



17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Main Fax
www.postschell.com

Anthony D. Kanagy

akanagy@postschell.com
717-612-6034 Direct
717-720-5387 Direct Fax
File #: 144497

November 26, 2018

VIA ELECTRONIC FILING

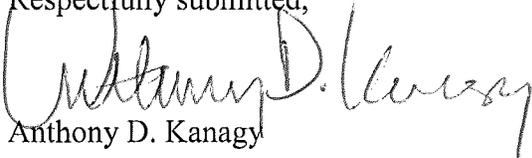
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**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 Initial Brief of Duquesne Light Company in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Anthony D. Kanagy

ADK/skr
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:

Gary Kalmeyer, Esquire
Kalmeyer and Kalmeyer
410 Rodi Road
Pittsburgh, PA 15235
*Counsel for Maria Palombo Aiello,
Antoinette Cardinale and Anna Louise
Palombo*

VIA FIRST CLASS MAIL:

Sampson Bros Inc.
133 Jefferson Road
Pittsburgh, PA 15235

Benjamin Sampson
Sampson Morris Group
2500 Eldo Road
Monroeville, PA 15146

Consol Mining Company LLC
1000 Consol Energy Drive
Canonsburg, PA 15317

United States Steel Corporation
600 Grant Street, Suite 1381
Pittsburgh, PA 15219

Matthew J. Fearing
United States Steel Corporation
U.S. Steel Tower
600 Grant Street, Suite 1500
Pittsburgh, PA 15219

Transtar, LLC/Union Railroad, LLC
1350 Penn Avenue, Suite 200
Pittsburgh, PA 15222
Attn.: Cathy Connelly

Richard C. Crawford
Parkway Associates
4117 Old William Penn Highway
Murrysville, PA 15668-1920

Javaid M. Alvi and Pervaiz M. Alvi
and Walter M. Lorence
660 Munir Drive
Elizabeth, PA 15037

Maria Palombo Aiello and Antoinette
Cardinale
and Anna Louise Palombo
370 Hamilton Drive
Pittsburgh, PA 15235

Jeffrey G. and Reginal M. Woodring
420 Edwards Road
New Kensington, PA 15068

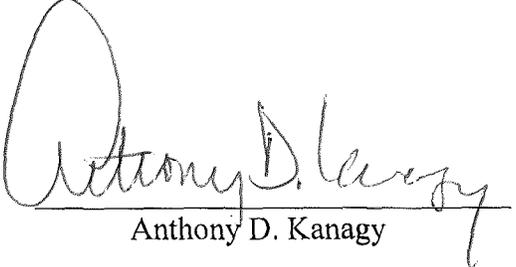
Davidson Property Co., LLC
3335 Boulevard of the Allies
Pittsburgh, PA 15213

Cathleen L. Scott
995 Wills Avenue
New Kensington, PA 15068

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

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

Date: November 26, 2018



Anthony D. Kanagy

**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-2018-3000769

**INITIAL BRIEF OF
DUQUESNE LIGHT COMPANY**

Tishekia E. Williams, Esquire
Attorney I.D. #208997
Michael Zimmerman, Esquire
Attorney I.D. # 323715
Duquesne Light Company
411 Seventh Avenue
Pittsburgh, PA 15219
Phone: 412-393-6268
Fax: 412-514-3596
Email: twilliams@duqlight.com
Email: mzimmerman@duqlight.com

Anthony D. Kanagy, Esquire
Attorney I.D. # 85522
Garrett P. Lent, Esquire
Attorney I.D. # 321566
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: akanagy@postschell.com
E-mail: glent@postschell.com

Date: November 26, 2018

Counsel for Duquesne Light Company

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. STATEMENT OF THE CASE.....	2
III. STATEMENT OF QUESTIONS INVOLVED.....	8
IV. SUMMARY OF ARGUMENT	9
V. LEGAL STANDARDS	13
A. BURDEN OF PROOF	13
B. STANDARDS FOR APPROVAL OF THE SITING APPLICATION	14
C. STANDARDS FOR APPROVAL OF THE EMINENT DOMAIN APPLICATIONS	20
VI. ARGUMENT.....	21
A. INTRODUCTION	21
B. THERE IS A NEED FOR THE UNIVERSAL-PLUM PROJECT	23
1. Duquesne Light Has A Comprehensive Transmission Planning Process..	23
2. Duquesne Light’s Transmission Planning Process Identified Reliability Issues Associated With The Universal And Plum Substations.....	25
3. The Universal-Plum Project Will Solve The Reliability Issues Identified By Duquesne Light’s Transmission Planning Process	27
a. The New Universal-Plum 138 kV Transmission Line.....	27
b. The Relocated Cheswick-Plum 138 kV Transmission Line	28
4. Conclusion Regarding The Need For The Universal-Plum Project.....	29
C. THE UNIVERSAL-PLUM PROJECT WILL NOT CREATE AN UNREASONABLE RISK OF DANGER TO THE HEALTH AND SAFETY OF THE PUBLIC.	30
1. The Transmission Lines Will Meet and Exceed the NESC Standards	30
2. Electric And Magnetic Field Mitigation	31

3.	Conclusion Regarding Health And Safety	32
D.	THE UNIVERSAL-PLUM PROJECT IS IN COMPLIANCE WITH STATUTES AND REGULATIONS, PROVIDING FOR THE PROTECTION OF NATURAL RESOURCES	33
E.	THE UNIVERSAL-PLUM PROJECT WILL HAVE MINIMAL ADVERSE ENVIRONMENTAL IMPACTS	35
1.	Overview of the Siting Process	37
2.	Selection Of The Proposed Route	38
a.	The Universal-Plum 138 kV Transmission Line	38
b.	The Relocated Cheswick-Plum 138 kV Transmission Line	40
3.	Mitigation Measures	41
4.	Property Specific Challenges Advanced By Certain Landowners	42
a.	The Alvi Property Segment	43
b.	The Palombo Property Segment	47
5.	Conclusion As To Minimum Adverse Environmental Impacts.....	53
F.	EMINENT DOMAIN APPLICATIONS.....	54
VII.	CONCLUSION.....	58
	Proposed Findings of Fact.....	Appendix A
	Proposed Conclusions of Law.....	Appendix B
	Proposed Ordering Paragraphs.....	Appendix C

TABLE OF AUTHORITIES

Page

Pennsylvania Statutes

2 Pa. C.S. § 704..... 13

15 Pa. C.S. § 1511(a)(3)..... 20

15 Pa. C.S. § 1511(c)..... *passim*

66 Pa. C.S. § 332(a)..... 13

66 Pa. C.S. § 1501..... 14, 22

66 Pa. C.S. § 2802(12)..... 15

66 Pa. C.S. § 2802(20)..... 16

66 Pa. C.S. § 2803..... 16

Pennsylvania Regulations

52 Pa. Code § 57.71..... 14

52 Pa. Code § 57.72(e)..... 33

52 Pa. Code § 57.75(d)(4)..... 36

52 Pa. Code § 57.76(a)..... *passim*

52 Pa. Code § 69.3105..... 18, 34

52 Pa. Code § 69.3106..... 18, 34

Pennsylvania Appellate Court Decisions

Allied Mechanical and Elec., Inc. v. Pennsylvania Prevailing Wage Appeals Board, 923 A.2d 1220 (Pa. Cmwlth. 2007)..... 13

Borough of E. McKeesport v. Special/Temporary Civil Service Commission, 942 A.2d 274 (Pa. Cmwlth. 2008)..... 13

Brown v. Commonwealth of Pennsylvania, 940 A.2d 610 (Pa. Cmwlth. 2008)..... 13

Commonwealth of Pennsylvania v. Williams, 557 Pa. 207, 732 A.2d 1167 (1999)..... 13

TABLE OF AUTHORITIES

	<u>Page</u>
<i>Department of Environmental Resources v. Pa. PUC</i> , 335 A.2d 860 (Pa. Cmwlth. 1975), <i>aff'd.</i> , 473 Pa. 378, 374 A.2d 693 (1977)	20, 54, 57
<i>Dickson v. Pennsylvania Service Commission</i> , 89 Pa. Super. 126 (1926).....	20, 54, 57
<i>Dunk v. Pa. PUC</i> , 232 A.2d 231 (Pa. Super. 1967).....	15
<i>Energy Conservation Council of Pennsylvania v. Pa. PUC</i> , 25 A.3d 440 (Pa. Cmwlth. 2011)	19, 21, 36
<i>Energy Conservation Council of Pennsylvania v. Public Utility Commission</i> , 995 A.2d 465 (Pa. Cmwlth. 2010).....	15, 19, 36
<i>Hess v. Pa. Pub. Util. Comm'n</i> , 107 A.3d 246 (Pa. Cmwlth. 2014), <i>appeal denied</i> , 632 Pa. 678, 117 A.3d 1282 (Pa. 2015).....	16, 29
<i>Kyu Son Yi v. State Board of Veterinarian Medicine</i> , 960 A.2d 864 (Pa. Cmwlth. 2008).....	13
<i>McDonald v. Pennsylvania Railroad Co.</i> , 348 Pa. 558, 36 A.2d 492 (1940).....	14
<i>Met-Ed Indus. Users Group v. Pa. PUC</i> , 960 A.2d 189 (Pa. Cmwlth. 2008).....	13
<i>Pa. Environmental Defense Foundation v. Com. Of Pa.</i> , 161 A.3d 911 (Pa. 2017)	<i>passim</i>
<i>Paxtowne v. Pa. PUC</i> , 398 A.2d 254 (Pa. Cmwlth. 1979)	21
<i>Pennsylvania Power & Light Co. v. Pa. PUC</i> , 696 A.2d 248 (Pa. Cmwlth. 1997).....	16
<i>Samuel J. Lansberry, Inc. v. Pa. PUC</i> , 578 A.2d 600 (Pa. Cmwlth. 1990).....	13
<i>Stone v. Pa. PUC</i> , 162 A.2d 18 (Pa. Super. 1960).....	15, 21, 54

