a Pennsylvania public utility.[17]

The transfer of Penelec's and Met-Ed's transmission assets to MAIT was consummated on January 31, 2017. As of that date, MAIT succeeded to Penelec's interests in the provision of transmission service in Pennsylvania, including Penelec's interests in any regulatory filings and proceedings pending before the Commission pertaining to Penelec's transmission assets or operations. On March 16, 2017, Penelec and MAIT filed Amendments to Applications for Siting Approval and for Authorization to Exercise Power of Eminent Domain Substituting Mid-Atlantic Interstate Transmission, LLC, Successor in Interest to Pennsylvania Electric Company, as Applicant, Pursuant to the Final Order entered August 24, 2016 at Docket Nos. A-2015-2488903, et al. By that filing, Penelec and MAIT amended the Siting Application and Eminent Domain Applications to substitute MAIT for Penelec as Applicant and to request that all approvals and certificates of public convenience be granted and issued in the name of MAIT.[18] No party objected to the amendments.

At the time the Siting Application was filed, Penelec provided interstate electric transmission service through facilities it owned in Pennsylvania. Penelec holds a certificate of public convenience as a Pennsylvania public utility and, consequently, the Commission asserted jurisdiction over its siting and construction of HV transmission lines[19] pursuant to Chapter 57, Subchapter G, of the Commission's regulations. Penelec delivers electric power to approximately 586,600 retail customers in a service territory that encompasses about 17,600 square miles within 31 Pennsylvania counties, including Bedford and Somerset Counties. Applicant Main Brief, p. 6.

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[17] Joint Application Of Mid-Atlantic Interstate Transmission, LLC (MAIT); Metropolitan Edison Co. (Met-Ed) And Pennsylvania Elec. Co. (Penelec) for: (1) A Certificate Of Public Convenience Under 66 Pa.C.S. § 1102(A)(3) Authorizing The Transfer Of Certain Transmission Assets From Met-Ed And Penelec To MAIT; (2) A Certificate Of Public Convenience Conferring Upon MAIT The Status Of A Pennsylvania Public Utility Under 66 Pa.C.S. § 102; And (3) Approval Of Certain Affiliate Interest Agreements Under 66 Pa.C.S. § 2102, Docket No. A-2015-2488903 (Aug. 24, 2016).

[18] In light of the amendments to the Siting Application and Eminent Domain Applications, "Applicant" refers generally to MAIT but may refer to Penelec, based on the context in which the term is used.

[19] Transmission lines over 100 kV.

MAIT is a subsidiary of FirstEnergy Transmission, LLC, which, in turn, is a subsidiary of FirstEnergy. The transmission system of FirstEnergy subsidiaries, including MAIT, stretches across seven states and contains approximately 17,000 circuit miles of transmission line. Applicant Rebuttal Statement No. 7-R, p. 3; Applicant Main Brief, p. 6.

The Project involves constructing a 17.6 mile 115 kV transmission line between the Bedford North Substation, located in Bedford Township, Bedford County, and the Central City West Substation, located in the Borough of Central City, Somerset County. Approximately 10.4 miles will require new right-of-way, while the remaining 7.2 miles will be built on the ROW of the existing Bedford North-New Baltimore 115 kV Transmission Line. The Applicant will remove and rebuild this 7.2-mile section of the Bedford North-New Baltimore 115 kV Transmission Line, including its forty-nine (49) existing wooden structures, which will be replaced primarily with two-pole, wooden structures. Application, pp. 3-7. The ROW that forms the corridor of this portion of the Bedford North-New Baltimore 115 kV Transmission Line is 100 feet wide in some areas and 120 feet wide in other areas. Because this ROW has already been cleared of tall vegetation, Applicant asserts that minimal additional vegetation clearing will be needed to construct the Project, significantly less than what would occur if an entirely new ROW were to be employed for this portion of the Project. Applicant Main Brief, p. 7.

The Project will exit the west side of the Bedford North Substation, cross U.S. Route 220 and Interstate 99 (I-99), and extend west for 7.2 miles on the ROW of the existing Bedford North-New Baltimore 115 kV line, which will be rebuilt as a double-circuit transmission line. West of State Route 96, the existing Bedford North-New Baltimore 115 kV line angles to the southwest, while the route proposed for the Project continues in a westerly direction and, in this area, will require new ROW for the remainder of its length. The proposed route crosses forested and agricultural lands for approximately 4.4 miles. At Lambert Mountain Road, the route traverses the 500-foot forested face of the Allegheny Front, extends west into Somerset County, and then crosses an isolated section of Fleegle Road. The proposed route then generally parallels Lambert Mountain Road, following an alignment that Applicant coordinated with the Pennsylvania Game Commission and that Applicant designed to reduce the

number of angles and limit the length of new ROW across these State Game Lands. From the western edge of State Game Lands #228, the route extends 1.5 miles through forested land to the eastern limits of Central City, where it then continues west for 1.7 miles through Central City Borough following an active Norfolk Southern rail line before heading west, along a private access road, into the Central City West Substation. Applicant Main Brief, p. 8.

Of the approximately 17.6 linear miles that will be traversed by the Project, approximately 5.7 miles will be located in Somerset County: (0.6 mile will be located in Central City Borough and approximately 5.1 miles will be located in Shade Township). Approximately 11.9 miles of the Project will be located in Bedford County (approximately 9.3 miles in Napier Township, approximately 0.7 mile in East St. Clair Township, and approximately 1.9 miles in Bedford Township). Applicant Main Brief, pp. 8-9.

The Project is projected to cost $48 million. Construction is scheduled to occur between early 2018 and December 2018. Applicant Statement No. 4, p. 14.

According to Applicant, AECOM Corporation, an engineering and environmental consulting firm, was retained by Applicant to prepare a comprehensive study of the projected environmental and socioeconomic impacts of the Project. The results of the study are set forth in AECOM's report titled "Transmission Line Route Selection Study" (AECOM Report) which was provided as Exhibit 8 to the Application. The line route adopted for the Project is identified as "Alternative Route 2" in the AECOM Report.[20] Alternative Route 2 was selected after obtaining public input from discussions with landowners and from a public open house held at Shade-Central City High School in the Borough of Cairnbrook on January 28, 2015, and from two open houses held at the Travelodge Bedford, near the Borough of Bedford on Thursday, January 29, 2015. Applicant Main Brief, p. 9.

[20] The basis for the final route selection is set forth in Section 6.0 of that Report.

B. Legal Standards

1. Burden of Proof

The proponent of a Commission rule or order has the burden of proof. 66 Pa.C.S. § 332(a). As the applicant in these proceedings, Applicant has the burden of proof to establish that it is entitled to the relief it is seeking. Applicant must establish its case by a preponderance of the evidence. Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n, 578 A.2d 600 (Pa.Cmwlth. 1990), alloc. den., 602 A.2d 863 (Pa. 1992). To meet its burden of proof, Applicant must present evidence more convincing, by even the smallest amount, than that presented by any opposing party. Se-Ling Hosiery v. Margulies, 70 A.2d 854 (Pa. 1950).

2. Standards for Approval of the Siting and Construction of High Voltage Transmission Lines

The Public Utility Code at 66 Pa.C.S. § 1501 requires Applicant to furnish reasonable and adequate service and facilities. The provision states in part:

> § 1501. Character of service and facilities.
>
> Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission . . . .

If Applicant recognizes the need for upgraded transmission facilities and fails to provide adequate facilities, it will violate this statutory requirement. However, Applicant may not upgrade its transmission facilities unless it can show that the upgrade project is necessary or

proper, and that the project complies with the Commission's regulations governing transmission line siting and construction.

The Commission has promulgated regulations regarding the siting and construction of high voltage transmission lines at 52 Pa.Code §§ 57.71-57.77. These regulations provide that a public utility must obtain Commission approval to locate and construct a high voltage transmission line. 52 Pa.Code § 57.71. The siting regulations set forth what the Commission must consider when deciding to approve or deny an application for the siting of a high voltage transmission line. 52 Pa.Code § 57.76. The Commission regulation at 52 Pa.Code § 57.76(a) states:

> § 57.76. Determination and order.
>
> (a) The Commission will issue its order, with its opinion, if any, either granting or denying the application, in whole or in part, as filed or upon the terms, conditions or modifications, of the location, construction, operation or maintenance of the line as the Commission may deem appropriate. The Commission will not grant the application, either as proposed or as modified, unless it finds and determines as to the proposed HV line:
>
> (1) That there is a need for it.
>
> (2) That it will not create an unreasonable risk of danger to the health and safety of the public.
>
> (3) That it is in compliance with applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth.
>
> (4) That it will have minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and the available alternatives.

In cases challenging a utility's siting of HV lines, Pennsylvania appellate courts have held that the Commission should approve a utility's proposed route for a transmission line

where the evidence shows that the utility's route-selection process was reasonable and that the utility properly considered the factors relevant to siting a transmission line:

> [I]t is settled law that the designation of the route for a HV line is a matter for determination by [a utility's] management in the first instance, and the utility's conclusion will be upheld unless shown to be wanton or capricious. Thus, where the record establishes that the utility's route selection was reasonable, considering all the factors, its route will be upheld. The mere existence of an alternative route does not invalidate the utility's judgment. This reasoning is equally sound when considering whether a utility has complied with 52 Pa.Code § 57.72(c)(10), as the information required by this section goes towards establishing the reasonableness of the utility's route selection.[21]

The Commission has held that an applicant has complied with applicable statutes and regulations providing for the protection of the natural resources where the applicant agrees to obtain all environmental permits necessary prior to construction and also agrees to comply with any conditions imposed by those permits during and after construction.[22] Importantly, however, an applicant is not required to obtain all necessary permits either before the Commission may approve the transmission line or before construction of a proposed line begins.[23]

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[21] Energy Conservation Council v. Pa. Pub. Util. Comm'n, 995 A.2d 465, 479-80 (Pa.Cmwlth. 2010), quoted with approval by the Commission in Application of PPL Elec. Util. Corp. Filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the Pennsylvania Portion of The Proposed Susquehanna-Roseland 500 kV Transmission Line, Docket Nos. A-2009-2082652, et al., 2010 Pa. PUC LEXIS 434 (Feb. 12, 2010) ("Susquehanna-Roseland Order").

[22] See e.g., Application of Pennsylvania Elec. Co. For Approval to Locate and Construct the Bedford North-Osterburg East 115 kV HV Transmission Line Project Situated in Bedford and East St. Clair Twps., Bedford County, Pennsylvania, Docket Nos. A-2011-2247862, et al., 2012 Pa. PUC LEXIS 298 at 61 (Initial Decision Feb. 9, 2012); Application of Trans-Allegheny Interstate Line Co. for the Approval to locate, construct, operate and maintain certain high voltage electric transmission line facilities and to exercise the power of eminent domain to construct and to install the proposed aerial electric transmission line facilities along the proposed route, being a 138 kV transmission line and related facilities collectively, the Osage-Whiteley Line Facilities or Project, in portions of Dunkard Twp., Perry Twp., and Whiteley Twp., Greene County in Southwestern Pennsylvania, Docket Nos. A-2010-2187540, et al., 2011 Pa. PUC LEXIS 2028 (Recommended Decision Mar. 28, 2011); Roseland-Susquehanna Order, 2010 Pa. PUC LEXIS 434 at 191-201.

[23] Energy Conservation Council of Pennsylvania v. Pa. Pub. Util. Comm'n, 25 A.3d 440, 452 (Pa.Cmwlth. 2011).

The Commission promulgated its siting regulations to comply with the requirement that it consider environmental impacts, set forth in Article I, Section 27 of the Pennsylvania Constitution which states:

> The people have a right to clean air, pure water and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

The Commission's siting regulations apply a three-part test enunciated in Payne v. Kassab, 312 A.2d 86 (Pa.Cmwlth. 1973). The three-part test established in Payne v. Kassab requires the consideration of the following: 1) Was there compliance with all applicable statutes and regulations relevant to the protection of the Commonwealth's environment; 2) Does the record demonstrate a reasonable effort to reduce the environmental incursion to a minimum; 3) Does the environmental harm which would result from the challenged decision or action so clearly outweigh the benefits to be derived therefrom that to proceed further would be an abuse of discretion. Energy Conservation Council of Pennsylvania v. Pa. Pub. Util. Comm'n, 995 A.2d 465 (Pa.Cmwlth. 2010); Energy Conservation Council of Pennsylvania v. Pa. Pub. Util. Comm'n, 25 A.3d 440 (Pa.Cmwlth. 2011); see, also, Re: Proposed Electric Regulation, 49 Pa. PUC 709 at 712 (1976). The Commission uses this test to determine whether a proposed transmission line having environmental impacts should be approved.

The Commonwealth Court has determined that the Commission should not approve a transmission line unless the electric utility demonstrates that the line is necessary or proper for the accommodation, convenience and safety of its patrons, employees and the public, pursuant to 66 Pa.C.S. § 1501. Pa. Power & Light Co. v. Pa. Pub. Util. Comm'n, 696 A.2d 248, 250 (Pa.Cmwlth. 1997). In applying this standard, the Commonwealth Court held that the Commission should consider the electric power needs of the public, the state of the available technology and the available alternatives, pursuant to 52 Pa.Code § 57.76.

Regarding selection of the route for an electric utility line, the Commonwealth Court stated as follows:

> The applicable legal standards for review of the selection of a route for utility lines are whether the powers conferred upon the public utility have been wantonly, capriciously or arbitrarily exercised. West Penn Power Co. v. Pennsylvania Public Utility Commission, 184 A.2d 143 (1962). The degree of inconvenience to a landowner, therefore, would not constitute grounds for withholding the exercise of the power to condemn the easement, see Stone v. Pennsylvania Public Utility Commission, 162 A.2d 18 (1960), where the record establishes that the utility's route selection was reasonable considering all of the factors involved in the selection of the line.
>
> Paxtowne v. Pa. Pub. Util. Comm'n, 398 A.2d 254, 256 (1979).

Similarly, the Superior Court explained the selection of a route for electric transmission lines as follows:

> Appellant's [affected landowner's] first two contentions are sufficiently answered by our opinion in Phillips v. Pa. P.U.C., [124 A.2d 625 (Pa. Super. 1956)], wherein we restated the well-established proposition that the selection of routes for transmission lines is a matter for the utility in the first instance and, unless it is shown that it proposes to exercise the powers conferred upon it wantonly or capriciously, or that the rights of the landowner have been unreasonably disregarded, the Commission is not required to withhold its approval merely because another route might have been adopted.
> Laird v. Pa. Pub. Util. Comm'n, 133 A.2d. 579, 581 (Pa. Super. 1957).

The Commission has adopted interim guidelines, set forth at 52 Pa.Code §§ 69.3101-69.3107, regarding information that electric utilities should provide with a transmission line siting application, in addition to the information required by 52 Pa.Code §§ 57.71-57.76. The Commission emphasized that these interim guidelines did not alter the legal standards to be met by applicants under the relevant provisions of the Public Utility Code or the regulations at 52 Pa.Code §§ 57.71-57.76. 52 Pa.Code § 69.3101(b).

3. Standards for Approval to Exercise the Power of Eminent Domain

Applicant filed 19 applications requesting that the Commission make a finding and determination, pursuant to 15 Pa.C.S. § 1511(c), that the service to be furnished by Applicant, through its proposed exercise of eminent domain to acquire portions of the lands of various property owners for the siting and construction of the Project, is necessary or proper for the service, accommodation, convenience or safety of the public. The statute at 15 Pa.C.S. § 1511, Section 1511 of the Business Corporation Law of 1988 (BCL), grants a public utility the power or authority to condemn property to provide electricity to the public, stating, in part:

> (a) General Rule. -- A public utility corporation shall … have the right to take, occupy and condemn property for one or more of the following principal purposes and ancillary purposes reasonably necessary or appropriate for the accomplishment of the principal purposes:
> . . .
> (3) The … transmission … distribution or furnishing of … electricity … to or for the public.

Section 1511 of the BCL grants a public utility, such as Applicant, the power and authority to take and condemn property for the purpose of providing electricity to the public.

Section 1511(b) of the BCL, however, restricts the authority of a public utility to take and condemn property for the purpose of providing electricity to the public, stating, in part, as follows:

> The powers conferred by subsection (a) shall not be exercised:
>
> (1) To condemn for the purpose of constructing … aerial electric transmission … lines:
>
> (i) Any dwelling house or, except in the case of any condemnation for petroleum or petroleum products transportation lines, any part of the reasonable curtilage of a dwelling house within 100 meters therefrom and not within the limits of any street, highway, water or other public way or place.

(ii) Any place of public worship or burying ground.

Before a public utility may exercise its statutorily granted authority to condemn property for the purposes of constructing aerial electric transmission facilities, it must obtain approval from the Commission. Section 1511(c) of the BCL states, in part:

> (c) The powers conferred by subsection (a) [for the running of aerial electric facilities] may be exercised to condemn property … only after the Pennsylvania Utility Public Commission, upon application of the public utility corporation, has found and determined … that the service to be furnished by the corporation through the exercise of those powers is necessary for the service, accommodation, convenience or safety of the public.

On an application for condemnation, the Commission must determine whether the transmission or distribution of electricity to or for the public that will be provided if the subject property is condemned, is necessary for the service, accommodation, convenience or safety of the public.

If the record establishes that the public utility's route selection was reasonable, considering all of the factors involved in the selection of a line, the degree of inconvenience to a landowner does not constitute grounds for withholding the exercise of the power to condemn the easement. Paxtowne v. Pa. Pub. Util. Comm'n, supra.

Applicant filed 19 separate applications to exercise the power of eminent domain (Eminent Domain Applications) to obtain property rights for the construction and operation of the Project. At the prehearing conference on December 5, 2016, Applicant moved to consolidate the Siting Application proceeding with the 19 Eminent Domain Applications. No objection was made to the request to consolidate these proceedings. An Interim Order was entered on January 31, 2017 granting Applicant's motion to consolidate the Siting Application proceeding filed at Docket No. A-2016-2565296 with the 19 Eminent Domain Applications filed at Docket Nos. A-2016-2565326, A-2016-2565344, A-2016-2565360, A-2016-2565364, A-2016-2565368, A-2016-2565369, A-2016-2565377, A-2016-2565378, A-2016-2565472,

A-2016-2565480, A-2016-2565502, A-2016-2565504, A-2016-2565509, A-2016-2565543, A-2016-2565545, A-2016-2565547, A-2016-2565549, A-2016-2565635, and A-2016-2565644.

On October 7, 2016, Applicant filed three separate petitions for leave to withdraw and terminate the three above-captioned applications of Applicant to exercise the power of eminent domain to acquire an easement and right-of-way, namely the Frank J. Shenigo, Trustee of the Frank J. Shenigo Revocable Living Trust application, the Kenneth J. Skone and Karen Jane Skone application, and the Brian C. Jones and Traci A. Jones application.

On November 16, 2016, Applicant filed an additional petition, namely the Michael C. Long petition, pursuant to 52 Pa.Code §§ 1.82 and 5.94(c), for leave to withdraw and terminate the Michael C. Long application of Penelec to exercise the power of eminent domain to acquire an easement and right-of-way.

No objections were filed and no objections were raised at the prehearing conference to the four Petitions to Withdraw Eminent Domain Applications of Applicant filed at Docket Nos. A-2016-2565368 (property of Michael C. Long), A-2016-2565377 (property of Frank J. Shenigo, Trustee of the Frank J. Shenigo Revocable Living Trust), A-2016-2565378 (property of Kenneth J. Skone and Karen Jane Skone), and A-2016-2565644 (property of Brian C. Jones and Traci A. Jones). The Petitions were granted by Interim Order entered on January 31, 2017.

On March 13, 2017, Applicant filed three additional petitions for leave to withdraw and terminate the three above-captioned applications of Applicant to exercise the power of eminent domain to acquire an easement and right-of-way, namely the Wilmore Coal Company application filed at Docket No. A-2016-2565369; the Scott M. Andrews and Audrey A. Andrews application filed at Docket No. A-2016-2565543; and the Berwind Corporation application filed at Docket No. A-2016-2565549. An Interim Order was entered on March 20, 2017 which granted the Petitions to withdraw Eminent Domain Applications.

On May 8, 2017, Applicant filed two separate petitions for leave to withdraw and terminate the two above-captioned applications of Applicant to exercise the power of eminent domain to acquire an easement and right-of-way, namely the Dick B. Lohr and Karen G. Lohr application filed at Docket No. A-2016-2565502 and the Kathy R. Kelley and Jeffrey Kelly application filed at Docket No. A-2016-2565547. The Petitions were granted by Interim Order entered on May 17, 2017.

On August 29, 2017, Applicant filed Petitions for Leave to Withdraw the Application to Exercise the Power of Eminent Domain to Acquire an Easement and Right-of-Way Across Property of James B. MacRae, Jr. and Nancy MacRae at Docket No. A-2016-2565364 and property of Robindale Energy Services, Inc. at Docket No. A-2016-2565509. On August 31, 2017, an Interim Order was entered granting the Petitions.

In its Petitions to Withdraw Eminent Domain Applications, Applicant averred that the subject property owners entered into agreements with Applicant for the grant of rights-of-way and easements over and across their land or an option therefor, thereby rendering the subject condemnation applications unnecessary.

C. Need for the Proposed Facilities Pursuant to 52 Pa.Code § 57.76(a)(1)

1. Applicant's Position

Applicant contends that the Project is necessary to maintain reliable service. Applicant asserts that, pursuant to Section 215 of the Federal Power Act, the Federal Energy Regulatory Commission (FERC) has certified the North American Electric Reliability Corporation (NERC) as the electric reliability organization charged with developing and enforcing mandatory reliability standards. The FERC-approved NERC reliability standards are mandatory. Applicant Statement No. 2, p. 4; Applicant Main Brief, p. 17.

