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File #: 144497

October 12, 2018

VIA ELECTRONIC FILING

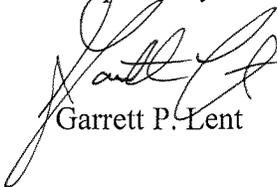
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Application of Duquesne Light Company filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 138 kV Transmission Lines Associated with the Universal-Plum Project in Penn Hills, Monroeville, and Plum Borough, Allegheny County, Pennsylvania
Docket Nos. A-2018-3000708, A-2018-3000732, A-2018-3000733, A-2018-3000743, A-2018-3000747, A-2018-3000754, A-2018-3000755, A-2018-3000756, A-2018-3000766, A-2018-3000768 and A-2018-3000769**

Dear Secretary Chiavetta:

Enclosed, please find the Motion of Duquesne Light Company for a Protective Order. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Garrett P. Lent

GPL/kls

Enclosures

cc: Honorable Conrad A. Johnson
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL AND FIRST CLASS MAIL:

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United States Steel Corporation
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Matthew J. Fearing
United States Steel Corporation
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Attn.: Cathy Connelly

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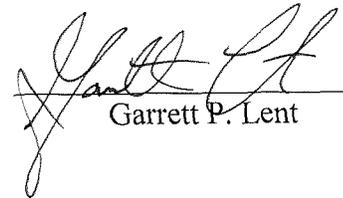
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Parkway Associates
4117 Old William Penn Highway
Murrysville, PA 15668-1920

Date: October 12, 2018



Garrett P. Lent

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Duquesne Light Company	:	Docket No. A-2018-3000708
filed Pursuant to 52 Pa. Code Chapter 57,	:	Docket No. A-2018-3000732
Subchapter G, for Approval of the Siting and	:	Docket No. A-2018-3000733
Construction of the 138 kV Transmission	:	Docket No. A-2018-3000743
Lines Associated with the Universal-Plum	:	Docket No. A-2018-3000747
Project in Penn Hills, Monroeville, and Plum	:	Docket No. A-2018-3000754
Borough, Allegheny County, Pennsylvania	:	Docket No. A-2018-3000755
	:	Docket No. A-2018-3000756
	:	Docket No. A-2018-3000766
	:	Docket No. A-2018-3000768
	:	Docket No. A-2018-3000769

**MOTION OF DUQUESNE LIGHT COMPANY
FOR A PROTECTIVE ORDER**

TO HONORABLE ADMINISTRATIVE LAW JUDGE CONRAD A. JOHNSON:

Duquesne Light Company (“Duquesne Light”), by its counsel, hereby requests that the attached Protective Order be entered in this proceeding pursuant to the provisions of 52 Pa. Code §§ 5.362(a)7 and 5.365(a). In support thereof, Duquesne Light represents as follows:

1. On March 23, 2018, Duquesne Light filed and served the Application of Duquesne Light Company for Approval of the Siting and Construction of the 138 kV Transmission Lines Associated with the Universal-Plum Project in Penn Hills, Monroeville, and Plum Borough, Allegheny County, Pennsylvania, which was docketed at Docket No. A-2018-3000708 (“Full Siting Application”).

2. Proprietary Information within the definition of 52 Pa. Code §§ 5.362 and 5.365 has been presented during the course of this consolidated proceeding, which justifies the issuance of a Protective Order. Duquesne Light has presented information that is customarily treated as sensitive or proprietary or that may involve CONFIDENTIAL Critical Energy Infrastructure

Information, or CONFIDENTIAL CEII, as defined in 18 C.F.R. § 388.113(c)(1).¹ Therefore, treatment of such information as set forth in the attached proposed Protective Order is justified because unrestricted disclosure of such information may not be in the public interest. These considerations constitute cause for restrictions specified in 52 Pa. Code §§ 5.362 and 5.365 and in Administrative Law Judge or Commission Orders granting relief pursuant to said regulation.

3. Under 52 Pa. Code § 5.365, an Administrative Law Judge or the Commission may issue a Protective Order to limit or prohibit disclosure of confidential commercial information where the potential harm to a participant would be substantial and outweighs the public's interest in having access to the confidential information. In applying this standard, relevant factors to be considered include the extent to which disclosure would cause unfair economic or competitive damage; the extent to which the information may already be known by others; and the potential value of such information to the participant and the participant's competitors and trade partners. 52 Pa. Code § 5.365(a).