Pennsylvania Administrative Agency Decisions

<i>Application of Pennsylvania Power & Light Co.</i> , Docket Nos. A-110500F0196, <i>et al.</i> ; 1994 Pa. PUC LEXIS 65 (Oct. 21 1994)	14
<i>Application of Pennsylvania Electric Company Seeking Approval 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</i> , Docket Nos. A-2016-2565296 <i>et al.</i> (Order entered March 8, 2018).....	18, 33, 34

TABLE OF AUTHORITIES

	<u>Page</u>
<i>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, Docket Nos. A-2011-2247862, et al., 2012 Pa. PUC LEXIS 298 (Initial Decision February 9, 2012)</i>	18, 35
<i>Application of PPL Electric Utilities Corporation filed Pursuant to 52 Pa. Code Chapter 47, Subchapter G, for Approval of the Siting and Construction of the North Lancaster Honey Brook # 1 & # 2 138/69 kV Transmission Lines in Lancaster County, Pennsylvania, Docket Nos. A-2014-2430565 et al., 2015 Pa. PUC LEXIS 77 (Order dated Feb. 27, 2015) (“PPL North Lancaster-Honey Brook”)</i>	16, 29
<i>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 Nos. A-2009-2082652, et al., 2009 Pa. PUC LEXIS 2323 (Recommended Decision Nov. 12, 2009)</i>	22
<i>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, Docket Nos. A-2009-2082652, et al., 2010 Pa. PUC LEXIS 434 (February 12, 2010)</i>	17, 19, 30, 35
<i>Application of PP&L for Authorization to Locate and Construct its Hamlin 138 kV Electric Transmission Line, Docket No. A-00101826 (April 3, 1981)</i>	17, 31
<i>Application of PP&L for Approval to Locate and Construct a 138 kV Transmission Line Between West Allentown and Salisbury Substations, Docket No. A-00104160 (July 20, 1984)</i>	17, 30
<i>Application of Trans-Allegheny Interstate Line Company 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 Township, Perry Township, and Whiteley Township, Greene County in Southwestern Pennsylvania, Docket Nos. A-2010-2187540, et al., 2011 Pa. PUC LEXIS 2028 (Recommended Decision March 28, 2011)</i>	18, 35
<i>Investigation on Commission Motion of the Safety of the Cabett-Wylei Ridge 500 kV Transmission Line, I.D. 236 (Sept. 18, 1981)</i>	17, 30

TABLE OF AUTHORITIES

	<u>Page</u>
<i>Larken v. Philadelphia Electric Co.</i> , 39 Pa. PUC 777 (1961).....	17, 31
<i>Re: Interim Guidelines for the Filing of Electric Transmission Line Siting Applications</i> , Docket No. M-2009-2141293, 2010 Pa. PUC LEXIS 2069 (November 5, 2010) ...	33, 34

I. INTRODUCTION

In these consolidated proceedings, Duquesne Light Company (“Duquesne Light”) seeks approvals and findings necessary for the siting and construction of the transmission lines associated with the Universal-Plum Project in Penn Hills, Monroeville, and Plum Borough, Allegheny County, Pennsylvania. Specifically, Duquesne Light seeks (1) approval for the siting and construction of approximately 4.21 miles of overhead 138 kV transmission lines associated with the Universal-Plum Project, and (2) findings that the exercise of the power of eminent domain to acquire rights-of-way across nine (9) tracts of land is necessary or proper for the service, accommodation, convenience or safety of the public.

The Universal-Plum Project is required to resolve certain violations Duquesne Light’s *Transmission Planning Criteria* (“Planning Criteria”) and to reinforce the existing 138 kV system located in Penn Hills, Monroeville, and Plum Borough, in Allegheny County. Under the Planning Criteria, the Plum Substation should have two sources of transmission supply. Presently, however, the Plum Substation is supplied by a single source of supply and, if an outage occurs on this source of supply through required maintenance or system faults, the Plum Substation would lose its only transmission source of supply. The ability to transfer load served by the Plum Substation to other substations is limited during times of system peak load and losing supply to the Plum Substation could cause the local 23 kV sub-transmission and distribution circuits to become heavily loaded and near the emergency rating of the conductors.

Under the Planning Criteria, the Universal Substation should have three sources of transmission supply because the Universal Substation has a maximum historical peak load of 124 MVA. Any substation with over 100 MVA should have three sources of transmission supply. Presently, however, the Universal Substation is served by only two transmission supply sources. If one of the two sources of supply is out of service for maintenance or other purposes, the entire

customer load served by the Universal Substation could be interrupted for an extended period of time if the other source of supply is lost due to an unexpected system fault. The Universal-Plum Project addresses both of these reliability issues by providing each substation with an additional transmission source of supply. As explained below, the record evidence in this matter clearly demonstrates that: (1) the proposed Universal-Plum Project is needed; (2) the Universal-Plum Project will not create an unreasonable risk of danger to the health and safety of the public; (3) the Universal-Plum Project is in compliance with all statutes and regulations providing for the protection of natural resources in Pennsylvania; (4) the Universal-Plum Project will have minimal adverse environmental impacts; and (5) the exercise of the power of eminent domain by Duquesne Light to acquire rights-of-way across nine tracts of land is necessary or proper for the service, accommodation, convenience or safety of the public. Accordingly, Administrative Law Judge Conrad A. Johnson (the "ALJ") and the Pennsylvania Public Utility Commission ("Commission") should find that the proposed Universal-Plum Project satisfies the requirements of the applicable statutes and regulations and approve the pending siting application, and nine eminent domain applications.

II. STATEMENT OF THE CASE

On March 23, 2018, Duquesne Light filed the Universal-Plum Project Siting Application and served the following attachments in support of the Siting Application:

- Attachment 1 – PUC Cross-Reference Matrix
- Attachment 2 – Need Statement
- Attachment 3 – Environmental Assessment and Line Route Siting Study
- CONFIDENTIAL Attachment 4 - Map of Existing and Proposed DLC Facilities
- CONFIDENTIAL Attachment 5a - One Line Diagram of Existing DLC Facilities
- CONFIDENTIAL Attachment 5b - One Line Diagram of Proposed DLC Facilities
- Attachment 6 – Map of Alternatives Considered

- Attachment 7 – Aerial Map of the Preferred Route
- Attachment 8 – Topographical Map of the Preferred Route
- Attachment 9a – Cross-Sectional Diagram of Typical Structures for the Z-154 Line
- Attachment 9b – Cross-Sectional Diagram of Typical Structures Near Universal Substation
- Attachment 10 – Cross-Sectional Diagram of Typical Structures Near Plum Substation (including Cheswick-Plum Line)
- Attachment 11 – Map of Affected Parcels and Landowners
- Attachment 12 – Landowner Matrix
- Attachment 13 – Duquesne Light Design & Safety Criteria
- Attachment 14 – Duquesne Light Vegetation Management Practices
- Attachment 15 – Public Notices Required by 52 Pa. Code § 69.3102

Duquesne Light also filed four pieces of Direct Testimony alongside the Siting Application and above-referenced attachments. The Siting Application, associated Attachments, and Direct Testimony satisfy the requirements for approval of a transmission line siting application set forth in the Commission’s regulations. (Duquesne Light Exh. No. 1, Attachment 1 (matrix detailing where each filing requirement in the Commission’s regulations is satisfied in the filing).)

Also on March 23, 2018, Duquesne Light filed ten (10) applications under 15 Pa.C.S. §1511(c) seeking findings and determinations that the service to be furnished by the Company through its proposed exercise of the power of eminent domain to acquire rights-of-way and easements over the following lands for the siting and construction of transmission lines associated with the proposed Universal Plum Project is necessary or proper for the service, accommodation, convenience or safety of the public (collectively the “Condemnation Applications”):

- Application of Duquesne Light Company 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 certain portion of the lands of **Maria Palombo Aiello, Antoinette Cardinale and Ana Louise Aspden, f/k/a Anna Louise Palombo**, in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service,

accommodation, convenience or safety of the public at **Docket No. A-2018-3000747**.¹ (Duquesne Light Exh. No. 2.)

- Application of Duquesne Light Company 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 certain portion of the lands of **Javaid Alvi, Pervaiz Alvi and Walter Lorence** in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at **Docket No. A-2018-3000732**. (Duquesne Light Exh. No. 3.)
- Application of Duquesne Light Company 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 certain portion of the lands of **Sampson Brothers, Inc.** in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at **Docket No. A-2018-3000733**. (Duquesne Light Exh. No. 4.)
- Application of Duquesne Light Company 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 certain portion of the lands of **Jeffrey G. Woodring and Regina M. Woodring** in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at **Docket No. A-2018-3000743**. (Duquesne Light Exh. No. 5.)
- Application of Duquesne Light Company 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 certain portion of the lands of **United States Steel Corporation** in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at **Docket No. A-2018-3000754** (Duquesne Light Exh. No. 6.)
- Application of Duquesne Light Company under 15 Pa.C.S. §1511(c) For A Finding And Determination That The Service To Be Furnished By The Applicant Through Its

¹ At the Evidentiary Hearing, Duquesne Light became aware that Ms. Anna Louise Palombo's last name, as listed on the deed of record for the Palombo Property, was incorrect and that her correct name is Anna Louise Aspden. (Hearing Tr. 219-221.) The ALJ indicated that he would amend the caption of the Palombo Condemnation to reflect Ms. Aspden's corrected last name, and former last name as identified in the applicable deed. (Hearing Tr. 221.)

Proposed Exercise Of The Power Of Eminent Domain To Acquire a certain portion of the lands of **Davidson Property Co., LLC** in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at **Docket No. A-2018-3000755**. (Duquesne Light Exh. No. 7.)

- Application of Duquesne Light Company 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 certain portion of the lands of **Consol Mining Company, LLC** in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at **Docket No. A-2018-3000756**. (Duquesne Light Exhibit No. 8.)
- Application of Duquesne Light Company 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 certain portion of the lands of **Parkway Associates, Inc.** in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at **Docket No. A-2018-3000766**. (Duquesne Light Exhibit. No. 9.)
- Application of Duquesne Light Company 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 certain portion of the lands of **Cathleen L. Scott** in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at **Docket No. A-2018-3000768**.²
- Application of Duquesne Light Company 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 certain portion of the lands of **Union Railroad Company** in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at **Docket No. A-2018-3000769**. (Duquesne Light Exhibit No. 11.)