Applicant argues the Project is needed to mitigate thermal and voltage reliability criteria violations of both FirstEnergy's and PJM's Planning Criteria that were identified by

PJM's Regional Transmission Expansion Plan (RTEP) analysis. A thermal overload occurs when the amount of power flowing on a transmission line exceeds the rated capability of that line. A voltage reliability criteria violation occurs when, following an outage of facility, the voltage on the facilities that remain in service is outside their minimum or maximum voltage levels or the change in voltage before and after the events exceed plus-or-minus 10 percent for facilities (such as the proposed line) that have a nominal voltage of less than 200 kV. According to Applicant, the Project is needed to address violations of thermal and voltage criteria identified under NERC Category C conditions and to provide adequate transmission capacity to meet current and expected customer needs for electric service in and around Bedford County, Pennsylvania. Applicant Statement No. 2, pp. 4-7.

Applicant asserts that NERC Category C requires that the occurrence of any one of a set of specified contingencies[24] shall not cause loadings to exceed the seasonal emergency rating of any facility, violate the maximum voltage deviation, or violate the applicable emergency minimum or maximum voltage criteria. For purposes of complying with NERC Category C, Applicant adheres to the same voltage deviation and emergency voltage limits employed to comply with NERC Category B contingencies for facilities within the bulk electric system.[25] Applicant Statement No. 2, pp. 21-22.

According to Applicant, FirstEnergy and PJM have identified Planning Criteria violations in existing facilities which will be alleviated by the Project. As part of the PJM 2013 RTEP, PJM identified thermal loading Planning Criteria violations on Applicant's Allegheny-Somerset 115 kV transmission line. If there were a loss of the Hilltop-Krayn-Rachel Hill 115

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[24] The specified contingencies for NERC Category C consist of the loss of any double circuit bulk electric system transmission line, bipolar DC line, faulted circuit breaker, bus section, the combination of events resulting from a line fault coupled with a stuck breaker, or the loss of any single generating unit, transmission line, transformer, circuit breaker, capacitor, or single pole of a bipolar DC line followed by the loss of any single generating unit, transmission line, transformer, circuit breaker, capacitor, or single pole of a bipolar DC line.

[25] NERC Category B states that the loss of any single generating unit, transmission line, transformer, circuit breaker, capacitor, or single pole of a bipolar DC line, will not cause loading on any bulk electric system facility to exceed the seasonal emergency rating of any facility, violate the maximum deviation, or violate the emergency minimum or maximum voltage criteria. As mentioned above, a voltage reliability criteria violation occurs following an outage when voltage exceeds plus-or-minus 10 percent for facilities (such as the proposed line) that have a nominal voltage of less than 200 kV.

kV transmission line and the Cambria Slope-Summit 115 kV transmission line, the Allegheny-Somerset 115 kV transmission line would have to carry loads of approximately 102% of its emergency rating. Additionally, voltage on the 115 kV buses at Bedford North and Snake Springs Substations is less than the Planning Criteria emergency limit of 0.92 per unit specified by applicable Planning Criteria. These violations were identified in a model of expected system conditions for summer 2018. Similar loading on the Allegheny-Somerset 115 kV line occurs with the loss of the Cambria Slope-Summit 115 kV transmission line in combination with the loss of the Claysburg-Krayn 115 kV transmission line. Voltage on 115 kV buses at Bedford North, Claysburg, Curryville, Osterburg East, Saxton, and Snake Springs Substations is below the Planning Criteria emergency limit for this combination of line outages. Applicant Statement No. 2, p. 8; Applicant Main Brief, pp. 18-19.

Applicant asserts that it considered alternatives that would have avoided routing a line over the Allegheny Front. According to Applicant, it considered replacing the existing Bedford North-New Baltimore and Allegheny-Somerset 115 kV Transmission Lines with a higher-capacity conductor.[26] However, Applicant explains that replacing the conductors on those transmission lines would only mitigate the violations of thermal loading Planning Criteria; it would not address the voltage violations. Constructing the Project will address violations of both the thermal and voltage Planning Criteria and will create the added benefit of providing a fourth source of supply into the Bedford North region. Thus, Applicant argues, the Project will allow the bulk electric system to operate reliably, provide capacity to serve future anticipated load growth, and adhere to established NERC standards. Applicant Statement No. 2, p. 10; Applicant Main Brief, p. 21.

2. Opponents' Position Regarding Need for the Project and Applicant's Response

Opponents to the Project argue that Applicant has not offered any evidence describing the significance of the "risk" of thermal overloads or low voltage conditions. The opponents assert there is no mention of the results of the PJM findings, only that an annual

[26] The existing Bedford North-New Baltimore 115 kV line is shown on Figure 3-1 of the AECOM Route Analysis Exhibit No. 8.

Regional Transmission Expansion Plan was prepared to identify system reinforcements needed to satisfy the North American Electric Reliability Corporation promulgated standards. Penelec Application at ¶15 and ¶17; Opponents Reply Brief, p. 7. Opponents to the Project further assert that the Application and the written testimony of Applicant's representatives are silent as to what "certain conditions" would cause potential problems in the system, or the likelihood that those conditions would occur. Opponents Reply Brief, p. 7.

Opponents argue that, without specifics regarding the size of the potential risk of thermal overloads and low voltage conditions as well as a clear statement of what the potential likelihood of the conditions that would lead to those system problems is, it is impossible to determine the necessity of the proposed Project. Opponents Reply Brief, p. 7.

Opponents of the Project suggest that Applicant does not provide "any evidence describing the 'risk' of thermal overloads or low voltage conditions" on the existing transmission system that could impact service reliability. Opponents Main Brief, p. 7.

In its Reply Brief, Applicant explains that it has described in detail the contingencies that could cause a breakdown of reliability in Applicant's transmission system. Applicant Reply Brief, p. 4.

In its Reply Brief, Applicant explains that NERC imposes nationwide reliability standards on RTOs which are FERC-approved entities that control the movement of wholesale electricity across the transmission lines of transmission owners and various other areas in the United States. PJM coordinates the movement of wholesale electricity in Pennsylvania and is responsible for assuring compliance with NERC standards for the bulk electric system within its control area. PJM coordinates electricity movements across transmission owners' transmission lines, including the lines owned by the transmission owner in this proceeding, MAIT.

Applicant explains that PJM and FirstEnergy Transmission Planning have identified NERC Category C thermal and voltage Planning Criteria violations on the Penelec, now MAIT, transmission system. Thermal overloads occur when the flow on a transmission

conductor exceeds the rated loading limits (i.e., thermal rating) of the line causing the transmission line conductor temperature to exceed the conductors' temperature limit. Thermal violations are essentially due to the electrical resistance of a conductor. As current passes through a conductor, the temperature of the conductor increases resulting in increased sagging of the conductor between transmission structures. The increased sag results in decreased clearance to pole, ground, other conductors, buildings, vehicles or any other objects under the line. According to Applicant, this could result in safety concerns due to insufficient clearance and permanent damage to the conductor. A low voltage condition means that the transmission system voltage is outside planning and operating limits. These limits are in place to protect utility and customer equipment and ensure that the transmission system operates reliably under normal and various outage conditions. When voltages at substations are outside the operating limits in real time or under the next contingency (outage) conditions, analogous to a water line not having enough pressure to allow sufficient flow of water, the system voltage may require transmission system operators to reduce demand on the transmission system by shedding customer load to restore proper voltage. Applicant Reply Brief, pp. 6-7.

Applicant explains the Criteria C violations on the then-Penelec transmission system were determined in PJM's 2012 and 2013 RTEPs. In its 2013 RTEP, PJM identified thermal loading Planning Criteria violations on Penelec' s (now MAIT's) Allegheny-Somerset 115 kV transmission line. If there were a loss of the Hilltop-Krayn-Rachel Hill 115 kV transmission line and the Cambria Slope-Summit 115 kV transmission line, the Allegheny-Somerset 115 kV transmission line would have to carry loads of approximately 102% of its emergency thermal rating. Additionally, voltage on the 115 kV substation bus at Bedford North and Snake Springs Substations would be less than the Planning Criteria emergency limit of 0.92 per unit specified by applicable Planning Criteria. These violations were identified in a model of expected system conditions for summer 2018. Similar loading on the Allegheny-Somerset 115 kV line occurs with the loss of the Cambria Slope-Summit 115 kV transmission line in combination with the loss of the Claysburg-Krayn 115 kV transmission line. Voltage on 115 kV buses at Bedford North, Claysburg, Curryville, Osterburg East, Saxton, and Snake Springs Substations is below the Planning Criteria emergency limit for this combination of line outages. Applicant Statement No. 2, p. 8; Applicant Reply Brief, pp. 7-8.

With regard to the existing Bedford North-New Baltimore 115 kV line, Applicant explains that the PJM's 2012 RTEP analysis indicated that, following a fault on the Hilltop-Krayn-Rachel Hill 115 kV transmission line in conjunction with a stuck 115 kV circuit breaker at Krayn Substation (which also results in the outage of the Claysburg-Krayn 115 kV line and the wind generation connected to Krayn Substation), loading on the Bedford North-New Baltimore 115 kV transmission line increases to approximately 107% of its summer emergency rating. Loading on the Bedford North-New Baltimore 115 kV transmission line would also exceed its emergency rating for the following contingencies:

a. A fault on MAIT's Cambria Slope-Jackson Road 115 kV transmission line with a stuck 115 kV circuit breaker at Cambria Slope Substation (which also results in the outage of the Cambria Slope-Johnstown and Cambria Slope-Summit 115 kV lines, the Cambria Slope 115/46 kV transformer, and the generation connected to the Cambria Slope 115 kV bus).

b. A faulted 115 kV bus tie circuit breaker at MAIT's Rachel Hill Substation (which causes outages of the Hooversville-Rachel Hill and Claysburg-Krayn-Rachel Hill 115 kV lines and both 115/23 kV transformers at Rachel Hill).

c. A fault on MAIT's Cambria Slope 115 kV bus (which causes outages of the Claysburg-Krayn-Rachel Hill, Cambria Slope-Jackson Road, and Cambria Slope-Johnstown 115 kV lines, the Cambria Slope 115/46 kV transformer, and the generation connected to the Cambria Slope 115 kV bus). Applicant Statement No. 2, pp. 8-9; Applicant Reply Brief, pp. 8-9.

The results of PJM's RTEPs in 2012 and 2013, according to Applicant, required Penelec to plan to resolve the Planning Criteria violations. Initially, it was determined that

reconductoring existing Penelec transmission lines would remedy the thermal loading issues because the new conductors could carry more load without exceeding their design capacity as compared to the existing conductors on the specific lines. Those lines were the Bedford North-New Baltimore 115kV line and the Allegheny-Somerset 115 kV line. Applicant Statement No. 2, p. 10. That solution, however, according to Applicant, mitigated only the thermal loading Criteria C violations, not the voltage violations. Applicant asserts the Project proposed in this proceeding mitigates both thermal and voltage violations and adheres to established NERC standards. Applicant Statement No. 2, p. 10. Applicant Reply Brief, p. 9.

Applicant further challenges the contention that the Project is not necessary because the Applicant "made no mention within the application or written testimony about prior failures or interruptions to customers currently serviced by existing lines." Applicant Reply Brief, pp. 9-10.

Applicant contends this argument misses the purpose of forward-looking reliability planning conducted by PJM under the NERC reliability standards as well as FirstEnergy's planning criteria, which is to avoid the need to shed load (i.e., disconnect customers) due to outages on the transmission system. Applicant Reply Brief, pp. 9-10.

3. Discussion

Applicant has established that the Project is needed to mitigate thermal and voltage reliability criteria violations of both FirstEnergy's and PJM's Planning Criteria that were identified by PJM's Regional Transmission Expansion Plan analysis. The Project is needed to address violations of thermal and voltage criteria identified under NERC Category C conditions and to provide adequate transmission capacity to meet current and expected customer needs for electric service in and around Bedford County, Pennsylvania. Statement No. 2, pp. 4-7.

NERC Category C requires that the occurrence of any one of a set of specified contingencies shall not cause loadings to exceed the seasonal emergency rating of any facility,

violate the maximum voltage deviation, or violate the applicable emergency minimum or maximum voltage criteria.

FirstEnergy and PJM identified Planning Criteria violations in existing facilities which will be alleviated by the Project. As part of the PJM 2013 RTEP, PJM identified thermal loading Planning Criteria violations on Applicant's Allegheny-Somerset 115 kV transmission line as identified in detail by Applicant. Applicant Statement No. 2, p. 8; Applicant Main Brief, pp. 18-19.

Applicant considered alternatives that would have avoided routing a line over the Allegheny Front, including replacing the existing Bedford North-New Baltimore and Allegheny- Somerset 115 kV Transmission Lines with a higher-capacity conductor.[27] However, replacing the conductors on those transmission lines would only mitigate the violations of thermal loading Planning Criteria, but would not address the voltage violations. Constructing the Project will address violations of both the thermal and voltage Planning Criteria and will also provide a fourth source of supply into the Bedford North region. Applicant Statement No. 2, p. 10.

Applicant witness Marchewka explained that the Central City West Substation is currently served by a single 115 kV line. In the event of an outage on the existing line, the load served by the Substation would need to pass through the underlying distribution system, which greatly reduces reliability. Applicant Rebuttal Statement 7-R, pp. 3-5.

Applicant witness Mattei addressed whether the existing lines could serve the same function as the Project, i.e., connecting the Bedford North Substation and the Central City West Substation. Tr. 87, 96. According to Mr. Mattei, the existing Bedford North-New Baltimore 115 kV Transmission Line, which emanates from the Bedford North Substation, could not meet the requirements for the Project. Although the ROW of the existing Bedford North-New Baltimore 115 kV Transmission Line will be used jointly with the Project for

[27] The existing Bedford North-New Baltimore 115 kV line is shown on Figure 3-1 of the AECOM Route Analysis Exhibit No. 8.

approximately 7.2 miles, the existing line eventually heads south in "a completely different direction" from the Central City West Substation. Tr. 87; Application Exhibit 8, Figure 3-1. Similarly, the Bedford North-Osterburg East 115 kV Transmission Line cannot serve the same function as the Project because it heads north from the Bedford North Substation – away from the Central City West Substation.[28] Mr. Mattei testified that it would be extremely difficult to upgrade a distribution line, which operates at voltages under approximately 46 kV, to an HV transmission line, which operates at more than 100 kV. Tr. 95-97.

Opponents to the Project argue that Applicant has not identified contingencies that could cause a breakdown of reliability in Applicant's transmission system.

The transmission system is structured around Section 215 of the Federal Power Act, 16 U.S.C. § 824o. Section 215 of the Federal Power Act required FERC, which has jurisdiction over reliability of transmission lines, to certify an "electric reliability organization" (ERO). The purpose of the ERO is to "establish and enforce reliability standards for the bulk-power system, subject to FERC review." 16 U.S.C. § 824o(a)(2). The ERO certified by FERC is the North American Electric Reliability Corporation (NERC). Applicant Reply Brief, p. 4.

NERC imposes nationwide reliability standards on RTOs which are FERC-approved entities that control the movement of wholesale electricity across the transmission lines of transmission owners in the United States. PJM coordinates the movement of wholesale electricity in Pennsylvania and other areas, and is responsible for assuring compliance with NERC standards for the bulk electric system within its control area. PJM coordinates electricity movements across transmission owners' transmission lines, including the lines owned by the transmission owner in this proceeding, MAIT.

The NERC reliability standards are mandatory. In addition, the Commission's regulations require that utilities with transmission facilities must adhere to the policies, criteria, requirements and standards of NERC. Commission regulations at Section 57.193(a) state:

[28] See Figure 3-1 of Exhibit 8.

> An electric distribution company shall install and maintain its transmission facilities, and ensure that its transmission facilities are operated, in conformity with the applicable requirements of the National Electric Safety Code. An electric distribution company shall operate its transmission facilities in conformity with the operating policies, criteria, requirements and standards of NERC and the appropriate regional reliability council, or successor organizations, and other applicable requirements.

52 Pa.Code § 57.193(a); Applicant Statement No. 2, p. 4.

Applicant has identified the contingencies that are causing NERC Planning Criteria violations and which will be remedied by the Project. As explained in Applicant witness Marchewka's testimony, specific occurrences on Applicant's transmission system cause Applicant to violate NERC's "Category C" reliability criteria.[29]

The NERC Planning Criteria C reliability criteria require that the occurrence of one contingency out of a specified set of contingencies, such as a faulted circuit breaker, and many other contingences[30] shall not cause thermal loading to exceed thermal ratings or exceed minimum or maximum voltage criteria. As explained by Applicant witness Marchewka, the transmission system must be built with sufficient strength so that if the existing transmission system suffers a breakdown, or "contingency," such as a faulted circuit breaker, then the remaining transmission system elements will continue to operate reliably and not suffer a reliability breakdown.[31]

PJM and FirstEnergy Transmission Planning have identified NERC Category C thermal and voltage Planning Criteria violations on the transmission system.

The Criteria C violations on the then-Penelec transmission system were determined in PJM's 2012 and 2013 RTEPs. In its 2013 RTEP, PJM identified thermal loading

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[29] See Statement No. 2, pp. 8-9; Tr. 95-97.

[30] See Statement No. 2, p. 7.

[31] Applicant Reply Brief, p. 6.

Planning Criteria violations on Penelec' s (now MAIT's) Allegheny-Somerset 115 kV transmission line. Applicant Statement No. 2, p. 8.

With regard to the existing Bedford North-New Baltimore 115 kV line, PJM's 2012 RTEP analysis indicated that, following a fault on the Hilltop-Krayn-Rachel Hill 115 kV transmission line in conjunction with a stuck 115 kV circuit breaker at Krayn Substation (which also results in the outage of the Claysburg-Krayn 115 kV line and the wind generation connected to Krayn Substation), loading on the Bedford North-New Baltimore 115 kV transmission line increases to approximately 107% of its summer emergency rating. Loading on the Bedford North-New Baltimore 115 kV transmission line would also exceed its emergency rating for the contingencies identified in detail by Applicant. Applicant Statement No. 2, pp. 8-9; Applicant Reply Brief, pp. 8-9.

The results of PJM's RTEPs in 2012 and 2013 required Penelec to plan to resolve the Planning Criteria violations. Initially, it was determined that reconductoring existing Penelec transmission lines would remedy the thermal loading issues because the new conductors could carry more load without exceeding their design capacity as compared to the existing conductors on the specific lines. Those lines were the Bedford North-New Baltimore 115kV line and the Allegheny-Somerset 115 kV line. Statement No. 2, p. 10. That solution, however, mitigated only the thermal loading Criteria C violations, not the voltage violations. The Project proposed in this proceeding mitigates both thermal and voltage violations and adheres to established NERC standards. Statement No. 2, p. 10. Thus, the Project satisfies the "need" requirement of Section 57.76(a)(1) of Commission siting requirements, it satisfies the Commission and FERC requirements that utilities adhere to NERC requirements, and it remedies the NERC Category C violations identified in the PJM RTEPs.

The evidence presented by the Applicant fully supports a finding by the Commission that there is a need for the Project and, therefore, the standard set forth in 52 Pa.Code § 57.76(a)(l) is satisfied. The Project is needed to address violations of thermal and voltage criteria identified under NERC Category C conditions as explained herein and to

provide adequate transmission capacity to meet current and expected customer needs for electric service in and around Bedford County, Pennsylvania.

In order to meet its obligations, pursuant to 66 Pa.C.S. § 1501, to provide and furnish reasonable and adequate service and facilities, Applicant has proposed constructing the Project to reinforce the existing transmission network in this region of its service territory and to remedy the Planning Criteria violations in the existing facilities. The Project will address the issues set forth above and allow Applicant to meet its statutory obligations. I conclude that the Project is necessary and proper for the accommodation, convenience and safety of its patrons, employees and the public. My conclusion is consistent with previous Commission and Pennsylvania appellate court decisions.

The Commission has found that new transmission lines were necessary or proper based on evidence similar to that presented in this case. The Commission has previously ruled that new transmission lines were necessary or proper for the accommodation, convenience and safety of its patrons, employees and the public when the existing system violates the utility's reliability guidelines. Application of Trans-Allegheny Interstate Line Company (TrAILCo), Docket Nos. A-110172, et al., (Order entered December 12, 2008) (TrAILCo) and Application of PPL Electric Utilities Corporation Filed Pursuant to 52 Pa.Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the Pennsylvania Portion of The Proposed Susquehanna-Roseland 500 kV Transmission Line in Portions of Lackawanna, Luzerne, Monroe, Pike and Wayne Counties, Pennsylvania, Docket No. A-2009-2082652, et al., (Order entered February 12, 2010) (Susquehanna Roseland). On appeal, the Commonwealth Court affirmed both TrAILCo and Susquehanna Roseland. See, Energy Conservation Council of Pa. v. Pa. Pub. Util. Comm'n, 995 A.2d 465 (Pa.Cmwlth. 2010) (TrAILCo Appeal) and Energy Conservation Council of Pa. v. Pa. Pub. Util. Comm'n, 25 A.3d 440 (Pa.Cmwlth. 2011) (Susquehanna Roseland Appeal).

In TrAILCo, the Commission found that new transmission lines were necessary or proper based on the use of PJM's RTEP and the supporting testimony which detailed the

system stress modeling and projections relating to future NERC standard violations and heavy congestion on transmission lines. Id. at 30-31.

On appeal, the Commonwealth Court noted that, in its Opinion, the Commission was persuaded by the 2006 RTEP and TrAILCo's supporting testimony detailing the system stress modeling and projections relating to twelve future NERC standard violations. TrAILCo Appeal at 472. The Court stated:

> Finally, the PUC's finding that 'the [502 facilities are] needed to address reliability issues and [are] the best alternative available to achieve that result,' is supported by substantial evidence. Here TrAILCo.'s evidence detailed the system stress modeling and projections relating to twelve projected NERC reliability standard violations for the PJM Region if the TrAIL Project, including the 502 facilities, is not constructed. TrAILCo.'s evidence established that the consequences of not constructing the 502 Facilities could severely affect Pennsylvania customers, particularly those in south central Pennsylvania, due to the far-reaching affects of the reliability problems caused by load pockets and overloaded lines. Moreover, TrAILCo.'s evidence, accepted by the PUC, established alternatives suggested by ECC, such as reconductoring and retensioning, address the reliability issues in a piecemeal manner and may not resolve the reliability issues. Conversely, the PUC found that the construction of the 502 Facilities is the best alternative to address the reliability issues demonstrated in the 2006 RTEP.