4. The attached Protective Order meets these standards. In Paragraph 3, defines the subject information. The first is "CONFIDENTIAL" information—defined as materials "which are not available to the public, and which, if disclosed freely, would subject that party or its clients to risk of competitive disadvantage or other business injury." The second is "CONFIDENTIAL Critical Energy Infrastructure Information" or "CONFIDENTIAL CEII"—defined by the Federal Energy Regulatory Commission as information which "could be useful to

¹ 18 C.F.R. §388.113(c)(1) defines "Critical Energy Infrastructure Information" as specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (i) Relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) Could be useful to a person in planning an attack on critical infrastructure; (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and (iv) Does not simply give the general location of the critical infrastructure. Moreover, 18 C.F.R. § 388.113(c)(2) defines "Critical Infrastructure" as existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.

a person in planning an attack on critical infrastructure.” Clearly, in the first instance, protecting this type of information from disclosure is appropriate. Paragraph 17 of the attached Protective Order protects against overly broad designations of protected information by giving all parties the right to “question or challenge the confidential or proprietary nature of the Proprietary Information.”

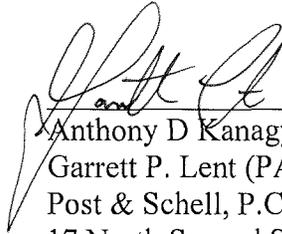
5. Limitation on the disclosure of proprietary information will not prejudice the rights of the participants, nor will such limitation frustrate the prompt and fair resolution of this proceeding. The proposed Protective Order balances the interests of the parties, the public, and the Commission.

6. The attached proposed Protective Order will protect the confidential information while allowing the parties and the Commission to use such information for purposes of the instant litigation.

WHEREFORE, for all the foregoing reasons, Duquesne Light Company requests that Administrative Law Judges Conrad A. Johnson grant this Motion and issue the attached Protective Order.

Respectfully submitted,

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Date: October 12, 2018

Attorneys for Duquesne Light Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Duquesne Light Company	:	Docket No. A-2018-3000708
filed Pursuant to 52 Pa. Code Chapter 57,	:	Docket No. A-2018-3000732
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Project in Penn Hills, Monroeville, and Plum	:	Docket No. A-2018-3000754
Borough, Allegheny County, Pennsylvania	:	Docket No. A-2018-3000755
	:	Docket No. A-2018-3000756
	:	Docket No. A-2018-3000766
	:	Docket No. A-2018-3000768
	:	Docket No. A-2018-3000769

PROTECTIVE ORDER

Upon consideration of the Motion for a Protective Order that was filed by Duquesne Light Company (“Duquesne Light”) on October 12, 2018;

IT IS ORDERED THAT:

1. The Motion is hereby granted with respect to all materials and information identified in Paragraphs 2 and 3 below, which have been filed with the Commission, or otherwise presented during the above-captioned proceeding and all proceedings consolidated with it. All persons previously or hereafter granted access to the materials and information identified in Ordering Paragraph 2 of this Protective Order shall use and disclose such information only in accordance with this Protective Order.

2. The information subject to this Protective Order includes all correspondence, documents, data, information, studies, methodologies and other materials, furnished in this proceeding, which are believed by the producing party to be of a proprietary or confidential nature and which are so designated by being stamped “CONFIDENTIAL” or “CONFIDENTIAL Critical Energy Infrastructure Information” or “CONFIDENTIAL CEII”. Such materials will be referred to

below as “Proprietary Information.” When a statement or exhibit is identified for the record, the portions thereof that constitute Proprietary Information shall be designated as such for the record.

3. This Protective Order applies to the following categories of materials: (A) the Parties may designate as “CONFIDENTIAL” those materials which customarily are treated by that party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that party or its clients to risk of competitive disadvantage or other business injury; and (B) the Parties may designate materials as “CONFIDENTIAL Critical Energy Infrastructure Information,” or “CONFIDENTIAL CEII,” as defined in 18 C.F.R. § 388.113(c)(1)¹. If the material contains CONFIDENTIAL Critical Energy Infrastructure Information, the Parties producing such information shall mark on each page containing such information the words “CONFIDENTIAL Critical Energy Infrastructure Information” or “CONFIDENTIAL CEII.”