² Subsequently, Duquesne Light reached right-of-way agreements with Cathleen L. Scott, relative to the Condemnation Application at Docket No. A-2018-3000768. Consequently, Duquesne Light filed a Petition to Withdraw the Scott Condemnation Application at Docket No. A-2018-3000768 on October 12, 2018.

On March 30, 2018, the Commission's Secretary's Bureau issued a Secretarial Letter stating that Notice of the Universal-Plum Project Siting Application and related Condemnation Applications would be published in the *Pennsylvania Bulletin* on April 14, 2018, and that the deadline for formal protests and petitions to intervene was June 7, 2018. No protests or petitions to intervene were filed.

On April 2, 2018, a Hearing Notice was issued scheduling an Initial Prehearing Conference on June 15, 2018, in Pittsburgh, PA. Also on April 2, 2018, the ALJ issued a Prehearing Conference Order concerning the regulations applicable to prehearing conferences and directed the Parties to submit their respective Prehearing Memorandums by June 13, 2018. Duquesne Light and landowners, Marie Palombo Aiello, Antoinette Cardinale and Anna Louise Aspden, f/k/a Anna Louise Palombo, timely filed their respective Prehearing Memorandums.

A Prehearing Conference was held as scheduled on June 15, 2018. Duquesne Light, Marie Palombo Aiello, Antoinette Cardinale and Anna Louise Aspden (collectively the "Palombo Property Owners"), and their counsel were present. Landowners, Regina Woodring and Cathleen Scott, each representing herself, were also present for the conference.

Following the Prehearing Conference, a Scheduling Order was issued on July 2, 2018. No discovery was conducted by any of the parties.

On August 1, 2018, the Palombo Property Owners submitted their written Direct Testimony. Duquesne Light served written Rebuttal Testimony for two witnesses on September 12, 2018. No written Surrebuttal or Rejoinder Testimony was served by any of the parties.

Evidentiary hearings were held on July 24 and 26, 2019. At the hearings, Duquesne Light and the Palombo Property Owners moved into evidence their respective testimonies and exhibits, and witnesses were cross-examined. In addition, Mr. Javaid Alvi, a landowner subject

to the Alvi Condemnation Application at Docket No. A-2018-3000732 (Duquesne Light Exh. No. 3) appeared at the hearing. Mr. Alvi presented oral testimony and was subject to cross examination.

On October 12, 2018, Duquesne Light submitted a Motion for Protective Order and a Petition to Withdraw the Scott Condemnation Application at Docket No. A-2018-3000768, in accordance with the direction of the ALJ at the evidentiary hearing.

Pursuant the ALJ's direction at the evidentiary hearing, Initial Briefs are due November 26, 2018, and Reply Briefs are due December 10, 2018. Duquesne Light herein submits its Initial Brief in support of the Siting Application, and the nine (9) remaining Eminent Domain Applications. In addition, Duquesne Light has also provided Proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs as Appendices A-C hereto.

III. STATEMENT OF QUESTIONS INVOLVED

1. Has Duquesne Light demonstrated that there is a need for the Universal-Plum Project?

Suggested answer: *In the affirmative.*

2. Has Duquesne Light demonstrated that the Universal-Plum Project will not create an unreasonable risk of danger to the health and safety of the public?

Suggested answer: *In the affirmative.*

3. Has Duquesne Light demonstrated that the Universal-Plum Project is in compliance with all statutes and regulations providing for the protection of natural resources in Pennsylvania?

Suggested answer: *In the affirmative.*

4. Has Duquesne Light demonstrated that the Universal-Plum Project will have minimal adverse environmental impacts?

Suggested answer: *In the affirmative.*

5. Has Duquesne Light demonstrated that the exercise of the power of eminent domain by Duquesne Light to acquire rights-of-way across nine (9) tracts of land is necessary or proper for the service, accommodation, convenience or safety of the public?

Suggested answer: *In the affirmative.*

IV. SUMMARY OF ARGUMENT

Under the Commission's regulations, an electric utility must demonstrate the following for the Commission to approve a proposed HV transmission line project: (1) the project is needed; (2) the project will not create an unreasonable risk of danger to the health and safety of the public; (3) the project is in compliance with applicable statutes and regulations, providing for the protection of the natural resources in Pennsylvania; and (4) the project will have minimum adverse environmental impact, considering the electric power needs of the public, the state of the available technology and the available alternatives. As explained below, Duquesne Light has satisfied the Commission's criteria to demonstrate that the Universal-Plum Project should be approved.

Regarding need, the undisputed record evidence demonstrates that the Universal-Plum Project is needed to resolve violations of Duquesne Light's Planning Criteria that currently exist at the Universal and Plum Substations. Under Duquesne's Light Planning Criteria, the Universal Substation should be supplied by three transmission sources because it has a maximum historical peak load over 100 MVA. However, the Universal Substation currently has only two transmission supply sources. As such, under its current configuration, if both transmission sources were lost, approximately 37,600 customers served by this substation could lose power until repairs were made.

Similarly, under Duquesne Light's Planning Criteria, the Plum Substation should be supplied by two transmission sources. However, it currently has only a single source of transmission supply. The ability to transfer load served by the Plum Substation to other substations is limited during times of system peak load and losing supply to the Plum Substation. As such, under the Plum Substation's current configuration, if the Plum Substation's single transmission source was lost, the surrounding 23 kV sub-transmission and 23 kV distribution

circuits served by the substation would become heavily loaded and near the emergency rating of those conductors, which could negatively impact the operations over these facilities. The Universal-Plum Project resolves both of these reliability issues by providing each substation with a critical additional source of transmission supply. Importantly, no party has contested these fundamental facts and conclusions regarding need.

The record evidence further demonstrates that the Universal-Plum Project will not create an unreasonable risk of danger to the health and safety of the public because Duquesne Light has designed the Universal-Plum Project to meet or surpass all requirements specified by the NESC. No party has challenged this conclusion. Duquesne Light has also demonstrated that the Universal-Plum Project will comply with all applicable statutes and regulations providing for the protection of natural resources in Pennsylvania, because it is undisputed that Duquesne Light will obtain all required permits prior to and will comply with any and all conditions placed on such permits by those agencies that have appropriate jurisdiction over environmental matters.

With respect to the fourth and final consideration, Duquesne Light has also demonstrated that the route proposed for the Universal-Plum Project will have minimal adverse impacts compared to other reasonable alternatives. Duquesne Light conducted a detailed evaluation of potential and, subsequently, reasonable alternative routes that would allow the Universal-Plum Project to resolve the aforementioned reliability issues. Based on this evaluation, Duquesne Light proposed a route that would have significantly fewer overall impacts relative to the other reasonable alternatives it considered.

While two landowners, *i.e.* Mr. Alvi and the Palombo Property Owners, challenged the proposed location of the rights-of-way traversing their respective properties, neither Mr. Alvi nor the Palombo Property owners demonstrated that their proposed alternative locations were

reasonable. In fact, Duquesne Light demonstrated that the alternatives proposed by these property owners would increase the impacts of the Universal-Plum Project on the environment, on the owners' properties, and/or on neighboring properties. With regard to Mr. Alvi's proposed alternative alignment, Duquesne Light demonstrated that this alignment would require the transmission line to be constructed in a wetland, which would require wetland replacement if approved by the permitting agency. In addition, it would require an additional structure to be placed on Mr. Alvi's property, thereby increasing the impacts of the Universal-Plum Project on Mr. Alvi's property.

With regard to the Palombo Property Owners' proposed alternative alignments, Duquesne Light demonstrated that both the southern border alternative and the northern border alternatives proposed by the Palombo Property Owners were unreasonable. If the Palombo Property Owners' southern border proposal were adopted, then it would require the transmission line to be constructed on unsuitable terrain, disrupt the location of right-of-way on neighboring properties and increase the right-of-way impacts on the Palombo property. If the Palombo Property Owners' extreme northern border proposal were adopted, it would cause the right-of-way to encroach on an existing structure for a neighboring property and increase the right-of-way impacts on neighboring properties. Finally, Duquesne Light demonstrated that the alignment proposed by Duquesne Light does not, in fact, differ from the alignment agreed to by the Palombo Property Owners. As such, the ALJ and the Commission should reject the alternative locations proposed by Mr. Alvi and the Palombo Property Owners and approve the locations proposed by Duquesne Light in the Siting Application.

In connection with the Siting Application, Duquesne Light also filed ten (10) condemnation applications, one of which has been resolved (*i.e.* the Scott Condemnation

Application) and only two of which were actively contested (*i.e.* the Alvi Condemnation Application and the Palombo Condemnation Application). Importantly, no party argued that the Universal-Plum Project is not needed and, therefore, it is uncontested that the rights-of-way and easements for the construction, operation, and maintenance of the proposed Universal-Plum Project over the lands identified in the Condemnation Applications are necessary for the service, accommodation, convenience, or safety of the public. In addition, while Mr. Alvi and the Palombo Property Owners challenged the location of the proposed rights-of-way traversing their respective properties, Duquesne Light demonstrated that the alternative locations proposed by these landowners are not reasonable. 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 reducing or eliminating inconvenience to particular landowners.

For these reasons and as more fully explained below, Duquesne Light requests that ALJ Johnson and the Commission approve the Company’s applications necessary to permit the prompt construction of the Universal-Plum Project.

V. LEGAL STANDARDS

A. BURDEN OF PROOF

Duquesne Light is seeking Commission approval of a siting application for new high voltage transmission lines and nine (9) eminent domain applications for the remaining rights-of-way needed for the proposed transmission lines. Section 332(a) of the Public Utility Code (“Code”), 66 Pa. C.S. § 332(a), provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. It is axiomatic that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). The preponderance of evidence standard requires proof by a greater weight of the evidence. *Commonwealth of Pennsylvania v. Williams*, 557 Pa. 207, 732 A.2d 1167 (1999). This standard is satisfied by presenting evidence more convincing, by even the smallest amount, than that presented by another party. *Brown v. Commonwealth of Pennsylvania*, 940 A.2d 610, 614 n.14 (Pa. Cmwlth. 2008).