995 A.2d at 486 (citations omitted). The Court also quoted the Commission's determination based on "heavily congested" lines. Id., *quoting*, TrAILCo at 35. The Court found: "the PUC's finding of public need for the 502 facilities based on documented future NERC reliability violations, and the consequences of those violations, is supported by substantial evidence in the record." Id. at 487.

In Susquehanna Roseland, the Commission found that new transmission lines were necessary or proper based on the transmission planning and analysis procedure used by

PJM and the PJM finding that there existed violations of PJM's reliability planning standards which were required to be addressed. Id. at 55 (PJM's 2008 RTEP identified multiple future reliability violations which the proposal was intended to resolve). On appeal, the Commonwealth Court noted that:

> the 2008 RTEP specifically identified twenty-three NERC Category A and B (single contingency) violations projected to occur beginning in 2012, and twenty-seven NERC Category C5 (double circuit; lower probability event) violations. Accordingly, PJM directed PPL and Public Service Electric and Gas Company (PSE&G) to construct a new line by June 1, 2012.

Susquehanna-Roseland Appeal, 25 A.3d at 443.

There are no material facts in this Application case that dictate a result different from the results reached in the cases cited above. In Susquehanna-Roseland Appeal, need for the new transmission line was established based upon the PJM finding that violations existed related to PJM's reliability planning standards and future reliability violations. Similarly, in the instant case, Applicant has established that the Project is needed to mitigate thermal and voltage reliability criteria violations of First Energy's and PJM's planning criteria.

D. Whether The Project Will Create an Unreasonable Risk of Danger to the Health and Safety of the Public

1. Applicant's Position

The Project will be constructed on the centerline of the existing Bedford North-New Baltimore 115 kV Transmission Line for about 40 percent of its length (approximately 7.2 miles of its total 17.5-mile length). In this section of the Project, the existing ROW is 100 feet in width in some places and 120 feet in width in other places. These ROW widths are shown on Exhibits 11A and 11B. No new ROW would be needed for this section of the line. Once the Project is completed, the Bedford North-New Baltimore 115 kV line will be re-energized and share the same structures as the Project.

Approximately 10.1 miles of the Project's length will require new 100-foot ROW. Approximately 0.3 miles of the Project's length, where the line traverses the Allegheny Front, will require new 130-foot ROW. A representative cross sectional diagram of the 130-foot ROW is shown in Exhibit 11C.

a. Supporting Structures

According to Applicant, preliminary engineering analysis indicates that the Project will require the installation of approximately 144 structures ranging from 50 feet to 145 feet in height above ground level. The average span length is approximately 650 feet. Statement No. 6, p. 6.

Applicant indicates that it anticipates using single and double pole structures composed of either wood or steel. Initially only one circuit will be installed. The conductors for the Project will be installed on one side of the structures in a vertical configuration for all structures except the substation termination structures, which will be configured horizontally. The other side of the structure will be used for future transmission line conductors with similar geometry. In some areas, the line is designed to consist of two independent, single-circuit structures that would be installed adjacent to each other when double circuit operation is required in the future. In these areas, only the Bedford North-Central City West 115 kV circuit will initially be constructed, and the other structure will be constructed when the second circuit is needed. However, a section of the new line will rebuild the existing Bedford North-New Baltimore 115 kV Transmission Line for approximately 7.2 miles. In this area, the structures will support two circuits; one circuit for the Project and a second for Bedford North-New Baltimore 115 kV Transmission Line.[32]

The Applicant does not anticipate the need for structures other than those shown in Exhibit Nos. 10A through 10J to the Application. However, if the situation arises where the wood pole structures shown on Exhibits 10A, 10B, 10C, and 10J are not structurally adequate,

[32] Exhibit Nos. 10A through 10J of Applicant's Application depict the various types of structures that will be used for the Project.

the Applicant would use steel pole versions of similar dimensions as the wood poles to meet the strength requirements. Statement No. 4, pp. 6-9.

b. Conductors and Voltage, Temperature and Other Electrical Parameters

The three conductors will be 795 thousand circular mills (kcmil) 26/7 aluminum conductor, steel reinforced (ACSR). The 26/7 designation indicates the stranding of the conductor, with the 26 representing the outer 26 aluminum wires and the 7 representing the inner 7 steel wires. The shield wires will be one 7#8 alumoweld and one fiber optic. The line will be designed to operate at a maximum design temperature of 212 degree Fahrenheit. The line will meet all current requirements of the NESC under all operating conditions, including meeting or exceeding the NESC requirement for minimum conductor-to-ground clearances of 21 feet (rounded up to nearest foot) under all operating conditions. Applicant Statement No. 4, pp. 11-12.

According to Applicant, the construction specifications for the Project are designed to keep environmental impacts to a minimum. In addition to the implementation of best management practices (BMPs) for erosion control, Applicant's efforts to minimize environmental impacts during the ROW preparation phase of construction will include the following:

1. A copy of the Soil Erosion and Sedimentation Control Plan, along with the appropriate permit forms, will be submitted to the Pennsylvania Department of Environmental Protection (PADEP) and, as necessary, the County Conservation District for approval.

2. BMP for soil erosion measures and sedimentation control will be put in place prior to any earth disturbance.

3. Construction access routes will be installed in accordance with the Soil Erosion and Sedimentation Control Plan. Existing roads, private farm lanes, private forest roads and other similar existing access will be utilized to the extent practical. Where new access routes are needed for

vegetation removal and/or construction, it is preferred that the access remain for future maintenance activities. Any new access roads that are to remain will be stabilized by seeding and installation of water diversion measures. Where it is necessary to remove new access roads after construction, the roads will be re-graded to pre-construction contours and re-vegetated with an appropriate seed mix.

4. Disturbed work areas will be re-vegetated in accordance with the approved Soil Erosion and Sediment Control Plan.

5. Applicant will clear the corridor to the specific width in accordance with the FirstEnergy Initial Clearing of Transmission Lines Specification and the FirstEnergy Detailed Property and Provision List. Trees located outside the ROW that are deemed Priority Trees shall be removed. Priority Trees are defined as trees located adjacent to transmission corridors that are dead, dying, diseased, structurally defective, leaning or significantly encroaching, where the transmission conductor would be a target when a tree fails and will fall or be within proximity of the transmission conductor to potentially flash-over, strike or grow into the conductor. To remove trees and vegetation both on and off ROW, the Applicant will first obtain the necessary rights from the applicable property owners.

Applicant Statement No. 4, pp. 14-17.

In addition, the Applicant's standard specifications for the Project will be modified and/or amended to comply with all terms of the permits that apply to the Project, when required.

Applicant will maintain the Project in accordance with BMPs and FirstEnergy's Transmission Vegetation Management (TVM) Program. Applicant's overall goal is to prevent all vegetation-caused service interruptions at the lowest possible cost by removing potentially threatening vegetation at the most advantageous time. Applicant Statement No. 4, pp. 18-21.

Applicant's transmission corridors are on a five-year maintenance cycle, with vegetation scheduled to be controlled once every five years. During each scheduled maintenance cycle, any incompatible vegetation on the corridor is identified and a control

method is selected. The choice of control method is based on the anticipated effectiveness, environmental impact, site characteristics, safety, and other factors. Incompatible vegetation refers to all vegetation that may grow tall enough to interfere with overhead electric facilities, impede access and/or affect the ability to visually inspect the transmission corridor from structure to structure to assure continued safe and reliable transmission service. Applicant Rebuttal Statement 7-R, p. 7.

During scheduled maintenance, Applicant will also identify priority trees and will trim or remove those trees based on their condition and its assessment of the amount of work needed to maintain the ROW and the line in proper operating condition. Applicant Rebuttal Statement No. 7, p. 6.

All incompatible vegetation will be removed with an herbicide or be removed mechanically along with an herbicide application to prevent re-sprouting. Applicant Rebuttal Statement No. 7-R, p. 7.

All incompatible vegetation on the transmission corridor will be removed and controlled. Additionally, trees adjacent to the ROW will be inspected, and any priority trees will be trimmed or removed based on the tree condition. Initial clearing of the ROW will include removal of all incompatible vegetation to a width of 100 feet or 120 feet depending on the ROW. Some properties on or adjacent to the ROW are devoted to agriculture or are open fields. Such areas will not need clearing but may be utilized for access. Applicant Rebuttal Statement No. 7, pp. 7, 13.

Applicant allows the cultivation of crops in the transmission corridors to the extent that crop cultivation does not impede access to the facilities or pose a reliability risk. The Applicant does not encourage property owners to plant trees on the ROW. However, the Applicant will allow fruit orchards and Christmas tree cultivation to the extent that they do not impede access to the facilities or pose any potential reliability risk. Typically, the vegetation should be kept to a height of ten feet or less by the property owner. Applicant will meet with

the property owners to ensure that the proposed vegetation is compatible. Applicant Rebuttal Statement No. 7-R, pp. 13-14.

Applicant's rebuttal witness, Salvatore A. Quattrocchi, a recognized expert in the field of herbicides and their impact on safety and the environment, testified that he is familiar with the herbicides currently intended for use by the Applicant, which consist of Garlon 4, Milestone, Polaris and Tordon K. Rebuttal Statement No. 8-R, p. 4; Tr. 124.

The Applicant's approach of using different herbicides to treat identified incompatible species is fully consistent with the BMPs for vegetation management. The strategy is considered an industry BMP based on Integrated Vegetation Management (IVM) principles that are recognized as such within the industry and the scientific community. The safety and efficacy of this approach has been verified by 65 years of research and development data garnered from operational ROW treatments in Pennsylvania Game Lands 33 using multiple herbicides and treatment methods to identify IVM best practices. The goal is to provide a stable early successional plant community. Initial work builds the foundation for the future stable successional plant communities. Applicant Rebuttal Statement No. 8-R, pp. 6-7.

The herbicides that Applicant intends to use are commonly used in transmission ROW maintenance and do not present health issues, such as reproductive concerns, teratogenicity or mutagenicity. Applicant Rebuttal Statement No. 8-R, p. 12.

Applicant explained that herbicide products, when applied in accordance with manufacturers' recommendations, do not migrate beyond the point of application. Applicant Rebuttal Statement No. 8-R, p. 11. All contractors used by Applicant for herbicide application are licensed applicators. Applicant Rebuttal Statement No. 7-R, p. 12.

A representative of Applicant will act as a point of contact during construction, and Applicant will prepare an Erosion and Sediment Control Plan as required by the PADEP to control runoff, erosion and soil migration. Applicant Rebuttal Statement No. 3-R, pp. 11-12. Applicant's witness Shawn Standish also testified that Applicant will work with landowners

during construction and maintenance of the Project and will continue to work with landowners regarding the application of herbicides. Mr. Standish further testified that the Applicant will provide prior notice to landowners concerning maintenance and that the use of herbicides by the Applicant will not prevent the farms from being "organic." Tr. 119-122.

With regard to Electric and Magnetic Fields (EMFs) there are no national or Pennsylvania standards for EMFs from power lines or from any other sources and there is no evidence of record to suggest that EMFs from the Project will cause or contribute to adverse health effects. Applicant Statement No. 6-R, p. 6.

The Company employs an EMF mitigation strategy that calls for designing lines to reduce EMFs and to maximize the distance from the centerline of a transmission line to residences. Consistent with the Commission's recommendation in its Interim Guidelines for Transmission Line Siting Applications (Interim Guidelines) at 52 Pa.Code § 69.3107(b), the Company explained the steps it is taking to mitigate the EMF impact of the Project. Specifically, as part of the Company's approach to efficiently constructing a transmission line, all or portions of a transmission line project will typically employ a compact conductor arrangement, which reduces EMF strengths. In addition, the Company's typical transmission line route selection process, which was employed on the Project, evaluates a number of factors to identify the appropriate location for a transmission line. This evaluation process includes identifying and considering residences and locations where large groups of people typically gather, such as schools and places of worship. Although locating the transmission line in close proximity to these types of land uses is not precluded by state or federal rules or guidelines, providing the largest practical distance from residences, schools, places of worship and similar facilities is generally more acceptable to the local community and is an effective way to mitigate EMF. Siting Application pp. 24-25; Applicant Statement No. 6-R.

Applicant provided estimates of the EMF strengths for the Project. These estimates were prepared utilizing the Electric Power Research Institute's EMF Workstation 2015 program software. The EMF strengths directly beneath the centerline at mid-span and at the edges of the ROW of the transmission line have been estimated for the normal maximum

load of the transmission line at 115 kV.[33] Typical conductor arrangements for each ROW cross section as shown in Application Exhibits 11A through 11C have been modeled and are reported in this estimate.

Regarding communication with landowners, Applicant's witness Lisa Marinelli described the Applicant's communications with landowners. Tr. 107. Exhibit No 7 is a list of affected property owners, and Exhibit No. 12 is a copy of the letter from Ms. Marinelli that was provided to all affected property owners in March of 2015 describing the Project, as required by 52 Pa.Code § 57.91 concerning the rights of property owners with regard to eminent domain and property negotiations.

Applicant has been in contact with landowners, as evidenced by its having resolved eleven of the original 19 Eminent Domain Applications by agreements with the landowners. Ms. Marinelli testified that she has been in contact with counsel for many of the landowners who have legal representation, and other Company representatives have been in touch with the remainder. Tr. 109. Ms. Marinelli also testified that the Applicant has provided extensive information to landowners relating to their questions about the line, line routing, structure locations, structure types and heights, and whether the line route could be relocated. Rebuttal Statement No. 5-R, pp. 4-9. She stated that each landowner has been provided a monetary offer by the Applicant for the purchase of the necessary land rights. Tr. 109.

2. Opponents' Position and Applicant's Response

Opponents to the Project argue that Applicant provided evidence about completing all work according to established industry standards and in compliance with all federal, state and local statutes, however, at no time did they specify the safety considerations they plan to address through the Project's design or ultimate construction and maintenance. Opponents argue this requirement was not met within the formal application as required by the Code and accordingly, the application should not be approved until those specifics have been properly presented and addressed.

[33] The EMF strengths are provided in the tables set forth in Applicant Statement No. 6-R, pp. 7-8.

Opponents further argue there is no existing plan or mention of the potential safety issues of the individual landowners. Opponents argue that the landowners testified at the formal hearing regarding their concerns for their personal security caused by the loss of a measure of their privacy as well as the potential for personal liability as a result of trespassers having easier access to their property through the right-of-way corridor. Concerns were raised regarding hunters, all-terrain riders and other individuals trespassing from the adjacent Game Lands and other areas and the potential liability to the landowners. Tr. 159, 180-185, 203, 213.

Additionally, concerns were raised about personal health conditions that might be affected by the Project and its related maintenance. Michael Anderson testified regarding the potential for health issues involving the spraying of herbicides and pesticides and the potential for those chemicals to reach his property's water source which is mere feet from the proposed right-of-way. Tr. 138-139, 142. Gary Lambert expressed apprehension over the spraying of the right-of-way area and the clear-cutting of cherry trees as well as the potential that he would lose his status as a certified organic farmer if Applicant sprays with the chemicals they have proposed. Tr. 180, 187, 189. Additionally, Albert Stiles and Kim Stiles addressed possible long-term neurological health concerns because of proximity to the line to their residence. Tr. 204, 212.

Opponents argue that Applicant's witnesses failed to give a definitive answer regarding the safety of the chemicals to animals or humans. Opponents further argue that Applicant offered no proof that the products used to prevent the growth of vegetation in the right-of-way are certified as safe for human or animal consumption, which would be a high likelihood given the nature of the properties and their proximity, and that Applicant failed to meet its burden of proving its application satisfies all of the necessary requirements prior to approval. Opponents assert that Applicant's Engineer John Toth, an expert on electric and magnetic fields as well as EMF levels, provided no evidence regarding the safety of the line from causing potential health risks and that Mr. Toth could not provide a definitive opinion as to whether the line would be 100% safe for people's health. Tr. 115.

In its Reply Brief, Applicant argues that its witness Mr. Mattei testified extensively about the safety of the Project transmission structures. Applicant Statement No. 4, pp. 4-13. For example, Mr. Mattei explained that: (1) the static lines above the transmission line will protect the line from lightning strikes; (2) the transmission line structures displayed in Exhibit Nos. 10-A through 10-J will comply with applicable engineering and design standards; (3) the vertical configuration of the line will minimize the width of the right-of-way; (4) the line will operate to a maximum design of 212 degrees Fahrenheit to meet all NESC conditions, and to meet conductor-to-ground clearances; and (5) the ROW width would meet all conductor clearances, span length and conductor sway motion, and defined weather conditions of the NESC.

With respect to construction activities, Mr. Mattei explained that all work would comply with Occupational Safety and Health Administration (OSHA) regulations. He further stated that work would not occur on the Project areas unless all necessary permits for the work have been obtained including federal, state and local permits, property releases, and approved special conditions. Applicant Statement No. 4, p. 14.

Mr. Mattei also described safety precautions that would be utilized when clearing and preparing the ROW for construction, including BMPs for erosion control. He stated the Applicant would follow the guidelines of the Pennsylvania Department of Environmental Protection (DEP) Office of Water Management's Erosion and Sediment Pollution Control Program and that soil erosion and sedimentation control plans would be submitted to DEP and the County Conservation Districts, if necessary. Existing roads would be used for access to the Project site to the extent possible to avoid soil disruption and any new access roads would be regraded to pre-construction contours when no longer needed and re-vegetated with an appropriate seed mix. With respect to trees outside the ROW, he stated that Applicant would remove trees that are structurally defective or diseased and which may pose a threat to the line. Applicant Statement No. 4, pp. 14-17.

Applicant witness Lisa Marinelli testified that the Project could create access for unwanted traffic, such as ATVs and hunters, and further stated that the Applicant will work

with landowners to limit ATV and pedestrian traffic along the Applicant's ROW by installing gates, fencing or other measures. Applicant Statement No. 5-R, p. 4. Ms. Marinelli also testified that there are already several access points, such as State Game Land public property and the existing roadway of Lambert Road, that allow entrance to the properties. Such access areas are outside Applicant's control and Applicant cannot control the access of pedestrians such as hunters from entering the landowner tracts. Presumably, to prevent any and all pedestrian and all-terrain vehicle access to properties, a landowner would have to construct their own property perimeter fencing. Applicant Statement No. 5-R, p. 4.

Mr. Lambert expressed concern that the use of herbicides along the Project corridor could jeopardize his status as an "organic farmer." Tr. 180, 187, 190. Applicant witness Shawn Standish testified that the proposed herbicides would not jeopardize organic farming and that Applicant would apply buffer zones so as not to endanger a landowner farm's status as an organic farm. Tr. 122. U.S. Department of Agriculture regulations concerning the National Organic Program for farming with crops sold and labelled as "organic" provide for buffer zones around the crops.[34]

Finally, regarding alleged neurological health issues from the transmission line, Applicant witness John Toth testified that transmission lines are not a common source of EMF exposure. Distribution lines, household wiring and common appliances are the main source of EMF exposure. Mr. Toth compared the EMF exposure expected from the Project to the exposure resulting from common appliances, such as a microwave oven and hairdryer. Applicant Statement No. 6-R, pp. 8-10. Mr. Toth explained that there are no federal or state requirements or exposure limits regarding EMFs. Applicant Statement No 6-R, p. 6.

With respect to landowners' concerns about wells and aquifers, Applicant witnesses Shawn Standish and Salvatore Quattrocchi provided extensive rebuttal testimony about the safety aspects of herbicide use. Mr. Quattrocchi testified that prior to application of herbicides Applicant will coordinate with property owners to identify water sources, wells and

[34] 7 C.F.R. § 205.202 (2010).

springs to avoid such areas. He also testified that the herbicides used will be tailored to the area and conditions. Rebuttal Statement No. 8-R, pp. 11-12. In addition, all herbicides used by Applicant will be approved by the U.S. Environmental Protection Agency and applied according to manufacturer requirements by pesticide applicators that are licensed by the Commonwealth of Pennsylvania. Applicant Rebuttal Statement 7-R, p. 12; Applicant Rebuttal Statement No. 8-R, p. 8.

3. Discussion

The Commission has concluded in other line siting cases that EMFs from transmission lines such as the Project do not pose an unreasonable risk of harm. Significantly, in a 2012 transmission siting case for a companion line to the Project, the Commission also confirmed that conclusion. That case involved the Bedford North-Osterburg East 115 kV Transmission Line, which, like the Project, would operate at 115 kV. The Bedford North-Osterburg East Transmission Line emanates from the Bedford North Substation, as would this Project. In its 2012 case, Penelec presented extensive independent expert testimony on EMF issues. The Initial Decision, which was adopted by the Commission in an Opinion and Order issued on June 7, 2012, concluded that, based on exhaustive expert testimony, the Bedford North-Osterburg East 115 kV Transmission Line would not cause an unreasonable risk from exposure to EMFs.[35]

As explained in Applicant's Main Brief, Salvatore A. Quattrocchi described the process employed by EPA for the registration of herbicides. In evaluating an application for pesticide registration, EPA assesses thousands of individual molecule tests assessing environmental effect, mammalian toxicity, chemical mode of action, etc. EPA's screening precludes teratogenic, carcinogenic, mutagenic molecules from being registered. Registration by EPA means that the products/molecules meet or are better than all EPA molecule registration requirements associated with environmental, mammalian, vertebrates, non-vertebrates, fish, and

[35] Application of Pennsylvania Elec. Co. for Approval to Locate and Construct the Bedford North-Osterburg East 115 kV Transmission Line Situated in Bedford and East S. Clair Twps., Bedford County, Pennsylvania, Docket No. A-2011-2247962, 2012 Pa. PUC LEXIS 298 (Initial Decision Feb. 9, 2012).

reptilian research and development standard laboratory practice tests required for an herbicide to be labeled for an ROW application use pattern. Applicant Rebuttal Statement No. 8-R, p. 9. Research has shown that the chemicals Applicant intends to use are safe and are not carcinogenic, teratogenic or mutagenic. Applicant Rebuttal Statement No. 8-R, pp. 9-10. The herbicides that Applicant intends to use are commonly used in transmission ROW maintenance and do not present health issues, such as reproductive concerns, teratogenicity or mutagenicity. Applicant Rebuttal Statement No. 8-R, p. 12.