4. (a) Proprietary Information shall be made available to counsel for a party, subject to the terms of this Protective Order. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, cross examination or argument in this proceeding. To the extent required for participation in this proceeding, counsel for a party may make Proprietary Information available to a Reviewing Representative subject to the conditions set forth in this Protective Order.

(b) Proprietary Information produced in this proceeding shall be made available to the Commission and its Staff. For purposes of filing, to the extent that Proprietary Information is placed in the Commission’s report folders, such information shall be handled in accordance with

¹ 18 C.F.R. § 388.113(c)(1) defines “Critical Energy Infrastructure Information” as specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (i) Relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) Could be useful to a person in planning an attack on critical infrastructure; (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. § 552; and (iv) Does not simply give the general location of the critical infrastructure. Moreover, 18 C.F.R. § 388.113(c)(2) defines “Critical Infrastructure” as existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.

routine Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information is placed in the Commission's testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Protective Order. Public inspection of Protected Information shall be permitted only in accordance with this Protective Order.

5. Information deemed as "CONFIDENTIAL", shall be made available to a "Reviewing Representative" who is a person who has signed a Non-Disclosure Certificate and who is:

- (i) An attorney who has made an appearance in this proceeding for a party;
- (ii) Attorneys, paralegals, and other employees associated for purposes of this case with an attorney described in Paragraph (i);
- (iii) An expert or an employee of an expert retained by a party for the purpose of advising, preparing for or testifying in this proceeding; or
- (iv) Employees or other representatives of a party appearing in this proceeding with significant responsibility for this docket.

6. Information deemed as "CONFIDENTIAL Critical Energy Infrastructure Information" or "CONFIDENTIAL CEII", as defined in 18 CFR § 388.113(c)(1), may be made available for inspection and review but not copied by a "Reviewing Representative," consistent with the parameters outlined in Paragraph 7 and who is:

- (i) An attorney for a statutory advocate pursuant to 52 Pa. Code § 1.8 or an outside counsel who has made an appearance in this proceeding for a party;
- (ii) An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in Paragraph (i);
- (iii) An outside expert or an employee of an outside expert retained by a party for the purposes of advising, preparing for or testifying in this proceeding; or
- (iv) A person designated as a Reviewing Representative for purposes of Critical Energy Infrastructure Information pursuant to paragraph 11.

Provided, further, any party may, by subsequent objection or motion, seek further protection with respect to CONFIDENTIAL information, CONFIDENTIAL Critical Energy Infrastructure Information or CONFIDENTIAL CEII, including, but not limited to, total prohibition of disclosure or limitation of disclosure only to particular parties.

7. Critical Energy Infrastructure Information may be made available to a Reviewing Representative for inspection and review but not copied, except as specified herein. The Party producing the materials shall permit other parties' counsel to take custody of Critical Energy Infrastructure Information; the information shall not be copied except that independent outside consultants, who are not a Restricted Person, and who are assisting counsel with the preparation or presentation of the party's case in these proceedings may make copies. All such copies shall also be deemed to be Critical Energy Infrastructure Information.

8. For purposes of this Protective Order, a Reviewing Representative may not be a "Restricted Person." A "Restricted Person" shall mean: (a) an officer, director, stockholder, partner, or owner of any competitor of the parties or an employee of such an entity; (b) an officer, director, stockholder, partner, or owner of any affiliate of a competitor of the parties (including any association of competitors of the parties) or an employee of such an entity; (c) an officer, director, stockholder, owner or employee of a competitor of a customer of the parties if the Proprietary Information concerns a specific, identifiable customer of the parties; and (d) an officer, director, stockholder, owner or employee of an affiliate of a competitor of a customer of the parties if the Proprietary Information concerns a specific, identifiable customer of the parties; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert's interest in the business would provide a significant motive for violation of the limitations of permissible use of the Proprietary Information. For purposes of this Protective Order, stocks,

partnership or other ownership interests valued at more than \$10,000 or constituting more than a 1% interest in a business establishes a significant motive for violation.