Additionally, any finding of fact necessary to support an adjudication of the Commission must be based upon substantial evidence. *Met-Ed Indus. Users Group v. Pa. PUC*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (citing 2 Pa. C.S. § 704). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Borough of E. McKeesport v. Special/Temporary Civil Service Commission*, 942 A.2d 274, 281 (Pa. Cmwlth. 2008). Although substantial evidence must be “more than a scintilla and must do more than create a suspicion of the existence of the fact to be established,” *Kyu Son Yi v. State Board of Veterinarian Medicine*, 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted), the “presence of conflicting evidence in the record does not mean that substantial evidence is lacking.” *Allied*

Mechanical and Elec., Inc. v. Pennsylvania Prevailing Wage Appeals Board, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

If the applicant sets forth a *prima facie* case, then the burden shifts to the opponent. *McDonald v. Pennsylvania Railroad Co.*, 348 Pa. 558, 36 A.2d 492 (1940). Establishing a *prima facie* case requires either evidence sufficient to make a finding of fact permissible or evidence to create a presumption against an opponent which, if not met, results in an obligatory decision for the proponent. Once a *prima facie* case on a point has been established, if contrary evidence is not presented, there is no requirement that the applicant produce additional evidence in order to sustain its burden of proof. *District of Columbia's Appeal*, 343 Pa. 65, 21 A.2d 883 (1941). See, e.g., *Application of Pennsylvania Power & Light Co.*, Docket Nos. A-110500F0196, et al.; 1994 Pa. PUC LEXIS 65 (Oct. 21 1994) (holding that the company met its burden to prove that there was an immediate need for the reinforcement of the power supply where the need for the project was uncontested and no party presented any evidence challenging the need for the project).

B. STANDARDS FOR APPROVAL OF THE SITING APPLICATION

Pursuant to Section 1501 of the Public Utility Code, an electric distribution company has a statutory obligation to provide safe, adequate, and reliable electrical service to its customers. 66 Pa. C.S. § 1501. The Commission's regulations provide that an electric distribution company may not construct high voltage ("HV") transmission lines, *i.e.*, electrical lines with a voltage of 100 kV or higher, without prior Commission approval. 52 Pa. Code § 57.71. As explained by the Commonwealth Court, the Commission's transmission line siting regulations set forth the following:

(1) the procedures for applying for approval of an HV line -- 52 Pa. Code § 57.72; (2) the procedures for hearings on HV line applications -- 52 Pa. Code § 57.75; and (3) what the [Commission] will consider when deciding whether to approve or deny an HV line application -- 52 Pa. Code § 57.76(a). These

regulations, and 52 Pa. Code § 57.76 in particular, represent a codification of the review required by article I, section 27 of the Pennsylvania Constitution. *Re Proposed Electric Regulation*, 1976 Pa. PUC LEXIS 114, 49 Pa. P.U.C. 709, 712 (March 2, 1976) (stating that the “review required by article I, section 27 is being incorporated into our siting regulations”).

Energy Conservation Council of Pennsylvania v. Public Utility Commission, 995 A.2d 465, 477-78 (Pa. Cmwlth. 2010) (hereinafter “*Trailco*”).

In order to grant an application for the construction and siting of a HV transmission line, the Commission must find and determine the following as to the proposed 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 the available technology and the available alternatives.

52 Pa. Code § 57.76(a).

The Public Utility Code does not define need; however, Pennsylvania courts have recognized that there is a need for reliable regional electric service and transmission systems. *Stone v. Pa. PUC*, 162 A.2d 18, 19-221 (Pa. Super. 1960); *Dunk v. Pa. PUC*, 232 A.2d 231, 234-35 (Pa. Super. 1967). Moreover, the General Assembly has recognized the importance of ensuring the reliability of electric transmission systems, and the provision of sufficient electrical power at affordable rates. Section 2802(12) of the Code states that “[r]eliable electric service is of the utmost importance to the health, safety and welfare of the citizens of the Commonwealth. Electric industry restructuring should ensure the reliability of the interconnected electric system by maintaining the efficiency of the transmission . . . system.” 66 Pa. C.S. § 2802(12). Section

2802(20) of the Code provides, *inter alia*, that ensuring the reliability of electric service depends on conscientious maintenance of transmission systems, and that electric system operators shall establish inspection, maintenance, repair and replacement standards. 66 Pa. C.S. § 2802(20).

Finally, Section 2803 of the Code defines “reliability” as:

Includes adequacy and security. As used in this definition, “adequacy” means the provision of sufficient generation, transmission and distribution capacity so as to supply the aggregate electric power and energy requirements of consumers, taking into account scheduled and unscheduled outages of system facilities; and “security” means designing, maintaining and operating a system so that it can handle emergencies safely while continuing to operate.

66 Pa. C.S. § 2803. The Commonwealth Court has explained, however, that nowhere in any of the foregoing statutory or regulatory provisions is there a requirement that a public utility demonstrate a “need” for the installation of the transmission line from an “engineering” prospective. *Pennsylvania Power & Light Co. v. Pa. PUC*, 696 A.2d 248, 250 (Pa. Cmwlth. 1997).

Indeed, an electric utility can demonstrate that the transmission line project is needed where the project resolves violations of the utility’s internally developed planning and reliability criteria. See *Hess v. Pa. Pub. Util. Comm’n*, 107 A.3d 246, 262-263 (Pa. Cmwlth. 2014), *appeal denied*, 632 Pa. 678, 117 A.3d 1282 (Pa. 2015); *Application of PPL Electric Utilities Corporation filed Pursuant to 52 Pa. Code Chapter 47, Subchapter G, for Approval of the Siting and Construction of the North Lancaster Honey Brook # 1 & # 2 138/69 kV Transmission Lines in Lancaster County, Pennsylvania*, Docket Nos. A-2014-2430565 et al., 2015 Pa. PUC LEXIS 77, at *49 (Order dated Feb. 27, 2015) (“*PPL North Lancaster-Honey Brook*”) (holding that a project which alleviates violations of an electric utility’s own planning criteria provides sufficient evidence to support a finding of need).

With respect to health and safety, the Commission has held in numerous cases that transmission lines that meet or exceed the National Electric Safety Code (“NESC”) requirements do not create an unreasonable risk of danger to the health and safety of the public. *See 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*, Docket Nos. A-2009-2082652, *et al.*, 2010 Pa. PUC LEXIS 434 at *166 (February 12, 2010); *Investigation on Commission Motion of the Safety of the Cabett-Wylei Ridge 500 kV Transmission Line*, I.D. 236 (Sept. 18, 1981); *Application of PP&L for Approval to Locate and Construct a 138 kV Transmission Line Between West Allentown and Salisbury Substations*, Docket No. A-00104160 (July 20, 1984); *Application of PP&L for Authorization to Locate and Construct its Hamlin 138 kV Electric Transmission Line*, Docket No. A-00101826 (April 3, 1981); *Larken v. Philadelphia Electric Co.*, 39 Pa. PUC 777 (1961).

With respect to natural resources and the environment, recent Pennsylvania Supreme Court case law has concluded that Article I, Section 27 of the Pennsylvania Constitution, *i.e.* the Environmental Rights Amendment, placed Pennsylvania’s public natural resources in trust and named the Commonwealth as its trustee, to conserve and maintain those resources for the benefit of all people, including future generations. *Pa. Environmental Defense Foundation v. Com. Of Pa.*, 161 A.3d 911 (Pa. 2017) (“*PEDF*”). In carrying out these obligations, the Commonwealth, and its agencies, may subject the individual rights of citizens to clean air, pure water, and to the preservation of natural, scenic, historic, and esthetic values to reasonable regulation. *PEDF*, 161 A.3d at 931; *see also Application of Pennsylvania Electric Company Seeking Approval 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, Docket Nos. A-2016-2565296 et al., at pp. 12-14 (Order entered March 8, 2018) (“*Penelec*”).

The Commission has determined that its existing rules and policy satisfy its obligations under the Environmental Rights Amendment as described in *PEDF. Penelec*, at p. 13-14 (“Our siting Regulations are in accord with the Environmental Rights Amendment by requiring that the environmental impact of the proposed transmission siting route be minimized.”); *see also* 52 Pa. Code §§ 69.3105, 69.3106. The Commission further explained in *Penelec* that:

The Commission’s regulatory scheme for high-voltage line transmission siting cases, therefore, provides for a robust, evidence-based deliberative process that provides due process for all interested parties. The Commission, consistent with our role as a fiduciary responsible for the preservation of the Commonwealth’s natural resources, and consistent with PEDF, acts with prudence, loyalty and impartiality when adhering to these regulations. In this manner, we fulfill our responsibility to protect the public’s natural resources from depletion or degradation, while also allowing legitimate development that improves the lot of Pennsylvania’s citizenry, as the Pennsylvania Supreme Court recognized in *Robinson Township v. Com. of Pa.*, 623 Pa. 564, 658, 83 A.3d 901, 958 (2013).

Penelec, p. 14.

Generally, the Commission has found compliance with the applicable environmental statutes and regulations where the applicant agrees to obtain any and all environmental permits necessary prior to construction and to comply with any conditions on those permits during construction.³ Importantly, however, the applicant is not required to receive all necessary

³ *See, e.g., 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*, Docket Nos. A-2011-2247862, et al., 2012 Pa. PUC LEXIS 298 at *61 (Initial Decision February 9, 2012); *Application of Trans-Allegheny Interstate Line Company 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 Township, Perry Township, and Whiteley Township, Greene County in Southwestern Pennsylvania*, Docket Nos. A-2010-2187540, et al., 2011 Pa. PUC LEXIS 2028 (Recommended Decision March 28,

permits before the Commission may approve the transmission line, or before construction of the proposed line begins. *Energy Conservation Council of Pennsylvania v. Pa. PUC*, 25 A.3d 440, 452 (Pa. Cmwlth. 2011) (hereinafter “*Susquehanna-Roseland*”).

Finally, with respect to the siting of the transmission line, the Commonwealth Court has held that a utility’s route for a proposed HV transmission line should be approved where the 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:

[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.