Mr. Quattrocchi explained that herbicides will not be applied during rain events or adverse wind or weather conditions. Herbicide products, when applied in accordance with manufacturers' recommendations, do not migrate beyond the point of application. Applicant Rebuttal Statement No. 8-R, p. 11.

Mr. Quattrocchi also explained that it is standard practice to coordinate with property owners in order to identify water sources, wells and springs and avoid those areas when a herbicide is applied. The herbicide products Applicant will use, when applied in accordance with manufacturers' recommendations, do not migrate beyond the point of application. Rebuttal Statement No. 8-R, pp. 10-12.

Based upon the evidence presented, I conclude that Applicant has met its burden of establishing that the Project will not create an unreasonable risk of danger to the health and safety of the public.

E. Compliance With Applicable Statutes and Regulations Providing for the Protection of the Natural Resources of the Commonwealth

1. Applicant's Position

Applicant will comply with all the permitting and associated environmental regulatory requirements that may be implicated by the Project, as fully explained in the Siting Application. Application Exhibit 4; Applicant Statement Nos. 3, 3-R, 4, 4-R, 7-R and 8-R. Additionally, as recommended in the Commission's Interim Guidelines at 52 Pa.Code

§ 69.3106, the Company has provided, as Exhibit 9, a matrix showing all expected federal, state and local governmental regulatory permitting and licensing approvals that may be required for the Project, the agencies involved, and the approximate timeline for obtaining the necessary approvals and their current status.

Exhibit 9 was supplemented by Exhibit BAB-10, sponsored by Penelec witness Barry A. Baker, which is a copy of a letter from the Pennsylvania Game Commission dated May 2, 2017. The letter indicates that the Indiana bat remains a federally listed endangered species in the Project area and, as such, concerns about the bat would be addressed to the U.S. Fish and Wildlife Service (USFWS). The Allegheny Woodrat was an issue of concern for some Opponents of the Project. The Pennsylvania Game Commission's letter, like the Game Commission's previous letter sent in 2015 (Exhibit BAB-11), did not mention the Allegheny Woodrat as a species of concern in the Project area. The Allegheny Woodrat is listed as a threatened, though not an endangered, species by the Pennsylvania Game Commission.

The Pennsylvania Game Commission is the regulatory agency that has primary jurisdiction to protect species that it has listed as threatened or endangered species.[36] As explained by witness Baker, if the Pennsylvania Game Commission had listed the Allegheny Woodrat in its Pennsylvania Natural Diversity Inventory (PNDI) for the Project area, the Applicant would have responded with appropriate avoidance and mitigation measures. Applicant Additional Rebuttal Statement No. 3-R, p. 9.

2. Opponents' Position and Applicant's Response

Opponents argue that Applicant has failed to comply with 52 Pa.Code § 57.72(c)(7), which require a siting application to contain a description of studies which have been made as to the projected environmental impact of the HV line as proposed and of the efforts which have been and which will be made to minimize the impact of the HV line upon the environment and upon scenic and historic areas, including but not limited to impacts, where

[36] See Section 304 of the Pennsylvania Game and Wildlife Code, 34 Pa.C.S. § 322.

applicable, upon land use, soil and sedimentation, plant and wildlife habitats, terrain, hydrology and landscape.

Opponents argue Applicant has failed to adequately provide any specific reference to studies that they have completed which would evaluate the environmental impact of the proposed HV line. Opponents assert that after the initial evaluation of the potential routes, through federal, state and county clearinghouses, Penelec attempts to conduct field studies on the "impact area", however they are limited to the use of public or existing right-of-ways and the feedback of landowners at the community outreach meetings. Tr. p. 69; Opponents Main Brief, pp. 10-11. Opponents argue that given that a large majority of properties along this Project are farms or parcels of significant acreage, it would be impossible without the landowner's permission to adequately evaluate concerns such as hydrology, plant and wildlife habitat and landscape. Tr. 71. Without the grant of access from the landowners, Opponents argue Penelec would have no right to enter portions of the property and could not make a true and satisfactory evaluation of any potential impact from the proposed Project.

Opponents further argue that Applicant evaluated the potential environmental impact by viewing available maps, consulting with federal and state agencies as well as landowners who chose to attend and share information at the community outreach sessions and by viewing properties from public roadways. Tr. pp. 67, 75; Opponents Main Brief, pp. 11-12. Opponents stress that a description of the studies must be completed, prior to the approval of the Application by the Commission and Penelec has either not completed the necessary testing or been unable to complete the testing due to lack of access. Opponents argue that Applicant proposes a route and after obtaining access, conducts the required field tests. Tr. p. 71; Opponents Main Brief, pp. 11-12.

According to Opponents, the Code requires that a description of the tests and studies completed be provided within the application not after the proposed route has been selected, and Penelec does not possess rights to eminent domain and with it the ability to access the property prior to the filing of the declaration of taking until the Commission has issued a Final Order approving the Project. 15 Pa.C.S.A. § 1511(c). Without the ability to fully access

the property and the proposed route, Opponents argue, there is no way an accurate assessment of the potential environmental impact can be made. Opponents contend Penelec has not satisfied the requirement that a description of their relevant studies be included within the application and have not completed the required field studies, calling into question their statements that the route chosen will not present any significant environmental impact. When weighing the lack of reliability of their information due to limitations on the ability to access the properties and applying the burden of proof assigned to the application's approval, Opponents assert Applicant's Application as it is currently proposed must be denied. Opponents Main Brief, p. 12.

In its Reply Brief, Applicant argues that some landowners may not have been aware of communications between the Applicant and landowners' attorney. For example, Applicant witness Marinelli stated that entry was made upon the Fritz Land Holding property by Applicant upon request from Fritz Land Holding's attorney, Mr. Peter Carfley, for the purpose of surveying and staking the proposed center line of the Project. Applicant Rebuttal Statement No. 5-R, p. 6; Applicant Reply Brief, pp. 15-16. Mr. Fritz stated that he denied Applicant access to the Fritz Land Holding property. Tr. 169; Applicant Reply Brief, pp. 15-16. Further, landowner Gary Lambert testified that he denied Applicant access to his property, but that Applicant was "all over my property and stakes were put in…." Tr. 183; Applicant Reply Brief, pp. 15-17.

Applicant argues the use of public outreach meetings sponsored by the Applicant on January 28 and 29, 2015, in Central City and Bedford to gather landowner input and the alterations made to the proposed Project in response to individual landowners should not be understated. For example, Mr. Lambert recognized that the Applicant altered the location of the proposed line to avoid a medicinal elm tree (Tr. 190), and Applicant witness Baker testified that the Project ROW was moved southward to avoid the Allegheny Hawk Watch site. Applicant Rebuttal Statement 3-R, p. 10; Applicant Reply Brief, pp. 17-18.

According to Applicant, Opponents confuse the next-step studies that are required as part of the Project's permit applications (coordinated by DEP and other state

agencies) with those required for the siting analysis. The Commission's siting regulations at 52 Pa.Code § 57.72(c)(7) and (11) indicate that some studies must be complete while other filing obligations of local, state and federal agencies may be ongoing – i.e., an applicant must provide a "list of documents which have been *or are required to be filed* with those agencies about the siting and construction of the proposed HV line." (emphasis added). The initial studies conducted relate to alternatives analysis and were completed for the application and the ongoing environmental studies will be done for the specific permitting of the selected route. The ongoing studies were described in the Route Selection Study, Exhibit 8, Section 6.0 to 6.2.3, as updated with the associated Baker Statement 3, and further expanded on in Baker Rebuttal Testimony Statement No. 3-R; and even further elaborated in the specific discussion about threatened and endangered species included in Applicant Additional Rebuttal Testimony Statement 3-R; Applicant Reply Brief, pp. 19-20.

3. Discussion

Applicant stresses that witness Baker testified that a primary consideration in the siting analysis was the opportunity to use a portion of the existing Bedford North-New Baltimore 115kV line. The use of an existing ROW results in fewer environmental and landowner impacts (Applicant Statement No. 3, pp. 7-8) and Commission guidelines state that the use of an existing ROW should be considered in transmission line siting. 52 Pa.Code § 69.3106(3)(iii). Approximately 40% of the preferred Route 2 is within the existing 115 kV ROW. Application Statement No. 3, p. 17; Applicant Reply Brief, pp. 19-20.

The construction, operation and maintenance of the Project as proposed by Penelec will be in full compliance with applicable statutes and regulations providing for the protection of the natural resources of the Commonwealth. Applicant Statement No. 3; Exhibits 3, 3-R, 4, 4-R, 7-R and 8-R; Applicant Main Brief pp. 37-38.

Consistent with the Commission's interim guidelines at 52 Pa.Code §§ 69.3105 and 69.3106, the attachments to Applicant's filing include information on the regulatory permit requirements and agency coordination regarding environmental resources. The Commission's

interim guidelines require an applicant for the siting of an electric transmission line to file a matrix or list that shows all expected federal, state, and local government regulatory permits and approvals that may be required for the project, at the time of the application, and the current status of permit applications that may be required by those agencies. PPL contends that this information effectively addresses and, in most cases, exceeds all the requirements of the Commission's siting regulations. Applicant Main Brief, pp. 37-38.

Applicant has undertaken an extensive evaluation of the environmental impacts of the available alternative routes for the Project. The construction, operation and maintenance of the Project will be in full compliance with applicable statutes, and regulations providing for the protection of the natural resources of the Commonwealth. Applicant Main Brief, pp. 38. There is no evidence to suggest that it cannot and will not construct and maintain the proposed transmission lines in compliance with applicable environmental laws or regulations.

Applicant has committed to obtain all required permits for construction of the Project, and will comply with any and all conditions placed on such permits by those agencies that have appropriate jurisdiction over environmental matters. Applicant Main Brief, p. 38.

Applicant is not required to obtain all necessary environmental or regulatory permits prior to a Commission decision approving an HV transmission line. The Commonwealth Court has held that permitting by regulatory agencies may continue after the Commission approves the line.[37] There is nothing in the record to suggest that it will be unable to secure the necessary permits or that those permits will be inadequate to prevent compliance with applicable statutes and regulations, or provide for the protection of the natural resources of this Commonwealth.

[37] Energy Conservation Council of Pennsylvania v. Pa. Pub. Util. Comm'n, 25 A.3d 440 (Pa.Cmwlth. 2011). See, also, Application of Pennsylvania Elec. Co. for Approval to Locate and Construct the Bedford North-Osterburg East 115 kV Transmission Line Situated in Bedford and East S. Clair Twps., Bedford County, Pennsylvania, Docket No. A-2011-2247962, 2012 Pa. PUC LEXIS 298 at *61 (Initial Decision Feb. 9, 2012).

Opponents contend that Applicant has not made adequate field studies of the area affected by the Project, including property of affected landowners. Opponents argue that a utility may not gain actual access to a landowner's property prior to approval of the utility's eminent domain application and further argue that "[w]ithout the ability to fully access the property and the proposed route, there is no way an accurate assessment of the potential environmental impact can be made." Opposition Main Brief, p. 12. However, access to private property by a utility or other condemnor for the purpose of taking tests or making surveys is permitted by Section 309 of the Eminent Domain Code prior to the condemnor obtaining a declaration of taking. 26 Pa.C.S. § 309.[38] Opponents seem to assert that a utility could not exercise eminent domain nor obtain siting approval because it could never obtain the physical access to affected properties to conduct studies necessary for an eminent domain application.

Furthermore, as Applicant points out, Commission siting approval is only one aspect, though crucial, of the ongoing project approval process. Numerous federal, state and municipal approvals, permits and notifications are necessary prior to construction, many of which require on-site studies or tests. A list of necessary approvals, permits and notifications is provided in Application Exhibit No. 9.

Applicant points out that its witness Baker, explained that the alternative Project routes were chosen based on multiple data sources such as Geographic Information System (GIS) data in conjunction with field reviews from public ROWs and roads. Tr. 71. The data sources are accepted and typically scientifically peer-reviewed reports and maps that allow for a detailed and thorough comparison of alternative routes. Applicant stresses that the Commission's Interim Guidelines specifically state that applicants should use a "combination of transmission route evaluation procedures, including high-level GIS data." 52 Pa.Code § 69.3105(1). Witness Baker further testified that "[a]fter the initial Alternative Routes were chosen, the Routing Team conducted field investigations of the routes in Spring 2015.

[38] Section 309 of the Eminent Domain Code, titled "Right to enter property prior to condemnation" provides: "Prior to the filing of the declaration of taking, the condemnor or its employees or agents shall have the right to enter upon any land or improvement in order to make studies, surveys, tests, soundings and appraisals." 26 Pa.C.S. § 309. Further, Section 202 of the Eminent Domain Code includes public utilities under the definition of "condemnor." 26 Pa.C.S. § 202.

These investigations involved the visual examination of the Alternative Routes from public roads and other points of public access to identify residences, outbuildings, commercial buildings, and other sensitive receptors (e.g., cemeteries, churches, and schools). Statement No. 3, pp. 9-10. Further evaluations were made to the alignment of the alternative routes based on field analysis. Applicant Statement No. 3, p. 5.

The Transmission Line Route Selection Study (Application Exhibit 8) offers a detailed description of the analysis that was completed to select the preferred alternative route. This Study includes more than two pages of references to the maps, data, and other resource reports that were used in determining the preferred alternative route.[39] These data sources were further augmented by field surveys to identify changes to both the natural and built environments that may have occurred. The public outreach meetings also allowed for additional coordination with landowners when addressing property specific concerns.

The Commission has held that an applicant has complied with applicable statutes and regulations providing for the protection of natural resources where the applicant agrees to obtain all environmental permits necessary prior to construction and agrees to comply with any conditions imposed by those permits during and after construction.[40] The Commonwealth Court has agreed with the Commission's interpretation of the siting regulations that an applicant is not required to obtain all necessary permits prior to Commission approval nor before construction begins.[41]

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[39] See Exhibit 8, Tables 5-1 and 5-2; *see also* Exhibit 8, "List of Tables" and "List of Figures" that appear after the Index to Exhibit 8 and just prior to page 1.

[40] See, e.g., Application of Pennsylvania Elec. Co. For Approval to Locate and Construct the Bedford North-Osterburg East 115 kV HV Transmission Line Project Situated in Bedford and East St. Clair Twps., Bedford County, Pennsylvania, Docket Nos. A-2011-2247862, et al., 2012 Pa. PUC LEXIS 298 at *61 (Initial Decision Feb. 9, 2012); Application of Trans-Allegheny Interstate Line Co. for the Approval to locate, construct, operate and maintain certain high voltage electric transmission line facilities and to exercise the power of eminent domain to construct and to install the proposed aerial electric transmission line facilities along the proposed route, being a 138 kV transmission line and related facilities collectively, the Osage-Whiteley Line Facilities or Project, in portions of Dunkard Twp., Perry Twp., and Whiteley Twp., Greene County in Southwestern Pennsylvania, Docket Nos. A-2010-2187540, et al., 2011 Pa. PUC LEXIS 2028 (Recommended Decision Mar. 28, 2011).

[41] Energy Conservation Council of Pennsylvania v. Pa. Pub. Util. Comm'n, 25 A.3d 440, 452 (Pa.Cmwlth. 2011).

After reviewing the evidence presented regarding compliance with applicable statutes and regulations providing for the protection of natural resources of the Commonwealth, I conclude that Applicant has met its burden to prove that the proposed Project complies with applicable statutes and regulations providing for the protection of natural resources of the Commonwealth, pursuant to 52 Pa.Code § 57.76(a)(3). Applicant has set forth a timeline for obtaining all required permits and licenses and has agreed to address the concerns raised with regard to the Indiana bat issue with USFWS. Furthermore, the use of existing ROWs will result in fewer environmental and landowner impacts. Applicant has also stated that it agrees to obtain any and all necessary environmental permits and to comply with any conditions on those permits during construction. The Commission has previously ruled that this is sufficient to establish compliance with applicable environmental statutes and regulations. Application of Pennsylvania Electric Company For Approval to Locate and Construct the Bedford North-Osterburg East 115 kV HV Transmission Line Project Situated in Bedford and East St. Clair Townships, Bedford County, Pennsylvania, supra.

The facts in this case are not dissimilar to the facts in the case cited above. There are no material facts in this case that dictate a result different from the result reached in the case cited above. For the reason set forth above, I conclude that the proposed Project complies with applicable statutes and regulations providing for the protection of natural resources of the Commonwealth, pursuant to 52 Pa.Code § 57.76(a)(3).

F. Proposed Line's Adverse Environmental Impact, Considering the Electric Power Needs of the Public, the State of Available Technology and the Available Alternatives, Including the Impact and the Efforts Which Have Been and Will Be Made to Minimize the Impact.

1. Applicant's Position

a. Land Use

Applicant asserts that the potential impact of the six Alternative Routes was considered against existing residential, commercial and industrial development, land uses, archaeological and historical areas, recreational and scenic resources, and terrain and landscape.

Except for the developed areas surrounding the Bedford and Central City Substations, nearly the entire length of the Proposed Route (Route 2) and Alternative Routes would cross forested or agricultural areas. Applicant Statement No. 3, p. 17; Applicant Main Brief, pp. 38-39. Approximately 40 percent of Route 2 can be constructed within an existing 115 kV ROW, and Applicant contends it is the shortest, most direct route of all the alternatives. Other options would require significantly more new ROW. According to Applicant, although Route 2 crosses within 300 feet of more residences than other options, most of these residences are located within 300 feet of the existing Bedford North-New Baltimore 115 kV Transmission Line or in the developed areas along the railroad corridor that the Project will parallel through Central City. Therefore, Applicant asserts, Route 2 is expected to result in minimal incremental impacts to land use, cultural resources and the existing view shed. Applicant Statement No. 3, pp. 17-18; Applicant Main Brief, p. 39.

b. Soil and Sedimentation

AECOM conducted an extensive review of soil characteristics in the area of the Project.[42] Applicant indicates that a copy of the Soil Erosion and Sedimentation Control Plan, along with the appropriate permit forms, will be submitted to the PADEP and, as necessary, the County Conservation District for their approval. BMPs for soil erosion measures and sedimentation control will be put in place prior to any earth disturbance. Construction access routes will be installed in accordance with the Soil Erosion and Sedimentation Control Plan. Applicant contends that existing roads, private farm lanes, private forest roads and other similar existing access will be utilized to the extent practical. Where new access routes are needed for vegetation removal and/or construction, it is preferred that the access remain for future maintenance activities. Any new access roads that are to remain will be stabilized by seeding and installation of water diversion measures. Where it is necessary to remove new access roads after construction, Applicant asserts the roads will be re-graded to pre-construction contours and re-vegetated with an appropriate seed mix. Disturbed work areas will be re-vegetated in

[42] See Section 4.13 of Exhibit 8, which also contains a description of soil and sedimentation protection measures.

accordance with the approved Soil Erosion and Sediment Control Plan. Applicant Statement No. 4, pp. 14-17; Applicant Main Brief, pp. 39-40.

c. Plant and Wildlife Habitats

Applicant explains that it has taken extensive measures to preserve and protect plant and wildlife habitats, describes the communications with the Pennsylvania Game Commission and explains the absence of the Allegheny Woodrat from listing on the PNDI report of the Game Commission on the effect of the Project on threatened species. Applicant Main Brief, p. 40.

d. Terrain

Section 4.1.1 of the AECOM Report describes the terrain of the area of the Project. The proposed route and all alternative routes cross the Allegheny Front, which is the abrupt mountain escarpment separating Bedford and Somerset Counties. Applicant Rebuttal Statement 3-R, pp. 8-9; Applicant Main Brief, p. 40.

e. Hydrology

According to Applicant, one high quality stream would be crossed by several of the Alternative Routes including Route 2. However, Route 2 would result in fewer stream and forest impacts due to the generally direct route of this alternative. Applicant asserts the length of wetland crossings would be moderate in comparison to the other alternatives, but would involve several emergent wetlands that would be spanned by the route. Applicant Statement No. 3, p. 18; Applicant Main Brief p. 40.

The surface water, streams, floodplains, lakes, ponds and wetlands in the area of the Project are discussed in Sections 4.1.4 to 4.1.5 of the AECOM Report. The Applicant anticipates that the Project's design and engineering will minimize wetland and stream impacts

by spanning or avoiding sensitive areas. Applicant Statement No. 3, p. 20; Applicant Main Brief, p. 40.

f. Landscape and Allegheny Hawk Watch

Applicant acknowledges that various landowners raised concerns about the effect the Project may have on an area known as the "Allegheny Hawk Watch."[43] Tr. 142, 158, 186. The Hawk Watch is a location at the summit of the Allegheny Front approximately four miles east of Central City. It is a favorite location to view raptors on their annual autumn migration southward. Application Exhibit 8, Section 4.1.9. One witness testified that the owner of the property on which the Hawk Watch is located is a naturalist by the name of Tom Dick (Tr. 186) and that the site is managed by the Allegheny Plateau Audubon Society. Exhibit 8, Section 4.19.[44] AECOM's witness Baker testified that the planned route of the Project was relocated southward to avoid visual impact to the Hawk Watch. Applicant Rebuttal Statement No. 3-R, p. 10; Applicant Main Brief, p. 40.

g. Archeologic Areas

According to Applicant, there are archeologic sites in the area, and the identification and avoidance of the areas that may contain such sites are being coordinated by the Applicant with the Pennsylvania Historic and Museum Commission. Application Exhibit 8, Section 4.4.5; Applicant Main Brief, p. 41.