9. If an expert for a party, another member of the expert's firm or the expert's firm generally also serves as an expert for, or as a consultant or advisor to, a Restricted Person, said expert must: (1) identify for the parties each Restricted Person and each expert or consultant; (2) make reasonable attempts to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a Restricted Person; and (3) if segregation of such personnel is impractical the expert shall give to the producing party written assurances that the lack of segregation will in no way jeopardize the interests of the parties or their customers. The parties retain the right to challenge the adequacy of the written assurances that the parties' or their customers' interests will not be jeopardized. No other persons may have access to the Proprietary Information except as authorized by order of the Commission.

10. Proprietary Information shall be treated by the parties and by the Reviewing Representative in accordance with the certificate executed pursuant to Paragraph 12(a). Information deemed Proprietary Information shall not be used except as necessary for the conduct of this proceeding, nor shall it be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding.

11. Reviewing Representatives may not use information contained in any Proprietary Information obtained through this proceeding to give any party or any competitor of any party a commercial advantage. In the event that a Party wishes to designate as a Reviewing Representative a person not described in Paragraph 5(i) through (iv) or Paragraph 6(i) through (iii) above, the party shall seek agreement from the party providing the Proprietary Information. If an agreement is reached, that person shall be a Reviewing Representative with respect to those materials. If no

agreement is reached, the party shall submit the disputed designation to the presiding Administrative Law Judge for resolution.

12. (a) A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Proprietary Information pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate provided that if an attorney qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so. A copy of each Non-Disclosure Certificate and/or Non-Disclosure Agreement shall be provided to counsel for the party asserting confidentiality prior to disclosure of any Proprietary Information to that Reviewing Representative.

(b) Attorneys and outside experts qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with the Protective Order.

13. The parties shall designate data or documents as constituting or containing Proprietary Information by stamping the documents "CONFIDENTIAL," or "CONFIDENTIAL Critical Energy Infrastructure Information" or "CONFIDENTIAL CEII." Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the parties, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information. The Proprietary Information shall be served upon the parties hereto only in an envelope separate from the nonproprietary materials, and the envelope shall be conspicuously marked "CONFIDENTIAL," or "CONFIDENTIAL Critical Energy Infrastructure Information" or "CONFIDENTIAL CEII."

14. The party will consider and treat the Proprietary Information as within the exemptions from disclosure provided 66 Pa. C.S. § 335(d) and also exempt under the Pennsylvania Right to Know Law, Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101-67.3104, until such time as the information is found to be non-proprietary or non-Critical Energy Infrastructure Information.

15. Any public reference to Proprietary Information by a party or its Reviewing Representatives shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand fully the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

16. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, argument, and responses to discovery, and including reference thereto as mentioned in Paragraph 15 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the parties to this proceeding or pursuant to an order of the Commission.

17. The parties shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information and to question or challenge the admissibility of Proprietary Information. If a party challenges the designation of a document or information as proprietary, the party providing the information retains the burden of demonstrating that the designation is appropriate.

18. The parties shall retain the right to question or challenge the admissibility of Proprietary Information; to object to the production of Proprietary Information on any proper ground; and to refuse to produce Proprietary Information pending the adjudication of the objection.

19. Within 30 days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within thirty days after appeals are finally decided, all parties, upon request, shall either destroy or return to the producing party all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information. In the event that a party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning the copies of documents and other materials containing Proprietary Information to the producing party, that party shall certify in writing to the producing party that the Proprietary Information has been destroyed.

Dated: _____

Administrative Law Judge
Conrad A. Johnson

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Duquesne Light Company	:	Docket No. A-2018-3000708
filed Pursuant to 52 Pa. Code Chapter 57,	:	Docket No. A-2018-3000732
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	:	Docket No. A-2018-3000766
	:	Docket No. A-2018-3000768
	:	Docket No. A-2018-3000769

TO WHOM IT MAY CONCERN:

The undersigned is the _____ of _____ (the retaining party). The undersigned has read and understands the Protective Order issued in the above captioned proceedings, which Order deals with the treatment of information designated as “CONFIDENTIAL,” or “CONFIDENTIAL Critical Energy Infrastructure Information” or “CONFIDENTIAL CEII.” The undersigned agrees that any Proprietary Information shall be used or disclosed only for purposes of preparation for, and conduct of the above captioned proceedings, and any administrative or judicial review thereof, and shall not be disclosed or used for any other purposes whatsoever.

SIGNATURE

PRINT NAME

ADDRESS

EMPLOYER

DATE: _____