Susquehanna-Roseland, at 449-50 (quoting *Trailco*, 995 A.2d 465, 479-80). The route selected by the applicant must demonstrate reasonable efforts to minimize adverse environmental impacts when compared to the available alternative routes, but the utility need not consider all possibilities. *Susquehanna-Roseland*, at 448-49. Moreover, the applicant is not required to choose a route that has no adverse impacts. Instead a utility must make reasonable efforts to minimize and mitigate any impacts and ensure that any harm to the environment is outweighed by the benefits of the project. *Id.*

2011); *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*, Docket Nos. A-2009-2082652, et al., 2010 Pa. PUC LEXIS 434 at *191-201 (February 12, 2010).

C. STANDARDS FOR APPROVAL OF THE EMINENT DOMAIN APPLICATIONS

Section 1511 of the Business Corporation Law of 1988 statutorily grants a public utility, such as Duquesne Light, the power or authority to take and condemn property for the purpose of providing electricity to the public. *See* 15 Pa. C.S. § 1511(a)(3). However, before a public utility may seek to exercise the authority to condemn property for an aerial transmission line, it must obtain approval from the Commission pursuant to Section 1511(c), which provides, in pertinent part, as follows:

(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 or proper for the service, accommodation, convenience or safety of the public.

15 Pa. C.S. § 1511(c). Thus, on an application for condemnation, the Commission must determine whether the service—the transmission or distribution of electricity to or for the public that will be provided to the public if the subject property is condemned—is necessary or proper for the service, accommodation, convenience, or safety of the public. Stated otherwise, the Commission does not determine whether to grant a condemnation application on the basis of the legal authority, scope, validity, damages, or the willingness of a condemnee to negotiate.

Pennsylvania Appellate Courts have interpreted Section 1511 as requiring a condemning utility to show that the proposed transmission line is necessary and that it has not acted wantonly, capriciously, or arbitrarily in selecting the proposed right-of-way. *Department of Environmental Resources v. Pa. PUC*, 335 A.2d 860 (Pa. Cmwlth. 1975), *aff'd*, 473 Pa. 378, 374 A.2d 693 (1977); *Dickson v. Pennsylvania Service Commission*, 89 Pa. Super. 126 (1926). 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 reducing or eliminating inconvenience to particular landowners. *Stone v. Pa. PUC*, 162 A.2d 18 (Pa. Super. 1960).⁴

VI. ARGUMENT

A. INTRODUCTION

Transmission facilities play a vital role in supplying reliable electric service. The nation’s electric system is comprised of three basic components: generation, transmission, and distribution. Generating plants typically produce electricity at a relatively low voltage. Transformers located adjacent to the generating plants increase or “step up” the voltage to transmission-level voltages such as 230 kV or 500 kV, depending on the size of the generating facility and the distance the electricity must travel for delivery to customers. After the voltage is stepped up, the power is transmitted to substations, where the voltage level is sequentially stepped down for ultimate delivery into the distribution system. Distribution transformers then further reduce the voltage from primary to secondary distribution levels for ultimate delivery to customers. *See 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*

⁴ For example, in *Paxtowne v. Pa. PUC*, 398 A.2d 254, 256 (Pa. Cmwlth. 1979), the route selected by the public utility was affirmed. In order to establish that the selected route was reasonable in comparison with two alternative routes, the public utility established the following:

“[T]hat the proposed route was selected over alternative routes because the topography of petitioner’s property was superior with regard to land use, environmental and engineering considerations; and that the selection of other routes would be more costly in requiring rights-of-way from additional property owners.”

Id. at 647-648. The Court went on to hold that, although the proposed route clearly impacted the petitioner’s property, when balanced against the utility’s evidence, there was no indication that the utility’s selection of the proposed route was done wantonly, capriciously, or arbitrarily.

Lackawanna, Luzerne, Monroe, Pike and Wayne Counties, Pennsylvania, Docket Nos. A-2009-2082652, et al., 2009 Pa. PUC LEXIS 2323 at *151-54 (Recommended Decision Nov. 12, 2009).

The nation's interconnected transmission grid is the backbone for the safe and reliable delivery of large amounts of electricity from generation stations over substantial distances to customers served from local distribution systems. It is critical that this interconnected transmission system be planned and designed to be highly reliable so that service can be provided under peak loading conditions and when certain elements of the system are out of service due to planned or forced outages.⁵

Duquesne Light has a statutory obligation to provide safe and reliable service to its customers. *See* 66 Pa. C.S. § 1501. Duquesne Light employs a regional transmission system planning process and identifies facilities that require reinforcement to enable it to meet this obligation and plan appropriate measures to assure reasonably continuous supply to customers, even during adverse conditions. The planning process is described in detail in Section VI.B., below.

In order to grant an application for the construction and siting of a high voltage transmission line, the Commission must find and determine the following as to the proposed 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.

⁵ The need to upgrade transmission infrastructure also is reflected in the American Recovery and Reinvestment Act of 2009 ("ARRA"), P.L. No. 111-5, 123 Stat. 115 (2009). Specifically, the Electricity Delivery and Energy Reliability section of Title IV of the ARRA provides appropriations for the development of regional transmission plans, future demand and transmission requirements, and interconnection-based transmission plans.

(4) That it will have minimum adverse environmental impact, considering the electric power needs of the public, the state of the available technology and the available alternatives.

52 Pa. Code § 57.76(a).

Duquesne Light will separately address each of these required findings. Importantly, Duquesne Light's evidence regarding need, health and safety, compliance with applicable environmental statutes and regulations, and minimum adverse impacts of the Universal-Plum Project is uncontested. As explained below, the record evidence clearly demonstrates that Duquesne has met its burden with respect to each of the required findings under Section 57.76(a).

B. THERE IS A NEED FOR THE UNIVERSAL-PLUM PROJECT

The planning process for a transmission line project is a two-part process. First, Duquesne Light identifies facilities that require reinforcement or construction to enable the Company to continue to provide adequate and reliable service to the public, even during adverse conditions. Second, Duquesne Light analyzes potential electrical solutions and selects the electrical solution that best resolves the underlying reliability issues. Duquesne Light's transmission planning process has demonstrated a need for the Universal-Plum Project.

1. Duquesne Light Has A Comprehensive Transmission Planning Process

The transmission system planning process, administered by PJM,⁶ assures that transmission and distribution systems can supply electricity to all customer loads reliably and economically. In order to ensure reliable transmission service, PJM prepares an annual Regional Transmission Expansion Plan ("RTEP"). The North American Electric Reliability Corporation

⁶ PJM is a Regional Transmission Organization approved by the Federal Energy Regulatory Commission to ensure the reliable and efficient operation of the electric transmission system under its functional control, and coordinate the transmission of electricity in all or parts of thirteen states, including Pennsylvania, and the District of Columbia. (Duquesne Light St. No. 1, p. 3.)

("NERC"), PJM, and transmission owner reliability criteria are used by PJM and the transmission owners to analyze the system and determine if specific transmission upgrade projects are needed to ensure long-term reliable electric service to customers. The reliable and economical operation of transmission and distribution systems requires planning guidelines for system expansion and reinforcement. (Duquesne Light St. No. 1, pp. 2-3; Duquesne Light Exh. No. 1, Attachment 2, pp. 2-5.)

Duquesne Light implements PJM's reliability and planning mandates in part through the Planning Criteria. Using the Planning Criteria, Duquesne Light's transmission system is planned so that it can be operated at all projected load levels and during normal scheduled outages. The system is also planned to withstand specific unscheduled contingencies without exceeding the equipment capability, causing system instability or cascade tripping, exceeding voltage tolerances, or causing large-scale, long term or frequent interruptions to customers. (Duquesne Light St. No. 1, pp. 3-4; Duquesne Light Exh. No. 1, Attachment 2, pp. 3-5.)

The planning process begins with the development of a computer model of the future system. Once the system model is complete, comprehensive power flow simulations and contingency analyses are performed to determine the ability of the system to comply with the Duquesne Light transmission planning and reliability criteria set forth in Planning Criteria. All conditions where the system is not in conformance with the Planning Criteria are identified, and system reinforcement alternatives are added to bring the system into compliance. Also identified are estimated costs and lead times to implement the reinforcements under consideration. Computer simulations of the system with the identified reinforcement alternatives are completed to identify the best overall reinforcement that will meet the needs of the area in a reliable and economical manner. Finally, all reinforcements are reviewed with stakeholders at either PJM's

Transmission Expansion Advisory Committee (“TEAC”) or Sub-Regional Transmission Expansion Plan (“SR RTEP”) meetings. (Duquesne Light Exh. No. 1, Attachment 2, pp. 4-5.)

The proposed Universal-Plum Project was developed consistent with the above-described process, and was reviewed by PJM stakeholders and included in PJM’s RTEP as project TOI340.2. (Duquesne Light Exh. No. 1, Attachment 2, p. 9.)

2. Duquesne Light’s Transmission Planning Process Identified Reliability Issues Associated With The Universal And Plum Substations

The Universal-Plum Project addresses certain reliability issues at two existing substations: (1) the Universal 138-23 kV Substation; and (2) the Plum 138-23 kV Substation. (Duquesne Light St. No. 1, pp. 4-5; Duquesne Light Exh. No. 1, Attachment 2, pp. 5-6.) These reliability issues put approximately 50,000 customers at risk of service outages, where the existing transmission sources serving each substation are affected by planned and unplanned outages. (See Hearing Tr. 60:7-15.)

Currently, the Universal Substation violates Duquesne Light’s Planning criteria, which provides that a substation with peak load over 100 MVA should have three transmission line sources. The Universal Substation has a maximum historical peak load of 124 MVA, but currently has only two transmission sources. (Duquesne Light St. No. 1, Attachment 2, pp. 6-8.) The existing, two-source configuration for the Universal Substation creates a significant risk of losing the load it serves, specifically during periods where one transmission source is out of service for planned maintenance. (Duquesne Light St. No. 1, p. 5; Duquesne Light Exh. No. 1, Attachment 2, pp. 7-8.) Duquesne Light experienced an outage at the Universal Substation on September 4, 2003, under these circumstances, which resulted in a loss of power for approximately 29,500 customers. (Duquesne Light Exh. No. 1, Attachment 2, p. 8; Hearing Tr. 60:19-61:1.) If both transmission sources to the Universal Substation were lost in a similar event

under present conditions, approximately 37,600 customers served by this substation could lose power until repairs were made. (Duquesne Light St. No. 1, p. 5; Duquesne Light Exh. No. 1, Attachment 2, p. 8.)