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[43] Applicant witness Baker sponsored a series of visualizations showing the view looking east into Bedford County from the Hawk Watch and depicting the view without the Project as compared to a visualization after the Project is constructed. Application Exhibit BAB-R-2 through Exhibit BAB-R-11. Applicant asserts that the Project will have minimal, if any, effect on the view shed.[43] Applicant Main Brief, p. 41.

[44] Neither Mr. Dick nor the Audubon Society intervened in this case or otherwise protested the Project.

h. Geologic Areas

According to Applicant, it is not anticipated that the Project will impact any geologically significant areas. Applicant Statement No. 3, p. 17; Applicant Main Brief, p. 41.

i. Historic Areas

Section 4.2.5 of the AECOM Report reviewed 26 cultural resources and five historic districts in the Study Area. Applicant will coordinate with the PHMC to identify and avoid those areas. Applicant Main Brief, p. 42.

j. Scenic Areas

The only scenic area that was raised as an issue was the Allegheny Hawk Watch. Applicant Main Brief, p. 42.

k. Wilderness Areas

It is not anticipated that the Project will impact any wilderness areas. Applicant Statement No. 3, p. 17; Application Exhibit 8, Section 4.1.8; Applicant Main Brief, p. 42.

l. Scenic Rivers

There are no state-listed scenic rivers in the Project Study Area, nor are there any rivers federally listed as wild and scenic rivers by the U.S. National Park Service. Application Exhibit 8, Section 4.1.4; Applicant Main Brief, p. 42.

2. Opponents' Position

Opponents to the Project assert that a siting application must contain a description of studies which have been made as to the projected environmental impact of the

HV line as proposed and of the efforts which have been and which will be made to minimize the impact of the HV line upon the environment and upon scenic and historic areas, including but not limited to impacts, where applicable, upon land use, soil and sedimentation, plant and wildlife habitats, terrain, hydrology and landscape. 52 Pa.Code § 57.72(c)(7). In addition, a description of the efforts of the Applicant to locate and identify archaeologic, geologic, historic, scenic or wilderness areas of significance within 2 miles of the proposed right-of-way and the location and identity of the areas discovered by Applicant must be contained in a siting application. 52 Pa.Code § 57.72(c)(8). Opponents Main Brief, p. 12.

Opponents argue that Applicant has fallen short of its requirements by failing to include sufficient proof of the necessary tests and studies currently completed for which they base their averments that the proposed route will have a minimal overall impact on the current landowners. According to Opponents, without adequate access to all relevant portions of the proposed route, it is impossible to fully comprehend the possible issues. Opponents assert that, among the six different route alternatives, the route selected and presented for approval in their application has the highest number of residences within 300 feet of the proposed center line; has the highest number of housing developments within 300 feet of the proposed center line and has the largest amount of acres currently state-owned or in conservation programs and has the second most linear feet of established wetlands among the options. Opponents Main Brief, pp. 12-13.

a. Land Use

Opponents explain that each of the land owners who testified at the hearing in this proceeding raised issues about the ability to continue to use their properties as they have and the opportunity to explore available development options in the future. In each case, the landowners expressed that the proposed line through their property would present a significant obstacle to their full enjoyment and use of the land. Opponents Main Brief, pp. 12-13.

The owners of the Anderson property, a 130-acre farm used to plant corn, soy beans and hay expressed concern that they will lose significant road frontage and limit the

ability to subdivide the property into lots for homes for family members as was planned. Tr. 136-137, 140-141; Opponents Main Brief, pp. 13-14.

Opponents further contend that the Project will render the Fritz property useless for any future development due to loss of the road frontage. Tr. 153-154, 160; Opponents Main Brief, p. 12-14. Rusty Fritz raised concerns about the ability to resell his property for its full value and the effect of the Project on the Christmas tree farm operation and the use of the property for recreational purposes. Tr. 154-155, 160-162; Opponents Main Brief, p. 14.

The family farm owned by Gary Lambert and Shirley Huston consists of nearly 380 acres with part of it being used for pasture, part for crops and another area for a timber management operation. Opponents argue the route selected will cause a loss of significant timber, a locust grove and a portion of the pasture lands that Mr. Lambert is currently leasing and adversely affect development options that would include timeshare residences and a golf course. Tr. 173-179, 191-192; Opponents Main Brief, p. 14.

The Stiles' property includes a nearly 12,000 square foot log home, which is used by Mr. and Mrs. Stiles as their residence and is valued by the owners in excess of $2.5 million, and the owners indicated they contemplated that 5 or 6 retirement homes would be built along the property's road frontage and the residences would provide assisted living care to the elderly. Tr. 195-197, 206, 209-211, 216-217; Opponents Main Brief, p. 14. Opponents contend this plan is no longer feasible as the only place to adequately build was along the road and the proposed right-of-way does not leave sufficient area between the road and where the line would be located. Stiles Exhibit B; Opponents Main Brief, p. 15.

Additionally, Opponents assert the property is used to mine thin venire stone and was contemplated as a future site for a timber operation and there exists concerns over the loss of a portion of the available stone and the ability to get trucks and heavy equipment to different portions of the property to facilitate the business. Tr. 195, 200-201; Opponents Main Brief, p. 15. Mr. Stiles testified that the location of the proposed line would prevent all of his future development plans while also increasing noise and safety concerns and destroying the view

from his residence that he has put so much work and resources into. Tr. 198-199; Opponents Main Brief, p. 15.

b. Soil and Sedimentation

Opponents argue that Penelec has been unable to complete an adequate assessment of the potential soil and sedimentation impacts to the affected properties. Concerns have also been raised over the potential loss of crops as well as soil erosion caused by the construction and operation of the line and that no study has been done to determine if these concerns are warranted. Tr. 139-140; Opponents Main Brief, p. 15.

c. Plant and Wildlife Habitats

According to Opponents, the Fritz' property is currently designated as a tree farm used in the raising of a crop of Christmas trees which are harvested on a yearly basis. Tr. 151, 155-158; Opponents Main Brief, p. 15. Opponents argue that the vegetation maintenance plan proposed by Penelec would for all intents and purposes render the tree farm unusable. Tr. 157-158; Opponents Main Brief, p. 15. According to Opponents, the proposed Project would cause significant environmental and land use harm to the Fritz Land Holding Company and Applicant attempt to gain approval of its application prior to addressing those issues is in violation of the standards set forth in Chapter 57 of the Pennsylvania Public Utilities Code. Opponents Main Brief, p. 15.

Finally, Opponents contend that a threatened species, the Allegheny Wood Rat, has been known to establish a habitat within areas of terrain similar to the Allegheny Ridge. Tr. 163-165, 170-171; Opponents Main Brief, p. 15.

d. Terrain

Opponents assert that they are without adequate knowledge to debate whether any terrain of their properties would be adversely affected by the proposed route location or the

actual operation of the line, however, contend that Penelec has failed to address this issue or the potential that the proposed Project may have a negative environmental impact on the property's terrain. Opponents Main Brief, p. 16.

e. Hydrology

Michael Anderson testified to the potential damage to his family's water source caused by the proposed line. The lone source of water for the property is an artesian well used for the last 18 years where the actual water line would run underneath the contemplated HV line with the well head within 50 feet of the proposed right-of-way. Opponents raised concerns about the water flow quantity and water quality being affected and the ability to drill a substitute well since multiple other attempts have failed. Tr. 138-139, 146-147; Opponents Main Brief, p. 16.

Several landowners testified regarding concerns that the preferred route for the project will run through wetlands present on their properties. Tr. 161, 186, 201, 215; Opponents Main Brief, pp. 16-17. Opponents argue that Applicant has not been able to fully assess the individual characteristics of the various properties because of lack of access as required by Chapter 57 of the Pennsylvania Public Utility Code. Opponents Main Brief, pp. 16-17.

f. Landscape

Opponents to the Project contend they are without adequate knowledge to debate whether the landscape of their properties would be adversely affected by the proposed route location or the actual operation of the line, but argue Applicant has failed to address this issue or the potential that the proposed Project may have a negative environmental impact on the landscape of their properties. Opponents Main Brief, p. 17.

g. Archeologic Areas

Opponents to the Project contend they are without adequate knowledge to debate whether any archeological areas would be adversely affected by the proposed route location or the actual operation of the line, but argue Applicant has failed to address this issue or the potential that the proposed Project may have a negative environmental impact on any geological areas. Opponents Main Brief, p. 17.

h. Geologic Areas

Opponents to the Project contend they are without adequate knowledge to debate whether any geological areas would be adversely affected by the proposed route location or the actual operation of the line, but argue Penelec has failed to address this issue or the potential that the proposed Project may have a negative environmental impact on any geological areas. Opponents Main Brief, p. 17.

i. Historic Areas

Opponents to the Project contend they are without adequate knowledge to debate whether any historical areas would be adversely affected by the proposed route location or the actual operation of the line, but argue Penelec has failed to address this issue or the potential that the proposed Project may have a negative environmental impact on any historical areas. Opponents Main Brief, p. 17.

j. Scenic Areas and Wilderness Areas

Testimony was presented regarding the Allegheny Front Hawk Watch and the potential impact that the Project and the line's construction specifications would have on the site and the ability of visitors to use the lookout point for recreational bird and nature watching. Tr. 158, 168, 141-142, 144; Opponents Main Brief, p. 17. Opponents raised concerns that the Hawk Watch could be severely impacted should the proposed line be approved and constructed.

Mr. Fritz' testimony estimated the proposed HV line structures at approximately 1000 feet from the physical viewing perch upon the Allegheny Mountains. Tr. 168; Opponents Main Brief, p. 17.

k. Scenic Rivers

Opponents to the Project contend they are without adequate knowledge to debate whether any scenic rivers would be adversely affected by the proposed route location or the actual operation of the line, but argue Penelec has failed to address this issue or the potential that the proposed Project may have a negative environmental impact on any scenic rivers. Opponents Main Brief, p. 18.

3. Applicant's Response

Applicant contends that it has undertaken an extensive evaluation of the environmental and social impacts of the available alternative routes using the siting process outlined above. Applicant further asserts that the route chosen for the Project will have less overall impacts to the natural and human environment than the other feasible alternative routes.

In its Reply Brief, Applicant disputes Opponents claim that "the route selected and presented for approval … has the highest number of housing development within 300 feet of the proposed center line …." Applicant witness Baker recognized that the proposed route is in proximity to more residences than the alternative routes. He explained, however, that the simple reason for the proximity of homes to the preferred route is that almost half of the preferred route runs along an existing 115 kV transmission line and most of the residences in proximity to the preferred route are already in proximity to the existing 115 kV line. Tr. 68, 74; Applicant Reply Brief, p. 21. Additionally, many of the remaining residents are located next to an existing railroad/electric distribution line corridor in Central City. Approximately 40% of the preferred Route 2 can be constructed within the existing 115 kV right-of-way of the Bedford North-New Baltimore Line. Applicant Statement No. 3, p. 17. Mr. Baker stated in direct testimony: "Although Route 2 crosses within 300 feet of more residences than other options,

these residences are located within 300 feet of the existing 115 kV line or in the developed areas along the railroad corridor paralleled through Central City." Applicant Statement No. 3, pp. 17-18; Applicant Reply Brief, p. 21.

With regard to land use, in its Reply Brief, Applicant acknowledges the concerns of the property owners about the alleged diminution of value of their property and the alleged impairment of future improvements. Applicant contends it has made reasonable efforts to accommodate property owners' concerns and will continue to do so. Applicant Reply Brief, p. 25.

Regarding Soil and Sedimentation, Applicant explained that AECOM Corporation, the engineering and consulting firm retained by Applicant for the Project, conducted an extensive review of soil characteristics in the Project area and described numerous soil and sedimentation protection measures that will be employed, and explained that BMPs for soil erosion measures and sedimentation control will be put in place prior to any earth disturbance. Applicant Statement No. 4, pp. 14-17; Applicant Reply Brief, pp. 25-26.

With respect to the concerns of landowner Michael Anderson and other landowners about the potential for damage to wells on his property (Tr. 138-139), Applicant witness Baker offered rebuttal testimony about the effect of the Project on wells and artesian wells. Mr. Baker testified:

> Prior to and during construction, FirstEnergy will design the project to minimize earth disturbance and impacts to infrastructure associated with the project construction to the extent practicable. …. Furthermore, as part of the required permitting process, FirstEnergy will prepare Erosion and Sedimentation Control ("E&SC") plans in accordance with the Pennsylvania Department of Environmental Protection ("PADEP") regulations found at Title 25, Chapter 102 of the PA Administrative Code and consistent with the standards and guidance presented in the PADEP 'Erosion and Sediment Pollution Control Program Manual' issued in March 2012. The E&SC plans will present E&SC Best Management Practice ("BMP") measures that will limit the potential for erosion and sediment migration for the specific work activities. Water treated by the BMPs will then be further filtered during infiltration into the ground further away or upgradient of the well. Similarly, stormwater that infiltrates

> within the disturbed area of the site will also be filtered through the underlying soils. In summary, the act of treating stormwater runoff with E&SC BMPs along with the filtering provided by infiltration will mitigate the potential for sediment to impact the artesian well.

Applicant Rebuttal Statement No. 3-R, pp. 11-12; Applicant Reply Brief, pp. 25-26.

Applicant witness McIntosh also addressed the issue of the wells in his rebuttal testimony (as adopted by Applicant witness Mattei) where he responded that the transmission structures will be placed to avoid interference with wells:

> The location of property owner wells, water lines and related appurtenances will be confirmed prior to construction to avoid damage during construction. Transmission structures planned for these properties will be wood or steel monopoles, with directly-embedded foundations. Installation requires a hole augured to a depth of approximately fifteen feet, with native soils used to backfill around the structure. As such, ground water flow characteristics (quality and volume) would not be affected by these structures.

Applicant Rebuttal Statement No. 4-R, pp. 5-6; Applicant Reply Brief, pp. 25-26.

4. Discussion

A determination must be made as to whether the Project will have minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and the available alternatives pursuant to 52 Pa.Code § 57.76(a)(4).

In determining whether the route of the proposed Project will have minimum adverse environmental impacts, the Commission should consider the impacts that the proposed Project will have consistent with the Commission's regulations at 52 Pa.Code § 57.75 (e)(3) set forth below:

§ 57.75. Hearing and notice.

* * *

(e) At hearings held under this section, the Commission will accept evidence upon, and in its determination of the application it will consider, *inter alia*, the following matters:

(1) The present and future necessity of the proposed HV line in furnishing service to the public.

(2) The safety of the proposed HV line.

(3) The impact and the efforts which have been and will be made to minimize the impact, if any, of the proposed HV line upon the following:

(i) Land use.
(ii) Soil and sedimentation.
(iii) Plant and wildlife habitats.
(iv) Terrain.
(v) Hydrology.
(vi) Landscape.
(vii) Archeologic areas.
(viii) Geologic areas.
(ix) Historic areas.
(x) Scenic areas.
(xi) Wilderness areas.
(xii) Scenic rivers.

(4) The availability of reasonable alternative routes.

The Commission must also consider the availability of reasonable alternative routes in determining whether the proposed route will have minimum adverse environmental impacts. 52 Pa.Code §§ 57.75(d)(4), 57.76(a)(4), Applicant Main Brief, p. 94.

a. <u>Land Use</u>

Applicant's Main Brief discusses in detail the land use impacts of the alternative routes and concludes that Route 2 is expected to result in minimal impacts to land use, cultural resources and the existing view shed. Applicant Statement No. 3, pp. 17-18. Opponents to the Project raise concerns about the possible effects of the preferred route primarily on individual property owners, including possible economic diminution of their property. The

Commonwealth Court and the Commission have held that the "degree of inconvenience to the landowner" would not overcome a showing by the utility that the route selection was reasonable considering all of the factors involved.[45] The selection of the right-of-way is a matter for the public utility in the first instance and, while the route selection must be reasonable, it need not be the "best alternative" in terms of eliminating inconvenience to particular landowners.[46] Many of the concerns may be addressed when property value is determined in later eminent domain proceedings. The scope and validity of monetary damages is determined by the county courts after the Commission has determined that a project is necessary and proper.[47]

Concerns were raised regarding the Project's effect on the property of Martha and John Anderson (Anderson Property) concerning a loss of road frontage and limitations to the owners' ability to subdivide the property into lots. Mr. Anderson testified that the transmission line would interfere with the view from his property. Tr. 141. Applicant witness Marinelli testified that only the north-westerly corner of the Anderson property (a portion of the Anderson road frontage along Anderson Road) would be crossed by the Project. She also explained that the Andersons did not request a re-routing of the Project. Ms. Marinelli further testified that while the Andersons stated that the Project could affect their wells, they did not provide the location of the wells to the Applicant. Applicant indicated that when the locations are provided, the Applicant will take precautionary measures to protect the wells during construction and later maintenance. Applicant Rebuttal Statement No. 5-R, pp. 8-9; Applicant Statement No. 5; Anderson Exhibit 1A; Applicant Reply Brief, pp. 23-24.

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[45] Stone v. Pa. Pub. Util. Comm'n, 162 A.2d 18 (Pa. Super. 1960); See Application of PPL Elec. Utils. Corp. 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 and Easement Over and Across the Lands of Michael and Logan Wendt in Perry Twp., Snyder County, Pennsylvania for the proposed Richfield-Dalmatia 69 kV Transmission Tie Line is Necessary or Proper for the Service, Accommodation, Convenience or Safety of the Public. (Docket No. A-2011-2267349, Order entered Jul. 16, 2013).

[46] For example, in Paxtowne v. Pa. Pub. Util. Comm'n, 398 A.2d 254 (Pa.Cmwlth. 1979), the route selected by the utility was affirmed and the Court held that although the proposed route impacted a landowner's property, when balanced against the utility's evidence, there was no indication that the utility's selection of the route was wanton, capricious or arbitrary.

[47] Fairview Water Co. v. Pa. Pub. Util. Comm'n, 502 A.2d 162 (Pa. Supreme Ct. 1985); SEPTA v. Pa. Pub. Util. Comm'n, 991 A.2d 1021 (Pa.Cmwlth. 2010).

Opponents further argue that the property of Fritz Land Holdings (Fritz Property) will lose value because of a loss of road frontage and an alleged inability to resell the property at full value. Applicant witness Marinelli testified that Fritz Land Holdings has repeatedly refused to permit Applicant to enter the property except for one instance for the limited purpose of staking the Project centerline. Applicant Rebuttal Statement No, 5-R, pp. 4-6. Mr. Russell Fritz, a partner of Fritz Land Holdings, testified that the property is used as a Christmas tree farm. Tr.154-157. With respect to concerns that the Project will impair a Christmas tree farm, the evidence established that Christmas trees are permitted in the transmission ROW, upon consultation with the utility. Applicant Rebuttal Statement No. 7, pp. 13-14; Applicant Reply Brief, p. 24.

Opponents contend that the property owned by Gary Lambert and Shirley Huston (Lambert Property or Lambert Huston Property) will be impaired due to the possible loss of landowners' ability to develop a golf course and timeshare residences on their property, and an economic loss of pasture and cropland. Applicant witness Marinelli testified that Gary Lambert, on behalf of the property of Lambert and Huston, requested a relocation of the Project such that the affected area would be along a property line in common with the Pennsylvania Game Commission property. The relocation was accepted by the Applicant and is now part of the preferred Route.[48] Applicant Statement No. 5-R, pp. 6-7; Applicant Reply Brief, p. 24.

Opponents further argue that the 12,000-foot log home of Albert Stiles (Stiles Property) will lose value, which the owners estimate at $2.5 million. The Stiles also raised concerns regarding the potential impairment of their venire stone mining operation at the property. Applicant witness McIntosh testified that mining within the Project corridor would not be prohibited if it followed the Applicant's restrictions. Applicant Rebuttal Statement No. 4-R, p. 5. With regard to the concern that the Project would impair plans to develop five or six retirement homes and an assisted living facility on the property, Mr. Stiles stated that the plans are indefinite. Tr. 206. Applicant witness Marinelli testified that the Applicant considered Mr. Stiles' request to relocate the Project away from his property but that the relocation would have

[48] The route has not yet been purchased by Applicant nor removed from its application for eminent domain. Rebuttal Statement No. 5-R, pp. 6-7.

affected the Pennsylvania State Game Lands and the Pennsylvania Game Commission declined the relocation. Applicant Rebuttal Statement No. 5-R, p. 6; Applicant Reply Brief, p. 25.

b. Soil and Sedimentation

The evidence in this proceeding established that AECOM Corporation, the engineering and consulting firm retained by Applicant for the Project, conducted a review of soil characteristics in the Project area and described numerous soil and sedimentation protection measures that will be employed. Applicant has agreed that a copy of the Soil Erosion and Sedimentation Control Plan, along with the appropriate permit forms, will be submitted to DEP and, as necessary, to the County Conservation Districts for their approval. BMPs for soil erosion measures and sedimentation control will be put in place prior to any earth disturbance. Applicant Statement No. 4, pp. 14-17; Applicant Reply Brief, pp. 25-26. Further, the erosion issues raised by Michael Anderson (Tr. 139-140) will be addressed in the Soil Erosion and Sedimentation Control Plans to be submitted to DEP.

c. Plant and Wildlife Habitats

Applicant described its efforts to preserve and protect plant and wildlife habitats as well as its communications with the Pennsylvania Game Commission regarding the absence of the Allegheny Woodrat from listing on the Pennsylvania Natural Diversity Index (PNDI) report of the Game Commission on the effect of the Project on threatened species. The issue of the Allegheny Woodrat was extensively discussed in the testimony of Applicant witness Baker. Applicant Additional Rebuttal Statement 3-R. Mr. Baker testified that the Pennsylvania Game Commission has primary jurisdiction to protect species it has listed as "threatened," such as the Allegheny Woodrat, and that the Game Commission has not stated that the Project will affect the Allegheny Woodrat. Further, if the Game Commission notifies the Applicant that the Game Commission considers the species to be affected by the Project, the Applicant will take remedial and avoidance measures in consultation with the Game Commission. Applicant Rebuttal Statement 3-R; Applicant Reply Brief, p. 25-26. In addition, the Christmas tree operations of the property of Fritz Land Holding is compatible with the Project because Christmas trees are

permitted in the transmission ROW, upon consultation with the utility. Applicant Rebuttal Statement No. 7, pp. 13-14; Applicant Reply Brief, p. 26.

d. Terrain

As Applicant points out, Section 4.1.1 of the AECOM Report describes the terrain of the area of the Project. Applicant Rebuttal Statement 3-R, pp. 8-9. The proposed route and all alternative routes cross the Allegheny Front, which is the abrupt mountain escarpment separating Bedford and Somerset Counties. Applicant Rebuttal Statement 3-R, pp. 8-9; Applicant Main Brief, p. 40.

e. Hydrology

Applicant's Main Brief discusses hydrology and Applicant's studies concerning hydrology of the Project area. The Applicant anticipates that the Project's design and engineering will minimize wetland and stream impacts by spanning or avoiding sensitive areas. Applicant Statement No. 3, p. 20. The evidence establishes that one high quality stream would be crossed by several of the Alternative Routes including Route 2. However, Route 2 would result in fewer stream and forest impacts due to the generally direct route of this alternative. The length of wetland crossings would be moderate in comparison to the other alternatives, but would involve several emergent wetlands that would be spanned by the route. Applicant Statement No. 3, p. 18; Applicant Main Brief, p. 40.

Issues were raised by various landowners concerning the potential for damage to wells on their property Tr. 138-139, Applicant witness Baker offered rebuttal testimony about the effect of the Project on wells and artesian wells. Mr. Baker testified:

> Prior to and during construction, FirstEnergy will design the project to minimize earth disturbance and impacts to infrastructure associated with the project construction to the extent practicable. …. Furthermore, as part of the required permitting process, FirstEnergy will prepare Erosion and Sedimentation Control (E&SC) plans in accordance with the Pennsylvania Department of Environmental Protection (PADEP) regulations found at

> Title 25, Chapter 102 of the PA Administrative Code and consistent with the standards and guidance presented in the PADEP 'Erosion and Sediment Pollution Control Program Manual' issued in March 2012. The E&SC plans will present E&SC Best Management Practice (BMP) measures that will limit the potential for erosion and sediment migration for the specific work activities Water treated by the BMPs will then be further filtered during infiltration into the ground further away or upgradient of the well. Similarly, stormwater that infiltrates within the disturbed area of the site will also be filtered through the underlying soils. In summary, the act of treating stormwater runoff with E&SC BMPs along with the filtering provide by infiltration will mitigate the potential for sediment to impact the artesian well.

Applicant Rebuttal Statement No. 3-R, pp. 11-12; Applicant Reply Brief, p. 27.

Applicant witness McIntosh also addressed the issue of the wells in his rebuttal testimony (as adopted by Applicant witness Mattei) where he responded that the transmission structures will be placed to avoid interference with wells:

> The location of property owner wells, water lines and related appurtenances will be confirmed prior to construction to avoid damage during construction. Transmission structures planned for these properties will be wood or steel monopoles, with directly-embedded foundations. Installation requires a hole augured to a depth of approximately fifteen feet, with native soils used to backfill around the structure. As such, ground water flow characteristics (quality and volume) would not be affected by these structures.

Applicant Rebuttal Statement No. 4-R, pp. 5-6; Applicant Reply Brief, pp. 27-28.

f. Landscape and Allegheny Hawk Watch

The evidence presented in this proceeding, including Application Exhibits BAB-R-2 through BABA-R-11, in which Applicant offers visualizations of the Project upon the view shed from the Hawk Watch site, indicate the minimal effect the Project will have on the site and upon the view of the valley looking to the east from the site towards Bedford County.

g. Archelogic Areas

Applicant has acknowledged that there are sensitive archeologic areas in the Project area, and the identification and avoidance of those areas is being coordinated by Applicant with the Pennsylvania Historic and Museum Commission (PHMC). Application Exhibit 8, Section 4.4.5; Applicant Reply Brief, pp. 27-28.

h. Geologic Areas

It is not anticipated that the Project will impact any geologically significant areas. Applicant Statement No. 3, p. 17; Applicant Reply Brief, p. 28.

i. Historic Areas

Section 4.2.5 of the AECOM Report reviewed 26 cultural resources and five historic districts in the Study Area. Applicant has indicated that it will coordinate with the PHMC to identify and avoid those areas. Applicant Reply Brief, p. 28.

j. Scenic Areas

The only scenic area that was raised as an issue was the Allegheny Hawk Watch. As previously stated, the evidence presented in this proceeding, including Application Exhibits BAB-R-2 through BABA-R-11, in which Applicant offers visualizations of the Project upon the view shed from the Hawk Watch site, indicate the minimal effect the Project will have on the site and upon the view of the valley looking to the east from the site towards Bedford County. Applicant Reply Brief, p. 28.

k. Wilderness Areas

It is not anticipated that the Project will impact any wilderness areas. Applicant Statement No. 3, p. 17; Application Exhibit 8, Section 4.1.8; Applicant Reply Brief, p. 29.

l. Scenic Rivers

There are no state-listed scenic rivers in the Project Study Area, nor are there any rivers federally listed as wild and scenic rivers by the U.S. National Park Service. Application Exhibit 8, Section 4.1.4; Applicant Reply Brief, p. 28.

5. Conclusion

After reviewing the evidence presented from Applicant and the concerns raised by landowners, I conclude that Applicant has met its burden of proving that the Project will have minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and the available alternatives, pursuant to 52 Pa.Code § 57.76(a)(4), with regard to the issues addressed above.

With regard to the impact the proposed transmission line route would have on property values, the evidence presented at the hearing consisted mostly of unsupported assertions that the proposed transmission line would cause property values to decline. Assertions cannot form the basis of a finding that the proposed transmission line will cause property values to decline. For all the reasons set forth above, I conclude that the proposed transmission line route will have minimum adverse environmental impact, considering the issues raised above, pursuant to 52 Pa.Code § 57.76(a)(4).

Applicant is only required to survey and identify "target species," which includes threatened or endangered species and species of special concern identified by the applicable regulatory agencies as potentially occurring for a particular project area. Not all entities are afforded the same protection under Pennsylvania law. Only threatened and endangered amphibians, birds, fish, mammals, mussels, snails, reptiles and vascular plants are protected by the Commonwealth. Applicant is only required to obtain clearances from DCNR, PFBC, PGC, and USFWS for threatened or endangered species prior to receiving any DEP permits. Species of Special Concern that are not threatened or endangered are not protected by the Commonwealth.

In addition, although the Commission has general jurisdiction over public utilities operating in Pennsylvania, the Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly contained in the Public Utility Code. The Public Utility Code simply does not grant the Commission the authority to order Applicant to perform additional studies on other species and communities.

To the extent that Opponents believe additional species should be added to a specific target list, or that the existing environmental regulations are inadequate to protect certain species, such concerns should be directed to the state and federal agencies having the authority to address them.

Applicant is not required to identify and evaluate every possible alternative effort or alternative method that could potentially minimize the impact of the Project, nor is it required to identify and implement the construction and maintenance methods that would have the "least" adverse environmental impact. Rather, the Commission's siting regulations require Applicant to demonstrate a reasonable effort to reduce the environmental incursion to a minimum. Applicant has met its burden, pursuant to 52 Pa.Code § 57.76(a)(4), to demonstrate reasonable efforts to minimize the impacts that the proposed route will have on threatened and endangered species.

With respect to soil erosion and sedimentation and crossings of jurisdictional waters, Applicant is required through the federal and state permitting process to account for any impacts to intermittent and perennial streams. As part of the required environmental studies and permitting process, full wetland and waterway delineations are conducted that will define these features as well as any additional low-order perennial or intermittent streams that were not initially identified. Applicant will prepare erosion and sedimentation control plans in accordance with DEP regulations found at Title 25, Chapter 102 of the Pennsylvania Administrative Code and consistent with DEP's standards and guidance. The erosion and sedimentation control plans will present best management practice measures that will limit the potential for erosion and sediment migration for the specific work activities, including construction activities, temporary workspace requirements/dimensions, and access roads.

Following construction, Applicant will continue to inspect and maintain erosion and sedimentation best management practice measures until disturbed areas are restored through vegetal stabilization in accordance with permit conditions.

With regard to use of herbicides, Applicant explained that the use of herbicides is a key component of Applicant's vegetation management program to effectively manage undesirable vegetation conditions within rights-of-way. Applicant's vegetation management contractors are licensed by the Pennsylvania Department of Agriculture as Certified Commercial Pesticide Applicators and only apply herbicide products which have been approved for use on utility rights of way by the U.S. Environmental Protection Agency (EPA).

With regard to the initial clearing of the right-of-way, Applicant explained that removal of vegetation, as described in detail by Applicant, for the width of a new right-of-way is reasonable and necessary to establish the extent of the right-of-way. In addition, the removal of vegetation, as proposed, will facilitate a safer environment for the construction activities.

The evidence presented by Applicant demonstrates that the initial removal of vegetation, as proposed, for the width of a new right-of-way is necessary to both establish the extent of the new right-of-way and to safely accommodate the many construction activities that will occur within the right-of-way. Furthermore, the Commission has previously deferred to FERC and NERC with regard to vegetation management.

In addition, Applicant has made reasonable attempts to address the concerns raised by various landowners regarding initial ROW clearing and vegetation management, and Applicant will comply with any conditions placed on its vegetation management by the agencies that will issue permits for the construction of the Project and any applicable Commission regulations.

In Susquehanna Roseland Appeal, the petitioners argued that the Commission abused its discretion in determining that PPL could begin construction on any portion of the Susquehanna-Roseland Line prior to receiving the required permits from the National Park

Service (NPS) to cross the Delaware Water Gap. In support, the petitioners argued that, if the NPS denied the permit or rerouted the Susquehanna-Roseland Line through the Delaware Water Gap, then any constructed portion of the line would be a "line to nowhere" and a waste of resources. The petitioners also argued that allowing PPL to begin construction on other portions of the Susquehanna-Roseland Line would influence the decision-making of the NPS through the permitting process. The Commonwealth Court accepted the Commission's reasoning and rejected the petitioners' arguments stating that there was nothing in the Commission's siting regulations that required receipt of all necessary permits before construction begins.

Although the Commission has general jurisdiction over public utilities operating in Pennsylvania, the Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly contained in the Public Utility Code. Those powers do not allow the Commission to act as a board of directors overseeing the construction of transmission lines. In Susquehanna Roseland the Commission expressed the concern that requiring a utility to acquire and file all permits prior to initiating construction improperly injected the Commission into managing utility planning and construction of transmission projects. The Commonwealth Court affirmed the Commission's position in Susquehanna Roseland Appeal.

Applicant must comply with any and all conditions placed on such permits by those agencies that have appropriate jurisdiction over environmental matters.

In summary, I conclude that Applicant has established, by a preponderance of the evidence that the proposed Project will have minimum adverse environmental impact, considering the electric needs of the public, the state of available technology and the available alternatives, pursuant to 52 Pa.Code § 57.76(a)(4).

G. Whether Applicant Has Selected an Appropriate Route for the Project That Minimizes Adverse Environmental and Other Impacts

1. Applicant's Position

Applicant retained AECOM to prepare a comprehensive study of the projected environmental impacts of the Project and alternative routes and set forth its results in the AECOM Report.[49] The basis for the final route selection is set forth in Section 6 of the AECOM Report. Applicant Main Brief, pp. 42-43.

a. The Study Area

AECOM established a Study Area encompassing the existing Bedford North and Central City West Substations. The Study Area comprises approximately 172 square miles and covers portions of Bedford, Napier, Juniata, East St. Clair, and West St. Clair Townships and the Borough of New Paris, in Bedford County, and Allegheny, Stonycreek, Shade, and Ogle Townships and Central City Borough, in Somerset County.[50] According to Applicant, the Study Area's boundaries were developed based on a review of United States Geological Survey (USGS) maps, state and county road maps, and aerial photographs. Constraints such as major water bodies, urban/developed areas, transportation routes, existing utility corridors, and the locations of the end points played key roles in determining the boundaries of the Study Area and selecting routes as candidates for study. Based on these criteria, Applicant explains, the principal constraints observed for the Project were the existing Bedford North-New Baltimore 115 kV Transmission Line to the south and Gallitzin State Forest to the north. According to Applicant, crossing to the south side of the existing 115 kV line would be impractical, and developing a new line through sections of the state forest would require extensive coordination with the Pennsylvania Department of Conservation and Natural Resources (PADCNR) and may involve PADCNR-mandated mitigation. As such, the existing Bedford North-New Baltimore

[49] The AECOM Report was provided as Exhibit 8, sponsored by Applicant witness Baker and discussed in Statement No. 3. The line route proposed for the Project is identified as "Route 2" in the AECOM report.

[50] The Study Area is depicted in Figure 3-1 of the AECOM Report.

115 kV Transmission Line defines the southern boundary, and a straight line across the southern edge of Gallitzin State Forest defines the northern boundary of the Project Study Area. Application Exhibit 8, Section 3.0; Applicant Main Brief, pp. 43-44.

b. Corridor Siting Criteria

Applicant explained that the AECOM's Routing Team developed basic route selection criteria to be used to select and analyze Alternative Routes.[51] These criteria included the following:

- Maximize the use of any existing transmission line ROW and seek rebuild options, e.g. the Bedford North-New Baltimore 115 kV line ROW;

- Avoid or limit circuitous routes and special design requirements;

- Maximize the distance from and/or minimize impact on dwellings, schools, daycare facilities, hospitals, and other community facilities;

- Avoid or minimize visibility from scenic roadways or viewpoints;

- Avoid crossing, or minimize impacts to, designated public resource lands such as national and state forests and parks, recreational lands, nature preserves, designated historic resources and sites, and conservation areas;

[51] See Statement No. 3 and in Section 5.0 of the AECOM Report.

- Minimize environmental impact and construction/maintenance cost by selecting shorter, direct routes and routing corridors over terrain where economical construction and environmental best management practices can be employed, and where operating and maintaining the line will be most feasible (e.g., use existing access roads where practicable); and

- Avoid or minimize new crossings of large lakes, rivers, large wetland complexes, critical habitat, and other unique or distinct natural resources.

Applicant Main Brief, pp. 44-45.

In evaluating the routing criteria, according to Applicant, routing that maximizes the use of favorable criteria (referred to as "opportunities"), such as paralleling existing railroad or utility corridors, is generally most desirable. Criteria that are not desirable for routing (referred to as "constraints"), such as residences, wetlands, and historic properties, should be avoided or their proximity to a proposed line should be minimized. Applicant Main Brief, p. 45.

Using the established routing guidelines described above, AECOM's Routing Team identified opportunities and constraints within the Study Area that would take advantage of existing corridors to the extent practicable and minimize potential impacts to the natural and human (or built) environment. The option to use and/or rebuild portions of the existing Bedford North-New Baltimore 115 kV Transmission Line was a primary consideration in the routing assessment because using existing ROW would likely result in fewer environmental impacts and reduce total project costs. The existing transmission ROW has sufficient space to rebuild the existing line as a double-circuit 115 kV line. The Routing Team used this information to

develop alternative routes following the general routing and technical guidelines described above.[52]

c. Development of Alternative Routes

Applicant explains the goal of the routing study was to identify viable alternative routes based on reasonable physical placement of the proposed transmission line that avoids, or limits impacts to, sensitive land uses and to ecological, social, and cultural features in the Project's Study Area. Applicant Main Brief, p. 45.

According to Applicant, when siting transmission lines, three main routing opportunities are generally considered. The first is to replace or upgrade existing lines, which typically minimizes natural and social impacts by keeping the same ROW, thus eliminating or reducing additional ROW clearing. For the Project, upgrading the existing Bedford North-New Baltimore 115 kV or the Bedford North-Osterburg East 115 kV Transmissions Lines to double-circuit are options. Such options mitigate PJM thermal criteria, but do not address voltage violations. Statement No. 2, p. 10; Applicant Main Brief, p. 46.

The second potential opportunity is through corridor sharing. Corridor sharing pairs the transmission line with existing features, such as roads, highways, railroads, gas pipelines, or other existing transmission lines. Opportunity areas within the Study Area for the development of the Project were generally limited to paralleling the existing transmission line ROW, paralleling I-99, and paralleling sections of the active Norfolk Southern Railroad in Central City Borough. Applicant Main Brief, p. 46.

The third opportunity, according to Applicant, consists of routing a line across undeveloped areas such as forests, fields, and agricultural areas. Identifying these routes involves assessing parcel boundaries and land use practices to define routes that minimize

[52] Details of the opportunities and constraints considered in developing the alternative routes are included in the AECOM Report.

potential impacts to private properties and any agricultural or other farming activities (e.g., orchards or center pivot agriculture). Applicant Main Brief, p. 46.

Using the siting criteria, six Alternative Routes were developed. The color codes shown below refer to Figure 5-1 of the AECOM Report. Each of the alternative routes is described in Section 5.1 of the AECOM Report and discussed in Applicant Statement No. 3, at pp. 10-15.

i. Alternative Route 1 (Yellow)

Alternative Route 1 is approximately 21.3 miles in length. From the Bedford North Substation, Route 1 would extend 1.7 miles north as a second circuit on the existing Bedford North-Osterburg East 115 kV line, which would be rebuilt as a double circuit transmission line. The route would parallel the east side of I-99 and State Route (SR) 56. After exiting the Bedford North-Osterburg East 115 kV line, Route 1 crosses I-99 and extends for 7.8 miles predominantly through steep forested lands with few areas of agricultural use and some moderately dense residential properties. Near SR 96, the route extends over a section of an active orchard, which ends near Chestnut Ridge Road. The slope of the land steadily climbs for the next 3.7 miles from an elevation of 1,300 feet near SR 96 to 2,000 feet at Buckeye Road. Most of this section would be located within forested lands with few open agricultural areas. At Buckeye Road, the route would turn to the southwest, start a steep 700-foot climb up the Allegheny Front, and extend for 5.5 miles to Central City. Turning to the west, Route 1 would cross into Somerset County, extend over an isolated local road, and then traverse undeveloped forested lands. The western portion of this section borders lands associated with an active quarry and landfill near Central City. Route 1 continues for 2.6 miles to the northwest and then southwest around the north side of Central City to the Central City West Substation. Applicant Main Brief, pp. 46-47.

ii. Alternative Route 2 (Purple) (Proposed Route)

Alternative Route 2 was chosen as the best of the alternative routes. Alternative Route 2 is approximately 17.6 miles in length. From the Bedford North Substation, Route 2 would extend west for 7.2 miles on the ROW of the existing Bedford North-New Baltimore 115 kV Transmission Line, which would be rebuilt as a circuit on the Project's new double-circuit structures.

The route would extend over agricultural fields and then span SR 56. After crossing this roadway, the route climbs the steep, forested slopes of the Pigeon Hills and passes over several roads bordered by low density residential development such as Sloan Hollow Road, Point Road, and Harrison Road. After crossing Harrison Road, Route 2 passes over a short (0.1 mile) section of Shawnee State Park, extends through a mix of forested and agricultural lands, and crosses a moderate density residential-lined portion of SR 96 just north of the town of Schellsburg.

West of SR 96, the existing Bedford North-New Baltimore 115 kV Transmission Line turns to the southwest, and Route 2 would continue west as new construction in new ROW until the end of the route.

For the initial 1.4 miles, Route 2 traverses forested and agricultural lands, spans the Shawnee Branch and crosses three low density residential-lined roads. After crossing Hoover Road, Route 2 continues west for 3.0 miles to Lambert Mountain Road located at the base of the Allegheny Front. The route extends across active farm lands, through several forested areas, and crosses several low density residential-lined roads such as Anderson Road, Malamphy Road, Miller Road, and Helixville Road. The slope of the land in this section steadily climbs from an elevation of 1,400 feet near Hoover Road to 2,200 feet at the intersection of Helixville Road and Lambert Mountain Road. From Lambert Mountain Road, Route 2 extends northwest for 1.4 miles to the State Game Lands #228 boundary. At Lambert Mountain Road, the route traverses straight up the 500-foot forested face of the Allegheny

Front, extends west across forested lands into Somerset County, and then crosses an isolated section of Fleegle Road.