The Plum Substation also violates Duquesne Light's Planning Criteria because, while its peak is less than 100 MVA, it is only supplied by a single transmission source. In the event of an outage on the Cheswick-Plum 138 kV Transmission Line, either through required maintenance or potential system faults, the Plum Substation would lose its only transmission source of supply until repairs could be made. (Duquesne Light St. No. 1, pp. 5-6; Duquesne Light Exh. No. 1, Attachment 2, p. 7.) Currently, substantial operational impacts to the surrounding sub-transmission and distribution systems would occur as a result of such an outage, which could cause a loss of service to distribution customers. (See Duquesne Light St. No. 1, p. 7; Duquesne Light Exh. No. 1, Attachment 2, p. 7.) Even when the existing single transmission source is operational, the Plum Substation's ability to transfer the load it serves to other distribution substations during times of system peak load and during unusual operating conditions is limited. (Duquesne Light St. No. 1, pp. 5-6; Duquesne Light Exh. No. 1, Attachment 2, p. 6.) If an outage on the single transmission source occurs during peak load or other unusual operating conditions, the supply for all customers served by the Plum Substation would have to be fed from the underlying distribution system. (Hearing Tr. 59:23-60:2.) As such, the existing limitations on the Plum Substation's ability to transfer of load to another substation under its current configuration would lead the 23 kV sub-transmission and 23 kV distribution circuits served by the Plum Substation to approach the emergency rating of those conductors. (Duquesne Light Exh. No. 1, Attachment 2, p. 6.) These conditions would make it difficult to provide power to all

of the distribution customers fed from the Plum Substation in the event of an outage on its existing, single transmission source. (Hearing Tr. 60:2-6.)

Duquesne Light further demonstrated that, given present load forecasts and in the absence of a new transmission source to the Universal Substation and to the Plum Substation, the above-described reliability issues and the number of customers that may be affected will increase. (Duquesne Light St. No. 1, p. 6; Duquesne Light Exh. No. 1, Attachment 2, p. 6.) Importantly, Duquesne Light's evidence of the reliability issues identified at the Universal and Plum Substations is undisputed.

3. The Universal-Plum Project Will Solve The Reliability Issues Identified By Duquesne Light's Transmission Planning Process

Universal-Plum Project is necessary to resolve the above-described reliability issues. This solution to the above-described reliability issues associated with the Universal and Plum substations involves two aspects: (1) the construction of the new Universal-Plum 138 kV transmission line; and (2) the relocation of a segment of the Cheswick-Plum 138 kV transmission line connecting with the Plum Substation. Each aspect of the Universal-Plum Project is described below.

a. The New Universal-Plum 138 kV Transmission Line

First, the Duquesne Light proposes to address the issues illustrated above by constructing the new Universal-Plum 138 kV transmission line to interconnect the Plum and Universal Substations. Maps of Duquesne Light's existing and proposed transmission facilities are included as CONFIDENTIAL Attachment 4 to the Siting Application. (Duquesne Light Exh. No. 1, CONFIDENTIAL Attachment 4.) One line diagrams of Duquesne Light's existing and proposed transmission facilities are included as CONFIDENTIAL Attachment 5a and 5b,

respectively, to the Siting Application. (Duquesne Light Exh. No. 1, CONFIDENTIAL Attachments 5a and 5b.)

The proposed new Universal-Plum 138 kV Transmission Line will be designed as a double-circuit 138 kV transmission line, but initially will be operated as a single circuit transmission line until load growth makes it necessary to install the second circuit. (Duquesne Light Exh. No. 1, p. 11.) Duquesne Light provided cross-sectional diagrams showing the typical placement of the support structures. (Duquesne Light Exh. No. 1, Attachments 9a and 9b.) The new Universal-Plum 138 kV Transmission Line will be designed to meet, and generally exceed, the NESC minimum standards. (Duquesne Light Exh. No. 1, p. 12.)

The new Universal-Plum 138 kV transmission line will bring both the Universal and Plum Substations into compliance with the Duquesne Light Planning Criteria. The proposed Universal-Plum Project will provide a third source of supply to the Universal Substation, which will reduce the potential for outages for customers served by the Universal Substation. The proposed Universal-Plum Project will also provide a second source of supply to the Plum Substation, which will reduce the operational impact of an outage of the current single transmission source of supply to the Plum Substation. (Duquesne Light St. No. 1, p. 7; Duquesne Light Exh. No. 1, Attachment 2, p. 9.) Importantly, the second source of supply provided to the Plum Substation by the Universal-Plum Project will increase the reliability of the underlying distribution system. (Hearing Tr. 59-60.)

b. The Relocated Cheswick-Plum 138 kV Transmission Line

Second, to accommodate the additional source at the Plum substation, a part of the existing Cheswick-Plum transmission line will be relocated. The relocated Cheswick-Plum 138 kV transmission line will be designed as a single-circuit 138 kV transmission line. On the existing Cheswick-Plum 138 kV transmission line, ten existing wood poles will be removed and

one wood pole will be modified to accommodate the Universal-Plum 138 kV transmission line. (Duquesne Light Exh. No. 1, pp. 12-13.) Duquesne Light provided cross-sectional diagrams showing the typical placement of the support structures subject to this relocation. (Duquesne Light Exh. No. 1, Attachment 10.) The relocated segment of the Cheswick-Plum 138 kV transmission line will be designed to meet, and generally exceed, the NESC minimum standards. (Duquesne Light Exh. No. 1, p. 13.)

The proposed relocation of approximately 0.51 miles of the Cheswick-Plum 138 kV transmission line is necessary because, without this relocation, the proposed Universal-Plum 138 kV Transmission Line would cross directly above the Cheswick-Plum 138 kV Transmission Line before heading into an available breaker position in Plum Substation. When there is maintenance work to be done in close proximity to location of the lines crossing over, it is possible that both circuits would need outages. If there is a catastrophic event where one of the circuits comes down, it is possible the other circuit would be affected structurally. In the interest of reliability, rerouting the Cheswick-Plum 138 kV Transmission Line would avoid the complications associated with these situations. (Duquesne Light St. No. 3, pp. 4-5.)

4. Conclusion Regarding The Need For The Universal-Plum Project

The Universal-Plum Project is necessary to address existing reliability issues identified pursuant to its Planning Criteria at the Universal and Plum Substations. *See Hess*, 107 A.3d at 262-263; *PPL North Lancaster-Honey Brook*, 2015 Pa. PUC LEXIS 77, at *49 (holding that a project which alleviates violations of an electric utility's own planning criteria provides sufficient evidence to support a finding of need). Importantly, Duquesne Light's evidence that the new Universal-Plum 138 kV transmission line will resolve violations of Duquesne Light's Planning Criteria by providing a critical additional source of supply to both the Universal and Plum Substations, and thereby reduce both the potential for an outage and the number of

customers that may be affected by an outage, is undisputed. Similarly, Duquesne Light's evidence that it is necessary to relocate a portion of the Cheswick-Plum 138 kV transmission line for reliability purposes is also undisputed. Therefore, and for the reasons more fully explained above, the ALJ and the Commission should conclude that Duquesne Light has demonstrated there is a need for the Universal-Plum project, pursuant to 52 Pa. Code § 57.76(a)(1).

C. THE UNIVERSAL-PLUM PROJECT WILL NOT CREATE AN UNREASONABLE RISK OF DANGER TO THE HEALTH AND SAFETY OF THE PUBLIC.

The second requirement under Section 57.76 of the Commission's regulations for approval of the siting and construction of transmission lines is that the project will not create an unreasonable risk of danger to the health and safety of the public. As explained below, the proposed transmission lines will be designed, constructed, and maintained to ensure the health and safety of the public.

1. The Transmission Lines Will Meet and Exceed the NESC Standards

The new Universal-Plum 138 kV transmission line and the relocated Cheswick-Plum 138 kV transmission line associated with the proposed Universal-Plum Project have been designed to meet or surpass all requirements specified by the NESC. (Duquesne Light St. 3, pp. 7-9; Duquesne Light Exh. 1, Attachment 13.) The Commission has held in numerous cases that transmission lines that meet or exceed the NESC requirements do not create an unreasonable risk of danger to the health and safety of the public.⁷

⁷ See *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*, Docket Nos. A-2009-2082652, et al., 2010 Pa. PUC LEXIS 434 at *166 (Feb. 12, 2010); *Investigation on Commission Motion of the Safety of the Cabett-Wylei Ridge 500 kV Transmission Line*, I.D. 236 (Sept. 18, 1981); *Application of PP&L for Approval to Locate and Construct a 138 kV Transmission Line Between West Allentown and Salisbury Substations*, Docket No. A-00104160 (July 20, 1984); *Application of PP&L for Authorization to Locate and Construct its Hamlin 138 kV Electric Transmission Line*, Docket No. A-00101826 (Apr. 3, 1981); *Larken v. Philadelphia Electric Co.*, 39 Pa. PUC 777 (1961).

In addition to the safety features incorporated by designing the line in accordance with the NESC, Duquesne Light designs all of its transmission lines for "Grade B construction," which has more stringent design standards, including the Universal-Plum Project. (Duquesne Light Exh. No. 1, Attachment 13, p. 1.) Duquesne Light also surpasses NESC standards for clearance requirements and structure overload or multiplying factors. (Duquesne Light Exh. No. 1, Attachment 13, p. 2.) For the Universal-Plum Project, Duquesne Light's design loading conditions for structures, wires, and clearances exceed NESC standards. (Duquesne Light St. No. 3, pp. 7-8.)

Furthermore, work procedures and tooling have been developed to allow work to be performed in a safe manner on energized facilities. Personnel are also furnished with appropriate protective equipment for the performance of construction or maintenance activities in a safe manner. (Duquesne Light St. No. 3, pp. 7-8.)