Turning to the northwest, the route traverses a mix of forested and agricultural lands before intersecting with the State Game Land boundary. At this point, Route 2 would extend northwest for 1.4 miles across State Game Land property. The route would initially traverse forested lands before intersecting with the south side of Lambert Mountain Road. Route 2 is expected to parallel the south-side of Lambert Mountain Road to reduce the number of angles and limit the length of alignment across these protected lands. There are several residential properties on the south side of Lambert Mountain Road at the western edge of State Game Lands #228 that would require the alignment to cross to the north side of the road in this area. From the western edge of State Game Lands #228, Route 2 would extend 1.5 miles through forested lands to the potential alternative route crisscross area located on the eastern edge of Central City. The route would cross to the south side of Lambert Mountain Road near an existing utility line ROW and then parallel the road west past the intersection with Shaffer Mountain Road. Route 2 continues for 1.7 miles to the west through central portions of Central City Borough to the Central City West Substation. The route would cross to the north side of Shaffer Mountain Road, span an undeveloped section of Main Street, span Dark Shade Creek, and then cross a disturbed area that borders the active Norfolk Southern Railroad. Crossing to the west side of the railroad, Route 2 would parallel the railroad into the town of Central City and across the commercial bordered SR 160 (Sunshine Avenue). West of SR 160, the route would be co-located with an existing electrical distribution line that is near several residential properties that border the railroad ROW. Past this point, the route would follow the electrical distribution line and parallel the railroad as they turn to the north. Just beyond the Central City Borough line, the route would turn sharply to the west following the distribution line over a disturbed abandoned railroad ROW and across sparsely residential-lined School Road. Turning to the northwest, Route 2 crosses a mixed meadow/forest area before extending into the Central City West Substation. Applicant Main Brief, pp. 47-49.

iii. Alternative Route 3 (Blue)

Alternative Route 3 is approximately 19.7 miles in length. Route 3 is a hybrid that combines portions of Route 1 and Route 2 with a 4.3 mile connection between these two alternatives. The route follows the initial 8.8 miles of Route 2 from the Bedford North Substation to Hoover Road near Schellsburg. At this point, Route 3 would be a continuation of new construction in the new ROW and turns to the north for 2.0 miles to Shaffer Mountain Road. After crossing a tributary of Shawnee Branch, the route makes a series of three sharp turns to follow the boundary of an active farm property. The route then spans a low density residential-lined section of Helixville Road and continues north across a mix of agricultural and forested lands to a low density residential-lined section of Shaffer Mountain Road. Turning to the northwest, Route 3 extends to intersect with Route 1 on top of the Allegheny Front. The route would traverse a mix of forested and agricultural lands and pass over several roads bordered by low density residential development such as Kanouff Road, McCreary Road, and Bethel Hollow Road. From this point, Route 3 would follow the Route 1 alignment for 6.6 miles around the north side of Central City and into the Central City West Substation. Applicant Main Brief, pp. 49-50.

iv. Alternative Route 4 (Red)

Alternative Route 4 is approximately 19.2 miles in length. Route 4 uses portions of Route 2 to connect to portions of Route 1. This alternative was developed based on the possibilities that crossing State Game Lands #228 would be acceptable to the Pennsylvania Game Commission but use of the railroad ROW through the center of Central City would not be acceptable to Norfolk Southern. This alternative follows Route 2 for 15.7 miles from the Bedford North Substation to the east side of Central City. At this point, Route 4 would be a continuation of new construction in the new ROW that extends to the northwest for 0.9 miles to connect to Route 1. This portion of the alignment crosses to the north side of Shaffer Mountain Road in an undeveloped area, spans a tributary of Dark Shade Creek, and then traverses a section of undeveloped forest to intersect with Route 1. From this point, Route 4 would follow

the Route 1 alignment for 2.6 miles around the north side of Central City and into the Central City West Substation. Applicant Main Brief, p. 50.

v. Alternative Route 5 (Green)

Alternative Route 5 is approximately 20.6 miles in length. Route 5 uses portions of Route 1 to connect to portions of Route 2. This alternative was developed based on the possibilities that crossing State Game Lands #228 would not be acceptable to the Pennsylvania Game Commission but use of the railroad ROW through the center of Central City would be acceptable to Norfolk Southern. This alternative follows Route 1 for 18.3 miles from the Bedford North Substation to the east side of Central City. At this point, Route 5 would be a continuation of new construction in the new ROW and extends southwest for 0.7 miles to connect to Route 2. This portion of the alignment traverses a section of undeveloped forest, spans a tributary of Dark Shade Creek, and crosses to the south side of Shaffer Mountain Road in an undeveloped area to intersect with Route 2. From this point, Route 5 would follow the Route 2 alignment for 1.6 miles through the center of Central City and into the Central City West Substation. Applicant Main Brief, p. 51.

vi. Alternative Route 6 (Orange)

Alternative Route 6 is approximately 19.0 miles in length. Route 6 uses portions of Route 3 to connect to portions of Route 2. This alternative was developed based on the possibilities that using the existing Bedford North-New Baltimore 115 kV ROW would be feasible from an engineering perspective, that crossing State Game Lands #228 would not be acceptable to the Pennsylvania Game Commission, but use of the railroad ROW through the center of Central City would be acceptable to Norfolk Southern. This alternative follows Route 3 for 16.7 miles from the Bedford North Substation to the east side of Central City. At this point, Route 6 would be a continuation of new construction in the new ROW and extends southwest for 0.7 miles to connect to Route 2. From this point, Route 6 would follow the Route 2 alignment for 1.6 miles through the center of Central City and into the Central City West Substation. Applicant Main Brief, pp. 51-52.

d. Environmental Assessment

The six alternatives were considered against environmental backdrops, with respect to both the built (manmade) environment and the natural environment.

With respect to the built environment, Applicant explains, the potential impact of the six Alternative Routes was considered with specific reference to existing residential, commercial and industrial development; land uses; archaeological and historical areas; recreational and scenic resources; and terrain and landscape. Except for the developed areas surrounding the Bedford and Central City Substations, nearly the entire length of the Alternative Routes crosses forested or agricultural areas. Statement No. 3, p. 17; Applicant Main Brief, p. 52.

After analyzing and comparing the six Alternative Routes against potential impacts on the built environment, Applicant asserts Route 2 is preferred over the other alternatives. Approximately forty (40) percent of Route 2 can be constructed within an existing 115 kV ROW, and it is the shortest, most direct route of all the alternatives. Applicant contends other options would require significantly more new ROW. Although Route 2 crosses within 300 feet of more residences than other options, according to Applicant, most of these residences are located within 300 feet of the existing 115 kV line or in the developed areas along the railroad corridor that Route 2 would parallel through Central City. Therefore, Route 2 is expected to result in minimal incremental impacts to land use, cultural resources and the existing view shed. Applicant Statement No. 3, pp. 17-18; Applicant Main Brief, p. 52.

Applicant contends the alternatives were also considered against the backdrop of the natural environment, with specific reference to potential impacts to vegetation and habitat, surface waters, and conservation and recreational lands. Potential impacts were evaluated based on publicly available maps and data as well as consultation with federal and state agencies. The Project is not anticipated to impact any scenic, geologic or wilderness areas. Applicant Main Brief, pp. 51-52.

Applicant explains that all six Alternative Routes would cross the Allegheny Front. One high quality stream would be crossed by several of the Alternative Routes including Route 2. However, According to Applicant, Route 2 would result in fewer stream and forest impacts due to the generally direct route of this alternative. The length of wetland crossings would be moderate in comparison to the other alternatives, but would involve several emergent wetlands that would be spanned by the route. Applicant Statement No. 3, p. 18; Applicant Main Brief, p. 53.

Most of the vegetation crossed by the Alternative Routes consists of forest cover. In these areas, a 100-foot-wide ROW will be cleared and maintained in accordance with Applicant's Vegetation Management Program.

Approximately seven miles of Route 2 would be constructed within an existing 100-foot-wide ROW that is presently cleared. Only 10 miles of new ROW would need to be cleared to construct this option. Based on a review of aerial imagery and field reviews, Applicant contends, other options would require significantly more forest clearing than Route 2. Applicant Statement No. 3, pp. 18-20; Applicant Main Brief, p. 53.

The USFWS's response to Applicant's PNDI letter request for Route 2 indicated that the Project is located within a known maternity and swarming area of a federally-listed Indiana bat (Myotis sodalis) hibernacula and within the range for the northern long-eared bat (Myotis septentrionalis). The USFWS recommends restricting tree cutting activities anytime other than from October 1 to March 31 to avoid potential impacts to the protected bat species. Applicant acknowledges it will either adhere to these restrictions or submit an Indiana Bat Conservation Plan to the USFWS that may involve the need for mitigation due to the potential impacts to the habitat area. Applicant Statement No. 3, p. 19; Applicant Main Brief, p. 53.

PADCNR noted that two plant species mountain bellwort (*Uvularia pudica*) and yellow-fringed orchid (*Platanthera ciliaris*) may be located in the area. Botanical surveys for these species will be conducted at the appropriate time of year for these two plants. Applicant Statement No. 3, p. 19; Applicant Main Brief, p. 54.

Responses from the Pennsylvania Fish and Boat Commission and the Pennsylvania Game Commission indicated that they do not anticipate the Project having an adverse impact on threatened and endangered species or on species and habitat that are of special concern. Statement No. 3, p. 19. The Pennsylvania Game Commission's letter of May 2, 2017, noted the existence of the federally-listed Indiana bat and deferred comments on potential impacts about the bat to the USFWS. Application Exhibit BAB-10; Applicant Main Brief, p. 54.

According to Applicant, after analyzing and comparing the six routes against potential impacts to the natural environment, the AECOM Routing Team concluded that Route 2 is preferred over the other alternatives. Route 2 would result in significantly less forest clearing compared to other options. Forest clearing can have numerous impacts including forest fragmentation and creation of new edge habitat, wetland function modification, soil erosion and increased storm water runoff. Route 2 would also minimize the number of new aerial crossings of streams and the amount of 100-year floodplain crossed. Field wetland delineations will be conducted for the Proposed Route and engineered access roads to determine the exact location of any wetlands or waterways. Applicant anticipates that the Project's design and engineering will minimize impacts on wetlands and streams by spanning or avoiding sensitive areas. Applicant indicated it will obtain and adhere to all required state and federal permits. Applicant Statement No. 3, pp. 19-21; Applicant Main Brief, p. 54.

e. Agricultural Security Areas

Small portions of the Project's preferred route will cross properties enrolled as Agricultural Security Areas (ASAs) by the Pennsylvania Department of Agriculture.[53] The Agricultural Security Program is a voluntary program offered by the Pennsylvania Department of Agriculture for strengthening and protecting quality farmland from the encroachment of urbanization. The Agricultural Security Program is governed by the Agricultural Area Security Law (3 P.S. §§ 901-915) and coordinated at the local level by the counties and the

[53] ASAs in the Project area are shown in Exhibit BAB-R-1 and in Figure 4-5 of the AECOM Report.

municipalities where the ASAs are located. Applicant Statement No. 3-R, p. 6; Applicant Main Brief, p. 55.

The Agricultural Area Security Law places certain limitations on the exercise of eminent domain with respect to properties in an ASA.[54]

Applicant explains the Agricultural Area Security Law does not prohibit electric utilities from acquiring property within ASAs through the power of eminent domain. To the contrary, the Commission has previously determined that proceedings such as this one satisfy the Agricultural Security Law's requirement that it review and approve "the necessity for and the propriety and environmental effects" of a proposed transmission line.[55] Therefore, upon the Commission's approval of the Application and issuance of the certificate of public convenience authorizing the exercise the power of eminent domain, the Applicants may exercise the power of eminent domain over properties located in ASAs. Applicant Main Brief, p. 56.

The ASAs in the Project area are widely dispersed in the western and eastern sections of the Study Area, and more densely concentrated in the central section. According to Applicant, at the time of the initial siting analysis, the new ROW needed for the selected route avoided all but two parcels enrolled in the Agricultural Security Program (*See* Exhibit BAB-R-1). From west to east, the first ASA property crossed is the Lambert parcel. Applicant contends the Lambert parcel could not be avoided because of routing constraints identified along Lambert Mountain Road and the need to minimize impacts to State Game Lands to the west. The second property crossed is the Anderson parcel. Applicant contends that crossing the Anderson parcel could not be avoided because there are single-family residential homes and farm houses on either side of the Anderson parcel that channeled the route across the Anderson's open fields. Despite these constrained conditions, Applicant asserts only a very

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54 3 P.S. § 913.

55 *In Re: Application of West Penn Power Co. for approval: 1) to locate, construct, operate and maintain certain high voltage electric transmission line facilities; and 2) to exercise the power of eminent,* Docket Nos. A-2009-2086954, A-2009-2086963, 2009 Pa. PUC LEXIS 2354 (Initial Decision Dec. 24, 2009); *Application of West Penn Power Co. for authority to locate and construct the Harrison City Loop, 138 kV Transmission Line located in Westmoreland County, Pennsylvania.* Docket Nos. A-111250F0062, A-111250F0071, 1997 Pa. PUC LEXIS 65, (Initial Decision, Nov. 6, 1997).

small portion of these properties will be crossed by the transmission line ROW and the farming currently conducted on these lands can continue in the same manner it does today. Applicant Statement No. 3-R, pp. 8-9; Applicant Main Brief, pp. 56-57.

Applicant explains, since the initial siting analysis was completed, a third property, owned by the Kelleys, has been enrolled in the Agricultural Security Program. The Kelleys have since settled with the Applicant, and the application to exercise the power of eminent domain for ROW on the Kelley property was withdrawn. Applicant Main Brief, pp. 56-57.

According to Applicant, most farming practices should be compatible with the use of the ROW for the Project. Applicant Statement No. 3-R, pp. 7-9; Applicant Main Brief, pp. 56-57.

The Company conducted a reasonable and thorough study of alternative routes for the Project that included all the factors and analyses required by the Commission's siting regulations at 52 Pa.Code, Chapter 57, Subchapter G, and recommended in the Commission's Interim Guidelines. The route selected minimizes the cumulative environmental and other impacts of the entire Project. Section 5.2.2 of the AECOM Study presents a tabular summary of the quantitative weighting comparisons of the six alternative routes. Applicant Main Brief, p. 57.

Based on a quantitative and qualitative review of information obtained from GIS data, field reconnaissance, agency consultation, and engineering and constructability considerations for this Project, the Applicant selected Alternative Route 2 as the Proposed Route. The Applicant believes that the cumulative social, environmental, and financial impacts associated with constructing Alternative Route 2 will be less than any other Alternative Route. Specific reasons supporting the Applicant's decision include the following:

- Route 2 is shorter and requires fewer angled structures compared to the other Alternative Routes. Route 2 will

also require significantly fewer acres of forest clearing and minimizes the number of new stream crossings.

- Applicant would use a significant portion of an existing 115 kV ROW to build a new double-circuit line. Using the existing ROW will greatly minimize the number of new easements required to build the Project and will significantly reduce the amount of vegetation clearance required, thereby reducing the overall Project cost and environmental impacts.
- While any route selected would result in changes to the existing view shed, Route 2 would rebuild existing transmission infrastructure for a significant length, which minimizes changes to the existing view shed compared to constructing an all-new transmission line in areas without an existing transmission line.

- Route 2 will also be the least costly of the Alternative Routes. Applicant evaluated the Alternative Routes from a cost perspective based on estimates from siting, real estate, engineering, procurement, and construction.

Applicant Main Brief, pp. 57-58.

2. Opponent's Position and Applicant's Response

Opponents argue that the route chosen as the preferred location for the project was selected more for its cost and access efficiency instead of its alleged minimal impact on the surrounding environment, which Opponents argue is a significant detriment to nature and the future plans of the properties. Given that several landowners testified that development opportunities will be lost and the alleged environmental impact to the parcels, Opponents argue

that the Penelec route selection, especially given the failure to conduct any meaningful and necessary studies, was arbitrary and unreasonable to the concerns of the affected landowners.[56] Opponents Main Brief, pp. 18-19.

Opponents assert that the Commission has concluded that where Applicant's proposed right-of-way location across the property will create a situation involving hazard to the public and, in view of the specialized nature of the property owners' farm operation, the selection of the route proposed by Applicant, constitutes an unreasonable disregard of the property owners' rights under the law. Opponents argue Penelec has chosen to maximize its profits at the expense of the several property owners and should not be rewarded with the approval of their application after their failure to adequately address the specific concerns and provide the necessary information required in the Application. Opponents Main Brief, pp. 18-19.

Applicant argues its route selection is not unreasonable and that its selection of the appropriate alternative route, and its routing analysis, as fully described above, was not based on inadequate studies. Applicant's Reply Brief, pp. 18-19.

3. Discussion

Applicant retained AECOM to prepare a comprehensive study of the projected environmental impacts of the Project and alternative routes and set forth its results in the AECOM Report.[57] The basis for the final route selection is set forth in Section 6 of the AECOM Report.

According to Applicant, AECOM identified a Study Area, established transmission corridor siting criteria; applied accepted screening techniques (including those

[56] See West Penn Power Co. v. Pa. Pub. Util. Comm'n, 199 Pa. Super. 25 (1962).

[57] The AECOM Report was provided as Exhibit 8, sponsored by Applicant witness Baker and discussed in Statement No. 3. The line route proposed for the Project is identified as "Route 2" in the AECOM report.

recommended in the Commission's Interim Guidelines at 52 Pa.Code § 69.3105(1)) to determine alternative routes for detailed study; conducted a detailed environmental assessment of the Study Area as the basis for assessing the alternative routes; evaluated the alternative routes based on their impact on specific resource categories; selected a preferred route for the Project through an objective, quantitative analysis of the impacts of each alternative route; and recommended appropriate impact-mitigation measures. Additionally, the AECOM Report addressed other factors relevant to route selection, such as impacts on historic, scenic or wilderness areas, archeological and geologic resources and airports that lie outside the Study Area.

Small portions of the Project's preferred route will cross properties enrolled as Agricultural Security Areas (ASAs) by the Pennsylvania Department of Agriculture.[58] The Agricultural Security Program is a voluntary program offered by the Pennsylvania Department of Agriculture for strengthening and protecting quality farmland from the encroachment of urbanization. The Agricultural Security Program is governed by the Agricultural Area Security Law (3 P.S. §§ 901-915) and coordinated at the local level by the counties and the municipalities where the ASAs are located. Statement No. 3-R, p. 6; Applicant Main Brief, p. 55.

The Agricultural Area Security Law places certain limitations on the exercise of eminent domain with respect to properties in an ASA. This Section provides, in pertinent part, as follows:

> (b) Approval required for condemnation by a political subdivision, authority, public utility or other body. -- No political subdivision, authority, public utility or other body having or exercising powers of eminent domain shall condemn any land within any agricultural security area for any purpose, unless prior approval has been obtained from Agricultural Lands Condemnation Approval Board and from each of the following bodies: the governing bodies of the local governmental units encompassing the agricultural

[58] ASAs in the Project area are shown in Exhibit BAB-R-1 and in Figure 4-5 of the AECOM Report.

> security area, the county governing body, and the Agricultural Security Area Advisory Committee. Review by the Agricultural Lands Condemnation Approval Board and the other indicated bodies shall be in accordance with the criteria and procedures established in this section. *The condemnation approvals specified by this subsection shall not be required… for any public utility facility the necessity for and the propriety and environmental effects of which has been reviewed and ratified or approved by the Pennsylvania Public Utility Commission,… regardless of whether the right to establish and maintain such… public utility facility is obtained by condemnation, or by agreement with the owner.*

3 P.S. § 913. (Emphasis added.)

As Applicant explained, the Agricultural Area Security Law does not prohibit electric utilities from acquiring property within ASAs through the power of eminent domain. To the contrary, the Commission has previously determined that proceedings such as this one satisfy the Agricultural Security Law's requirement that it review and approve "the necessity for and the propriety and environmental effects" of a proposed transmission line.[59] Therefore, upon the Commission's approval of the application and issuance of the certificate of public convenience authorizing the exercise of the power of eminent domain, Applicant may exercise the power of eminent domain over properties located in ASAs. Applicant Main Brief, p. 56.

The ASAs in the Project area are widely dispersed in the western and eastern sections of the Study Area, and more densely concentrated in the central section. According to Applicant, at the time of the initial siting analysis, the new ROW needed for the selected route avoided all but two parcels enrolled in the Agricultural Security Program (*See* Exhibit BAB-R-1). From west to east, the first ASA property crossed is the Lambert parcel. Applicant contends the Lambert parcel could not be avoided because of routing constraints identified along Lambert Mountain Road and the need to minimize impacts to State Game Lands to the

[59] In Re: Application of West Penn Power Co. for approval: 1) to locate, construct, operate and maintain certain high voltage electric transmission line facilities; and 2) to exercise the power of eminent, Docket Nos. A-2009-2086954, A-2009-2086963, 2009 Pa. PUC LEXIS 2354 (Initial Decision Dec. 24, 2009); Application of West Penn Power Co. for authority to locate and construct the Harrison City Loop, 138 kV Transmission Line located in Westmoreland County, Pennsylvania. Docket Nos. A-111250F0062, A-111250F0071, 1997 Pa. PUC LEXIS 65, (Initial Decision, Nov. 6, 1997).

west. The second property crossed is the Anderson parcel. Applicant contends that crossing the Anderson parcel could not be avoided because there are single-family residential homes and farm houses on either side of the Anderson parcel that channeled the route across the Anderson's open fields. Despite these constrained conditions, Applicant asserts only a very small portion of these properties will be crossed by the transmission line ROW and the farming currently conducted on these lands can continue in the same manner it does today. Applicant Statement No. 3-R, pp. 8-9; Applicant Main Brief, pp. 56-57.

Applicant explains, since the initial siting analysis was completed, a third property, owned by the Kelleys, has been enrolled in the Agricultural Security Program. The Kelleys have since settled with the Applicant, and the application to exercise the power of eminent domain for ROW on the Kelley property was withdrawn. Applicant Main Brief, pp. 56-57.

According to Applicant, most farming practices should be compatible with the use of the ROW for the Project. Applicant Statement No. 3-R, pp. 7-9; Applicant Main Brief, pp. 56-57.

The Company conducted a reasonable and thorough study of alternative routes for the Project that included all the factors and analyses required by the Commission's siting regulations at 52 Pa.Code, Chapter 57, Subchapter G, and recommended in the Commission's Interim Guidelines. The route selected minimizes the cumulative environmental and other impacts of the entire Project. Section 5.2.2 of the AECOM Study presents a tabular summary of the quantitative weighting comparisons of the six alternative routes.

Based on a quantitative and qualitative review of information obtained from GIS data, field reconnaissance, agency consultation, and engineering and constructability considerations for this Project, the Applicant selected Alternative Route 2 as the Proposed Route. The Applicant believes that the cumulative social, environmental, and financial impacts associated with constructing Alternative Route 2 will be less than any other Alternative Route.

Applicant estimates that the completed cost of the Project will be approximately $48 million. With the approval of the Commission, construction of the Project is scheduled to start in early 2018 and continue through December of 2018. Statement No. 4, p. 14.

After reviewing the evidence presented regarding whether Applicant has selected an appropriate route for the Project that minimizes adverse environmental and other impacts, I conclude that Applicant has met its burden of proving that the proposed Project and selected route is necessary and proper for the accommodation, convenience and safety of its patrons, employees and the public, and that Applicant has selected an appropriate route for the Project that minimizes adverse environmental and other impacts.

H. Whether Applicant Has Met All of the Statutory Requirements of the Business Corporation Law and the Public Utility Code For Approval of Its Eminent Domain Applications

1. Applicant's Position

Applicant has requested Commission approval to exercise eminent domain authority to acquire easements needed to site, construct and operate the Project. Applicant originally identified 19 parcels over which it sought to obtain easements by exercising the power of eminent domain. However, over the course of the proceeding, the Applicant obtained necessary easements, or options therefor, from nine of the 19 landowners, and the Eminent Domain Applications were subsequently withdrawn for those nine landowners. As of the date of this Brief, ten Eminent Domain Applications remain outstanding. Subsequently, two additional Eminent Domain Applications were withdrawn, with eight Eminent Domain Applications remaining outstanding, as follows:

> A-2016-2565326. Application of [MAIT as successor to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Robin F. Miller & Tammy J. Miller in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565344. Application of [MAIT as successor to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Katherine L. Ziegler in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565360. Application of [MAIT as successor to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Fritz Land Holdings LP in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West115 kV HV Transmission Line Project.

A-2016-2565472. Application of [MAIT as successor to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Shirley Huston& Gary E Lambert in the Shade Township, Somerset County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565480. Application of [MAIT as successor to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Martha Lorraine Anderson & John S. Anderson in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565504. Application of [MAIT as successor to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Keith A. Lohr in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565545. Application of [MAIT as successor to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Albert Stiles in Shade Township, Somerset County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565635. Application of [MAIT as successor to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Vincent Beal in Napier Township, Bedford County and Motion for Consolidation with Siting Application for

Bedford North - Central City West 115 kV HV Transmission Line Project.

Applicant witness Marinelli testified that the Company has made reasonable financial offers to all remaining potential condemnees, but has been unable to reach agreement with the remaining landowners to purchase the necessary property rights for the Project. Tr. 109; Statement No. 5, pp. 8-16.[60]

In order to grant an application for condemnation, the Commission must determine whether the service to be rendered by the condemning utility is necessary for the service, accommodation, convenience or safety of the public. Applicant contends there is a clear need for the Project to provide safe and reliable electric service to the public.

2. Opponents' Position and Applicant's Response

Opponents argue the powers conferred by 15 Pa.C.S. § 1511(a) may be exercised to condemn property outside the limits of any street, highway, water or other public way or place for the purpose of erecting poles or running wires or other aerial electric facilities only after the Pennsylvania Public Utility Commission, upon application of the public corporation, has found and determined, after notice and hearing, that the service to be furnished by the corporation through the exercise of these powers is necessary and proper for the service, accommodation, convenience or safety of the public. 15 Pa.C.S.A. § 1511(c).

In this case, Opponents assert that Applicant has failed to meet its burden of proof establishing the proposed Project is needed, will not create an unreasonable risk of danger to the health and safety of the public, is in compliance with the applicable statutes and regulations which provide for the protection of natural resources and will have a minimal adverse environmental impact. As such, according to Opponents, the Commission should reject the Application as it is currently presented. Opponents contend the landowners would be

[60] Since the testimony was presented, Petitions to Withdraw Eminent Domain Applications were granted with regard to the MacRae property filed at Docket No. A-2016-2565364 and the Robindale property filed at Docket No. A-2016-2565509, after Applicant obtained Right-of-Ways from the property owners.

significantly harmed by the approval of the Project and the choice of a preferred site has not been perfected by the required environmental and safety studies required in the application process. Opponents Main Brief, pp. 14-15.

Applicant points out that it has attempted to acquire necessary easements from all landowners but has not been able to do so and seeks eminent domain approval for the remaining required rights. Applicant Statement No. 5.

3. Discussion

Applicant filed its Eminent Domain Applications pursuant to Section 1511 of the Business Corporation Law of 1988 (BCL), which grants a public utility the power and authority to condemn property to provide electricity to the public, stating, in pertinent part:

> (a) General Rule. -- A public utility corporation *shall ... have the right to take, occupy and condemn property* for one or more of the following principal purposes and ancillary purposes reasonably necessary or appropriate for the accomplishment of the principal purposes: . . .
>
> (3) The . . . transmission . . . distribution or furnishing of . . . electricity . . . to or for the public.

15 Pa.C.S. § 1511(a)(3). (Emphasis added).

Before a public utility may seek to exercise its statutorily granted authority to condemn property for the purposes of running aerial transmission or distribution facilities, it must obtain approval from the Commission pursuant to Section 1511(c) of the BCL. Section 1511(c) provides, in pertinent part:

> (c) The powers conferred by subsection (a) [for the running of aerial electric facilities] may be exercised to condemn property … *only after* the Pennsylvania Utility Public Commission, upon application of the public utility corporation, has found and determined … that the service to be furnished by the corporation through the exercise of those

> powers is necessary for the service, accommodation, convenience or safety of the public.

15 Pa.C.S. § 1511(c). (Emphasis added).

Pennsylvania appellate courts have held that the requirements of 15 Pa.C.S. § 1511(c) are satisfied where the applicant for a Commission finding has demonstrated that the route selected for an aerial electric facility, such as a transmission line, is reasonable, made in good faith and not "capricious" or "wantonly injurious."[61] Applicant's route selection process was reasonable, thorough, conducted in accordance with accepted siting guidelines and designed to minimize public, environmental, socioeconomic and landowner impacts.[62] Therefore, Applicant's route selection satisfies the applicable standard for exercising the power of eminent domain as requested in its Eminent Domain Applications.

As previously explained, the Agricultural Security Law specifically allows the use of the power of eminent domain by public utilities to obtain property in ASAs with the prior approval of the Public Utility Commission. 3 P.S. § 913.

Under the Commission's regulations set forth at 52 Pa.Code § 57.76, the Commission will issue its order, with its opinion, if any, either granting or denying the application, in whole or in part, as filed upon the terms, conditions or modifications, of the location, construction, operation or maintenance of the line as the Commission may deem appropriate. The Commission will not grant the application, either as proposed or as modified, unless it finds and determines as to the proposed HV line unless: (1) there is a need for it; (2) it will not create an unreasonable risk of danger to the health and safety of the public; (3) it is in compliance with applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth and (4) it will have minimum adverse environmental impact,

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61 Pa. Dept. of Envtl. Res. v. Pa. Pub. Util. Comm'n, 18 Pa. Cmwlth. 58, 563, 335 A.2d 860, 863 (1975).

62 The Applicant does not propose to exercise the power of eminent domain to condemn any dwelling house, any part of the reasonable curtilage of a dwelling house within 100 meters therefrom, place of worship or any burying ground. See 15 Pa.C.S. §§ 1511(b)(1)(i) and (ii) and Applicant Statement No. 5.

considering the electric power needs of the public, the state of available technology and the available alternatives.

As the Applicant in this proceeding, Applicant has the burden to prove by a preponderance of the evidence that it is entitled to the relief it is seeking. See Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n, 578 A.2d 600 (Pa.Cmwlth 1990). Opponents essentially argue that Applicant's Project and Siting Application do not meet Applicant's burden of proof. In order to grant an application for condemnation, the Commission must determine whether the service to be rendered by the condemning utility is necessary for the service, accommodation, convenience or safety of the public. Applicant, through its Application, testimony and exhibits has established there is a clear need for the Project to provide safe and reliable electric service to the public.

Applicant has satisfied the Commission's criteria for approval to site, construct and operate the Bedford North-Central City West 115 kV Transmission Line and has satisfied the criteria for the authority to exercise the power of eminent domain upon ten parcels of land needed for the Project.

With regard to the scope of the easement, the Commission is without authority to determine whether the scope of the easement Applicant seeks is appropriate. In SEPTA v. Pa. Pub. Util. Comm'n, 991 A.2d 1021 (Pa.Cmwlth. 2010) the Commonwealth Court concluded that, in an eminent domain application filed in conjunction with a transmission line siting application, the utility must only demonstrate that the construction of the transmission line is necessary and proper, not whether the use of eminent domain is necessary and proper. The Commonwealth Court stated that under 15 Pa.C.S. § 1511(c), the Commission's only role is to consider whether the transmission line project is necessary and proper and is expressly barred from considering the power of the public utility to condemn. Once the Commission determines that the project is necessary, issues of scope, validity and damages must be determined by the

Court of Common Pleas. Opponents should address their remaining concerns regarding the scope of the easement to the Court of Common Pleas, not this Commission.

With regard to Applicant's alleged decision to ignore alternative routes and alignments for the transmission line suggested by Opponents to be arbitrary, unreasonable and profit driven at the expense of the property owners, the mere failure to select a route that would reduce the inconvenience to the landowner does not constitute grounds for withholding the exercise of the power to condemn the easement. Dept. of Env. Resources v. Pa. Pub. Util. Comm'n, 335 A2d 869 (Pa.Cmwlth. 1975); Lesher v. American Telegraph and Telephone Co., 276 A2d 325 (Pa.Cmwlth. 1971); Stone v. Pa. Pub. Util. Comm'n, 162 A.2d 18 (Pa. Super. 1960). Therefore, the mere fact that Applicant chose a route that crosses certain properties instead of choosing a route crossing other properties does not constitute arbitrary conduct nor does it render the Project or the route selection unreasonable, unnecessary or improper.

In determining whether Applicant's selection of the proposed route was unreasonable, improper or arbitrary, the Commission should evaluate whether Applicant considered topography, land use, safety, costs, environmental impacts and alternative routes. Dept. of Env. Resources v. Pa. Pub. Util. Comm'n, 335 A.2d 869 (Pa.Cmwlth. 1975); Hillman Coal & Coke Co. v. Pa. Pub. Util. Comm'n, 433 A.2d 634 (Pa.Cmwlth. 1981). The evidence in this case supports a conclusion that Applicant took all these factors into consideration in choosing the selected Route.

As set forth above in the discussion regarding site selection, Applicant employed a thorough site selection process to develop alternative routes for the Project. Applicant's analysis of the proposed Project resulted in six alternative routes, and Applicant considered communications from landowners and members of the public. Tr. 107-109, Applicant Rebuttal Statement No. 5-R, pp. 4-9.

Applicant evaluated the alternate routes. The selection process involved both qualitative and quantitative analysis. The quantitative evaluation scored and ranked the alternative routes according to certain selected evaluation metrics. Based on the quantitative

and qualitative assessments, the siting team selected Route 2 for the Project. During this selection process, Applicant considered among other factors, topography, land use, safety, costs, environmental impacts and alternative routes.

Based on the evidence outlined above, I conclude that Applicant did not act in an unreasonable, improper or arbitrary manner in the route selection process utilized. In its site selection process resulting in its selection of Route 2, Applicant considered topography, land use, safety, costs, environmental impacts and alternative routes, as well as other relevant and germane factors.

Applicant's proposed exercise of the power of eminent domain to acquire a right-of-way and easement for the construction, operation, and maintenance of the proposed Project over the lands of the identified property owners is necessary for the service, accommodation, convenience, or safety of the public.

Applicant seeks to exercise the power of eminent domain to acquire a right-of-way for the construction, operation, and maintenance of the Project over and across the remaining eight additional properties as identified above. The proposed right-of-way and easement over these properties will not cross any place of public worship, burying ground, dwelling or its reasonable curtilage. See 15 Pa.C.S. § 1511(b).

Applicant must be able to route the Project over and across all of the identified properties including the remaining eight properties identified above that are the subject of Eminent Domain Applications, in order to site, construct, and operate that line at the selected route. The service to be provided by Applicant through the proposed transmission line and related facilities is necessary or proper for the service, accommodation, convenience or safety of the public for the reasons set forth above. Accordingly, I find that Applicant's proposed exercise of the power of eminent domain to acquire a right-of-way and easement for the proposed Project over the remaining properties is necessary and, therefore, should be approved.

V. CONCLUSION

For the reasons set forth above, I recommend that the Commission grant Applicant's application for approval of the siting and construction of the transmission line associated with the Project. I also recommend that the Commission grant the application for findings that the service to be furnished by Applicant through its proposed exercise of the power of eminent domain to acquire portions of the lands of the eight property owners is necessary or proper for the service, accommodation, convenience or safety of the public.

VI. CONCLUSIONS OF LAW

1. Every public utility shall furnish, and maintain adequate, efficient, safe and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. 66 Pa.C.S.A. § 1501.

2. Upon the application of a public utility for authorization to locate and construct a HV transmission line or any portion thereof, upon approval of the application by the Commission first had and obtained, and upon compliance with existing laws, it shall be lawful for a public utility to commence construction of the HV transmission line or portion thereof. 52 Pa.Code § 57.71.

3. The Commission will issue its order, with its opinion, if any, either granting or denying the application, in whole or in part, as filed upon the terms, conditions or modifications, of the location, construction, operation or maintenance of the line as the Commission may deem appropriate. 52 Pa.Code § 57.76(a).

4. MAIT is a public utility in Pennsylvania, having been issued a certificate of public convenience by the Commission.

5. The proponent of a Commission rule or order has the burden of proof. 66 Pa.C.S. § 332(a).

6. As the Applicant in these proceedings, Applicant has the burden of proof to establish that it is entitled to the relief it is seeking by a preponderance of the evidence. Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n, 578 A.2d 600 (Pa.Cmwlth. 1990), alloc. den., 602 A.2d 863 (Pa. 1992).

7. To meet its burden of proof, Applicant must present evidence more convincing, by even the smallest amount, than that presented by any opposing party. Se-Ling Hosiery v. Margulies, 70 A.2d 854 (Pa. 1950).

8. The Commission's regulations regarding the siting and construction of a high voltage transmission line at 52 Pa.Code §§ 57.71-57.77 require a public utility to obtain Commission approval to locate and construct a high voltage transmission line.

9. The information a public utility is required to submit with an application for siting approval is delineated in 52 Pa.Code § 57.72(c)(l)-(15).

10. The information required by Sections 57.72(c)(l)-(15) has been submitted by Applicant in its Siting Application, the testimony and exhibits that accompanied the application and the testimony and exhibits subsequently entered into the record in this case.

11. The Commission will grant an application for approval of the siting and construction of a high voltage transmission line if it finds and determines, pursuant to 52 Pa.Code § 57.76(a), the following:

> (1) That there is a need for the high voltage transmission line.
>
> (2) That the high voltage transmission line will not create an unreasonable risk of danger to the health and safety of the public.

> (3) That the high voltage transmission line is in compliance with applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth.
>
> (4) That the high voltage transmission line will have minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and the available alternatives.

12. Pennsylvania's appellate courts have held that a utility's route for a proposed high-voltage transmission line should be approved where record evidence shows that the utility's route-selection process was reasonable and that the utility properly considered the factors relevant to siting a transmission line:

> In cases involving challenges to a utility's siting of HV lines for eminent domain or zoning exemption purposes, our courts have held that "it is settled law that the designation of the route for [a HV] line [is] a matter for determination by [a utility's] management in the first instance, and [the utility's] conclusion will be upheld unless shown to be wanton or capricious." *Stone v. Pennsylvania Public Utility Commission*, 192 Pa. Super. 573, 162 A.2d 18, 21 (Pa. Super. 1960). Thus, where the record establishes that the utility's route selection was reasonable, considering all the factors, its route will be upheld. *Paxtowne v. Pennsylvania Public Utility Commission*, 40 Pa. Commw. 646, 398 A.2d 254, 256 (Pa. Cmwlth. 1979). The mere existence of an alternative route does not invalidate the utility's judgment. *O'Connor v. Pennsylvania Public Utility Commission*, 136 Pa. Commw. 119, 582 A.2d 427, 433 (Pa. Cmwlth. 1990). This reasoning is equally sound when considering whether a utility has complied with 52 Pa. Code § 57.72(c)(10), as the information required by this section goes towards establishing the reasonableness of the utility's route selection. (Bracketed material appears in original.)

Energy Conservation Council of Pa. v. Pa. Pub. Util. Comm'n, 995 A.2d 465, 479-80 (Pa.Cmwlth. 2010) (Affirming the Commission's approval of a high-voltage transmission line proposed by Trans-Allegheny Interstate Line Company.) Accord, Energy Conservation Council of Pa. v. Pa. Pub. Util. Comm'n, 25 A.3d 440, 449-50 (Pa.Cmwlth. 2011) (Affirming the

Commission's approval of PPL Electric Utilities Corporation's proposed Roseland-Susquehanna 500 kV transmission line.)

13. The evidence presented by Applicant supports a finding that there is a need for the Project and, therefore, the standard set forth in 52 Pa.Code § 57.76(a)(l) is satisfied.

14. The evidence presented by Applicant supports a finding that the Project will not create an unreasonable risk of danger to the health and safety of the public and, therefore, the standard set forth in 52 Pa.Code § 57.76(a)(2) is satisfied.

15. The evidence presented by Applicant supports a finding that the Project will comply with applicable statutes and regulations providing for the protection of the natural resources of the Commonwealth and, therefore, the standard set forth in 52 Pa.Code § 57.76(a)(3) is satisfied.

16. The evidence presented by Applicant supports a finding that the Project will have minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and the available alternatives and, therefore, the standard set forth in 52 Pa.Code § 57.76(a)(4) is satisfied.

17. Applicant has met its burden of proving that its Application requesting approval of the siting and construction of the proposed Project and HV transmission line are necessary or proper for the accommodation, convenience and safety of its patrons, employees and the public.

18. The evidence presented by Applicant supports a finding that Route 2 is the preferred route of the alternative routes considered by Applicant for the Project.

19. Applicant has met its burden of proving that the selection of the Route 2 for the Project was reasonable and not selected wantonly, capriciously, or arbitrarily.

20. Applicant has met its burden of proving that the siting and construction of the Project utilizing Route 2 would not create an unreasonable risk of danger to the health and safety of the public.

21. Applicant has met its burden of proving that the siting and construction of the Project utilizing Route 2 is in compliance with applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth.

22. Applicant has met its burden of proving that the siting and construction of the Project utilizing Route 2 would have a minimum adverse environmental impact, considering the electric power needs of the public and the available alternatives.

23. Applicant has complied with all applicable statutes and regulations relevant to the protection of the Commonwealth's environment with regard to the Project. 66 Pa.C.S. § 1501; 52 Pa.Code §§ 57.71-57.77.

24. Applicant has made reasonable efforts to reduce the environmental impacts of the Project to a minimum.

25. The benefits to be derived from the Project outweigh any environmental harm that would result from its construction.

26. Applicant has met its burden of proving that the exercise of the power of eminent domain, pursuant to 15 Pa.C.S. § 1511, to acquire ROW and easements needed for the construction, operation, maintenance, and aerial crossings by the Project over the properties described in its pending Eminent Domain Applications is necessary and proper for the service, accommodation, convenience or safety of the public, as identified below:

> A-2016-2565326. Application of [MAIT as successor to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Robin F. Miller & Tammy J. Miller in Napier Township, Bedford County and Motion for Consolidation with

Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565344. Application of [MAIT as successor to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Katherine L. Ziegler in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565360. Application of [MAIT as successor to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Fritz Land Holdings LP in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West115 kV HV Transmission Line Project.

A-2016-2565472. Application of [MAIT as successor to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Shirley Huston & Gary E Lambert in the Shade Township, Somerset County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565480. Application of [MAIT as successor to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Martha Lorraine Anderson & John S. Anderson in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565504. Application of [MAIT as successor to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Keith A. Lohr in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565545. Application of [MAIT as successor to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Albert Stiles in Shade Township, Somerset County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565635. Application of [MAIT as successor to] Pennsylvania Electric Company for exercise of Eminent Domain

upon property of Vincent Beal in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

27. The Agricultural Security Law allows public utilities to exercise the power of eminent domain to acquire property in Agricultural Security Areas, subject to the Commission's prior approval. 3 P.S. § 913. The Lambert parcel, which is the subject of the Applicant's Eminent Domain Application at Docket No. A-2016-2565472, and the Anderson parcel, which is the subject of Applicant's Eminent Domain Application at Docket No. A-2016-2565480, are registered as Agricultural Security Areas. Applicant has demonstrated that the exercise of the power of eminent domain over the Lambert and Anderson parcels satisfies the requirements of the Agricultural Security Law to acquire property in Agricultural Security Areas.

VII. ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Application of Mid-Atlantic Transmission, LLC, filed pursuant to 52 Pa.Code Chapter 57, Subchapter G, for approval to site, construct and operate the proposed Bedford North-Central City West 115 kV HV Transmission Line, at Docket No. A-2016-2565296, is granted.

2. That the Application of Mid-Atlantic Transmission, LLC, filed with the Commission and docketed as follows, for findings and determinations under Section 1511 of the Business Corporation Law of 1988, 15 Pa.C.S. § 1511 that the service to be furnished by Applicant through its proposed exercise of the power of eminent domain to acquire ROW for the construction, operation and maintenance of an electric transmission line and related facilities

is necessary or proper for the service, accommodation, convenience or safety of the public, is hereby approved:

A-2016-2565326. Application of [MAIT as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Robin F. Miller & Tammy J. Miller in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565344. Application of [MAIT as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Katherine L. Ziegler in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565360. Application of [MAIT as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Fritz Land Holdings LP in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West115 kV HV Transmission Line Project.

A-2016-2565472. Application of [MAIT as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Shirley Huston & Gary E Lambert in the Shade Township, Somerset County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565480. Application of [MAIT as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Martha Lorraine Anderson & John S. Anderson in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565504. Application of [MAIT as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Keith A. Lohr in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565545. Application of [MAIT as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Albert Stiles in Shade Township, Somerset County and Motion for Consolidation with Siting

Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

A-2016-2565635. Application of [MAIT as successor in interest to] Pennsylvania Electric Company for exercise of Eminent Domain upon property of Vincent Beal in Napier Township, Bedford County and Motion for Consolidation with Siting Application for Bedford North - Central City West 115 kV HV Transmission Line Project.

3. That the dockets at Docket Nos. A-2016-2565296, A-2016-2565326, A-2016-2565344, A-2016-2565360, A-2016-2565364, A-2016-2565368, A-2016-2565369, A-2016-2565377, A-2016-2565378, A-2016-2565472, A-2016-2565480, A-2016-2565502, A-2016-2565504, A-2016-2565509, A-2016-2565543, A-2016-2565545, A-2016-2565547, A-2016-2565549, A-2016-2565635 and A-2016-2565644 be marked closed.

4. That the protest of Nancy K. MacRae filed at Docket No. A-2016-2565364 is dismissed.

Date: November 14, 2017

/s/
Jeffrey A. Watson
Administrative Law Judge