2. Electric And Magnetic Field Mitigation

The Commission has found that electric and magnetic fields (also referred to jointly as electromagnetic fields or "EMF") from transmission lines do not pose a danger to the health and safety of the public. *Application of Pennsylvania Power & Light Company Filed Pursuant to 52 Pa. Code Chapter 57*, 1994 Pa. PUC LEXIS 65, *67 (Order dated Oct. 21, 1994) ("Based on the extensive scientific evidence developed to date, which has been discussed in the preceding section, it is clear that EMF should not be regarded as a health hazard."). Nevertheless, Duquesne Light has taken EMF mitigation into account by designing the proposed lines to reduce EMFs and to maximize the distance from the centerline to any residences. To reduce EMFs, Duquesne Light has adopted a Magnetic Field Management Program, as a part of its Design and Safety Criteria. (Duquesne Light Exh. No. 1, Attachment 13, pp. 3-4.) Pursuant to its Magnetic Field Management Program, Duquesne Light designed the Universal-Plum Project

to mitigate EMFs by: (1) wherever possible, locating the proposed transmission lines through unoccupied parcels and, where the line is located in occupied areas, running it along the edge of the parcel; (2) locating the segment of the line that traverses the largest publicly accessible area along the Preferred Route (*i.e.* the William D. Boyce Park segment) underground, which effectively eliminates EMF along that span; (3) establishing a wide buffer area around the lines by utilizing a minimum conductor clearance of 30 feet; and (4) configuring the transmission lines to maximize potential reverse phasing opportunities.⁸ (Duquesne Light Exh. No. 1, Attachment 13, p. 4.)

3. Conclusion Regarding Health And Safety

Duquesne has satisfied the criteria set forth in Section 57.76(a)(2) of the Commission's regulations and demonstrated that the Universal-Plum Project will not create an unreasonable risk of danger to the health and safety of the public. 52 Pa. Code § 57.76(a). Importantly, no other party in this proceeding has argued that the Universal-Plum Project will create an unreasonable risk of danger to the health and safety of the public, or presented evidence of any such dangers. Therefore, and for the reasons more fully explained above, the ALJ and the Commission should find that Universal-Plum Project will not create an unreasonable risk of danger to the health and safety of the public, pursuant to 52 Pa. Code § 57.76(a)(2).

⁸ Because only one circuit will initially be installed as part of the Project, it is not possible to fully implement reverse phasing at this time. Instead, Duquesne Light designed the line with a triangular configuration (two conductors on one side of the tower structure and the third conductor on the other side of the tower structure), which helps counterbalance their magnetic forces. This has the effect of reducing the surrounding magnetic field up to 29% percent in an ideal span. (Duquesne Light Exh. No. 1, Attachment No. 13, p. 4.)

D. THE UNIVERSAL-PLUM PROJECT IS IN COMPLIANCE WITH STATUTES AND REGULATIONS, PROVIDING FOR THE PROTECTION OF NATURAL RESOURCES

The third requirement under Section 57.76 of the Commission's regulations for approval of the siting and construction of transmission lines is that the project is in compliance with applicable statutes and regulations, providing for the protection of the natural resources of this Commonwealth. Although not an environmental permitting agency, the Commission is required to comply with the directives set forth in Article I, Section 27 of the Pennsylvania Constitution, *i.e.* the Environmental Rights Amendment. *PEDF*, 161 A.3d at 931.

The Environmental Rights Amendment placed Pennsylvania's public natural resources in trust and named the Commonwealth as its trustee, to conserve and maintain those resources for the benefit of all people, including future generations. *See P EDF*, 161 A.3d at 933. In carrying out these obligations, the Commonwealth may subject the individual rights of citizens to clean air, pure water, and to the preservation of natural, scenic, historic, and esthetic values to reasonable regulation. *PEDF*, 161 A.3d at 931; *see also Application of Pennsylvania Electric Company Seeking Approval 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*, Docket Nos. A-2016-25655296 et al., at pp. 12-14 (Order entered March 8, 2018) ("*Penelec*").

Sections 57.72(e)(7) and (8) of the Commission's regulations, 52 Pa. Code § 57.72(e)(7) and (8), likewise require the Commission to consider environmental impacts of proposed transmission lines. *Re: Interim Guidelines for the Filing of Electric Transmission Line Siting Applications*, Docket No. M-2009-2141293, 2010 Pa. PUC LEXIS 2069 at *56 (November 5, 2010). The Commission has adopted and consistently applied Interim Siting Guidelines that require, among other things, 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. 52 Pa. Code §§ 69.3105, 69.3106.⁹ The Interim Siting Guidelines and the Commission's regulations reasonably regulate the individual rights of citizens to clean air, pure water, and to the preservation of natural, scenic, historic, and esthetic values and comply with the Environmental Rights Amendment. *Penelec*, at pp. 12-14.

Consistent with the Commission's Interim Guidelines, the attachments to Duquesne Light's filing included information on the regulatory permit requirements and agency coordination regarding cultural and environmental resources. (Duquesne Light Exh. No. 1, Attachment 3, Section 7.1; Duquesne Light St. 2, pp. 15-16.) This information effectively addresses and exceeds all the requirements of the Commission's siting regulations.

As explained below, Duquesne Light has undertaken a highly detailed and extensive evaluation of the environmental and social impacts of the available alternative routes for the Universal-Plum Project. There is no perfect route and all transmission lines will have some impact to the natural and/or human environment. Duquesne Light selected preferred routes for the Universal-Plum Project that will minimize these impacts when compared to all other feasible alternatives. (See Section VI.E, *infra*; see also Duquesne Light Exh. No. 1, Attachment 3; Duquesne Light St. 2, pp. 15-16.)

Every major high voltage transmission line project requires many permits and approvals from local, state, and federal agencies. Here, Duquesne Light has committed to obtain all

⁹ The Commission has explained that the purpose of this information is to "inform the Commission, the ALJ and the parties of potential impacts of other needed regulatory approvals," and that this information "need only be supplied on a best efforts basis." *Re: Interim Guidelines*, at *55-57.

required permits prior to construction of the Universal-Plum Project, and will comply with any and all conditions placed on such permits by those agencies that have appropriate jurisdiction over environmental matters. (Duquesne Light Exh. No. 1, Attachment 3, Section 7.1; Duquesne Light St. 2, pp. 15-16.) As a general matter, the Commission has found compliance with the applicable environmental statutes and regulations where the applicant agrees to obtain any and all environmental permits necessary prior to construction and to comply with any conditions on those permits during construction.¹⁰

Therefore, and for the reasons more fully explained above, the ALJ and the Commission should find that Duquesne Light has demonstrated the Universal-Plum Project complies with applicable statutes and regulations providing for the protection of the natural resources of the Commonwealth, pursuant to 52 Pa. Code § 57.76(a)(3) and *PEDF*.

E. THE UNIVERSAL-PLUM PROJECT WILL HAVE MINIMAL ADVERSE ENVIRONMENTAL IMPACTS

The fourth requirement under Section 57.76 of the Commission's regulations for approval of the siting and construction of transmission lines is that the project will have minimum adverse environmental impact, considering the electric power needs of the public, the state of the available technology and the available alternatives. In reaching its determination on whether a proposed route will have minimum adverse environmental impacts, the Commission

¹⁰ See, e.g., *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*, Docket Nos. A-2011-2247862, et al., 2012 Pa. PUC LEXIS 298 at *61 (Initial Decision February 9, 2012); *Application of Trans-Allegheny Interstate Line Company 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 Township, Perry Township, and Whiteley Township, Greene County in Southwestern Pennsylvania*, Docket Nos. A-2010-2187540, et al., 2011 Pa. PUC LEXIS 2028 (Recommended Decision March 28, 2011); *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*, Docket Nos. A-2009-2082652, et al., 2010 Pa. PUC LEXIS 434 at *191-201 (February 12, 2010).

will consider the impact and the efforts that have been and will be made to minimize the impact, if any, of the proposed line upon the following: (i) land use; (ii) oil and sedimentation; (iii) plant and wildlife habitats; (iv) terrain; (v) hydrology; (vi) landscape; (vii) archeological areas; (viii) geologic areas; (ix) historic areas; (x) scenic areas; (xi) wilderness areas; and (xii) scenic rivers. 52 Pa. Code § 57.75(d)(3). Further, the Commission will examine the proposed route for the transmission line consider the availability of reasonable alternative routes in reaching a conclusion as to whether the proposed route will have minimum adverse environmental impacts. 52 Pa. Code §§ 57.75(d)(4), 57.76(a)(4).

The Commonwealth Court recently held that a utility's route for a proposed high voltage transmission line should be approved where the 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:

[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.

Susquehanna-Roseland, at 449-50 (quoting *Trailco*, 995 A.2d 465, 479-80).

As explained below, Duquesne Light has undertaken an extensive evaluation of the environmental and social impacts of the available alternative routes. The routes selected by Duquesne Light will have significantly less overall impacts to the natural and human environment than the other feasible alternative routes.

1. Overview of the Siting Process

The ultimate goal of the Universal-Plum Project Siting Study was to select a suitable route the Universal-Plum 138 kV transmission line and a feasible route for the relocation of the Cheswick-Plum 138 kV transmission line. Furthermore, the Siting Study established alternative routes for evaluation that are environmentally sound,¹¹ feasible from an engineering and economic perspective,¹² and compliant with applicable regulatory requirements. (Duquesne Light St. No. 2, pp. 4-5.) To achieve that goal, Duquesne Light retained GAI Consultants, Inc. ("GAI") to prepare the Siting Study. (Duquesne Light St. No. 2, p .3.)

The Siting Study summarized its methodology as follows:

The initial step in route development is to define a Study Area which includes the Project end points (the existing Universal Substation and the existing Plum Substation) and a large enough area to develop alternative routes. The next step is to utilize publically available data to identify large area constrains (e.g., parks, urban areas) and opportunities (e.g., existing ROWs). The routing team then identifies, at a high level, possible alignments within the study area to develop the Preliminary Routes. The routing team then collects information to review the Preliminary Routes for viability, and modifies or eliminates Preliminary Routes until only the most suitable routes remain. These suitable routes are then compared as the Alternative Routes. The potential impacts of the Alternative Routes to land use, environmental and cultural resources, and engineering concerns are then evaluated and compared among the Alternative Routes. The Alternative Route that, on balance, best avoids or minimizes overall impacts to environmental and human/built resources and minimizes unreasonable design criteria and cost is then selected as the Preferred Alternative.

(Duquesne Light Exh. No. 1, Attachment 3, pp. 3-4.) Throughout this process, GAI used a variety of publicly available information and conducted field reconnaissance to update the data

¹¹ Environmental soundness includes minimizing environmental impacts while maximizing siting opportunities. (Duquesne Light St. No. 3, p. 4.)

¹² Engineering and economic feasibility includes minimizing engineering constraints, cost, and distance of the route. (Duquesne Light St. No. 3, p. 4.)

available for any resources in the vicinity of any preliminary routes considered. (Duquesne Light St. No. 2, pp. 5-6.)

Duquesne Light fully explained each step taken by GAI in defining the study area, identifying constraints and opportunities in the study area, identifying possible alignments to develop preliminary routes, modifying the preliminary routes based on actual field data to select alternative routes, and comparing the alternative routes based on 30 environmental, human/built, and engineering resource criteria that were scored and weighted in accordance with weights established by the Siting Criteria Council (SCC) for the GPU-DQE 500 kV Transmission Line Project. (See Duquesne Light St. No. 2; Duquesne Light Exh. No. 1, Attachment 3.) Duquesne Light further demonstrated that its analysis of potential routes involved two public open houses, substantial consultation with governmental and non-governmental agencies, and consultation with regulatory agencies. (Duquesne Light St. No. 2, p. 9.) Finally, the Siting Study also involved review and consideration of local zoning ordinances and comprehensive land use plans to evaluate the impact of the Proposed Route on municipalities. (Duquesne Light St. No. 2, pp. 8-9; Duquesne Light Exh. No. 1, Attachment 3, Section 7.2.) Importantly, no party has challenged the methodology or criteria used by GAI and Duquesne Light to conduct the Siting Study.

2. Selection Of The Proposed Route

a. The Universal-Plum 138 kV Transmission Line

Duquesne Light identified three feasible Alternative Routes for the Universal-Plum Project, Alternative Routes 1, 2 and 3, using the analysis described above. (Duquesne Light St. No. 2, pp. 10-13; Duquesne Light Exh. No. 1, Attachment 3, Section 3.4.) The three Alternative Routes were then qualitatively and quantitatively evaluated and compared to identify a Preferred

Route. (Duquesne Light St. No. 2, p. 10; Duquesne Light Exh. No. 1, Attachment 3, Sections 4.0 and 5.0.)

Duquesne Light evaluated and compared Alternative Routes 1, 2 and 3 against each other using 30 environmental, human/built, and engineering resource criteria that were scored and weighted in accordance with weights established by the Siting Criteria Council (SCC) for the GPU-DQE 500 kV Transmission Line Project. SCC weights existed for 22 of the 30 resource criteria. The Siting Team assigned weights for the remaining eight resource criteria (Land Trust Protected Area, Cemeteries, Exceptional Value Streams, Landslide Prone Area, Commercial/Industrial Areas, Forest Land Cleared, Non-existing ROW, and Length of ROW). The scaled scores for each criterion were then multiplied by its respective weight to obtain the impact scores shown in Section 4 and Appendix A of the Siting Study. These impact scores were summed to obtain an overall impact score for each alternative route. These scores are presented in Section 4.0 of the Siting Study. (See Duquesne Light St. No. 2, pp. 7-8; Duquesne Light Exh. No. 1, Attachment 3, Section 4.)

A review of the quantitative analysis performed for the Universal-Plum Project indicated that Alternative Route 3, the proposed route, would produce significantly fewer overall impacts relative to Alternatives 1 and 2. (See Duquesne Light St. No. 2, pp. 13-14; Duquesne Light Exh. No. 1, Attachment 3, Section 5.) Alternative 3 has the lowest/best final impact score of all the alternative routes and is the best overall alternative from an environmental, human/built, cultural, and engineering perspective, for several reasons. Alternative 3 is the shortest route and would require the least new ROW acquisition. It also has the least impact on human/built resources, residential structures, road crossings, and has the second least impact to commercial/industrial areas and institutional complexes that are only slightly more than Alternative 2. Alternative 3 is

the best alternative from an engineering perspective, as it crosses the least steep terrain, crosses the second least landslide-prone area, and has the shortest distance within 2 miles of Pittsburgh-Monroeville Airport, and is not within a straight line approach to its runway. Alternative 3 has the least impact to some of the environmental resources including forest land cleared and perennial streams crossed, but, without mitigation, has the most impact to others including natural areas and recreational areas (*i.e.* Boyce Park). Alternative 3 has the slightly less impact to archaeological sites and historic sites than the other two alternatives. (Duquesne Light Exh. No. 1, Attachment 3, Section 5.0.)

Alternative 3 does have the highest cost estimate to acquire and construct, due to the underground portion of transmission line through Boyce Park. Importantly, however, the additional costs associated with locating a portion of the transmission line underground will mitigate the visual impacts on Boyce Park and minimize impacts on the park's function. (Duquesne Light Exh. No. 1, Attachment 3, p. 70.)

Based on the quantitative assessment and qualitative review of Alternative Routes 1, 2 and 3, Duquesne Light selected Alternative Route 3 as the Proposed Route for the Universal-Plum 138 kV transmission line portion of the Universal-Plum Project. Although Alternative 3 has slightly higher costs than the other two alternatives, Alternative 3 has the lowest impact score of all the alternative routes and is the best overall alternative from an environmental, human/built, cultural, and engineering perspective.

b. The Relocated Cheswick-Plum 138 kV Transmission Line

As described above, the Universal-Plum Project also involves relocating a 0.51-mile portion of the Cheswick-Plum 138 kV Transmission Line to accommodate the entrance of the Universal-Plum 138 kV Transmission line into the Plum Substation. The Proposed Route for the Universal-Plum 138 kV Transmission line will require the terminus of the Cheswick-

Plum 138 kV Transmission Line to be relocated 65 to 155 feet south of its current location, between the Plum Substation and the west side of New Texas Road. (Duquesne Light St. No. 2, pp. 14-15.)

Duquesne Light demonstrated that the proposed relocation of the Cheswick-Plum 138 kV would have fewer impacts than any other feasible alternative. Additionally, no new properties will be impacted by the relocation. Because the existing facilities to be connected by the relocated section are only 0.51 miles apart, few alternatives would be feasible. Furthermore, the proposed route runs along existing transmission right-of-way and infrastructure and, therefore, any alternative that deviated from this route would necessarily have higher impacts. (Duquesne Light St. No. 2, pp. 14-15; Duquesne Light Exh. No. 1, Attachment 3, Section 6.0.)

Based on its assessment of the proposed relocation of a portion of the Cheswick-Plum 138 kV transmission line, Duquesne Light has demonstrated that any other feasible alternative will result in additional impacts. Importantly, no parties opposed the relocation of the 0.51-mile segment of the Cheswick-Plum 138 kV transmission line contemplated by the Universal-Plum Project.

3. Mitigation Measures

Duquesne Light strives to avoid and/or minimize the impacts of transmission lines upon property owners and the environment. Efforts were made during the siting process to minimize impacts on existing and future land uses, as well as avoid sensitive natural resources such as wetlands and streams. For example, the siting team worked with land owners to route the project transmission lines, structures, and access roads to minimize impacts to future housing developments and avoid sensitive natural areas. Where potential impacts are unavoidable, Duquesne Light will obtain any necessary permits and comply with the best management practices laid out within during construction. Best management practices may include fencing

sensitive resources to protect them during construction, use of timber matting equipment for crossings of streams and wetlands, and utilizing erosion and sedimentation controls. (Duquesne Light St. No. 2, pp. 15-16; *see also* Duquesne Light Exh. No. 1, Attachment 3, Section 5.1.) Duquesne Light provided a detailed description of its efforts to minimize impacts to land use and land cover, hydrology, scenic and recreational area, natural areas and rare/threatened/endangered species, terrain and landscape, archaeological and architectural/historical resources, and airports in Section 5.1 of the Siting Study. (Duquesne Light Exh. No. 1, Attachment 3, Section 5.1.)

Based on its description of planned mitigation efforts in the Siting Study, Duquesne Light has demonstrated it has incorporated appropriate mitigation measures for the impacts associated with the Universal-Plum Project.

4. Property Specific Challenges Advanced By Certain Landowners

Only two segments Preferred Route for the proposed Universal-Plum 138 kV transmission line have been challenged in this proceeding: the portion of the Universal-Plum 138 kV transmission line traversing the property owned by Javaid Alvi, Pervaiz Alvi and Walter Lorence;¹³ and the portion of the Universal-Plum 138 kV transmission line traversing the property owned by Maria Palombo Aiello, Antoinette Cardinale and Ana Louise Aspden, f/k/a Anna Louise Palombo.¹⁴ As explained below, the alternative routes proposed by these landowners are not reasonable and would, in fact, increase environmental and/or land use impacts, and/or increase the amount of right-of-way impacted for the Alvi and Palombo properties as well as the abutting properties.

¹³ Duquesne Light filed a condemnation application for the Alvi Property, *i.e.* Duquesne Light Exh. No. 3. The Mr. Alvi's challenges to the condemnation application are set forth in more detail in Section VI.F.1. below.

¹⁴ Duquesne Light filed a condemnation application for the Palombo Property, *i.e.* Duquesne Light Exh. No. 2. The Palombos' challenges to the condemnation application are set forth in more detail in Section VI.F.2. below.

a. The Alvi Property Segment

Mr. Alvi testified that he had three challenges to the Universal-Plum Project. First, Mr. Alvi challenged the location of the segment of the 138 kV Universal-Plum transmission line that traverses his property and requests that the poles associated with this segment of the line be relocated to the southern edge of his property line. (Hearing Tr. 80:17-23.) Second, Mr. Alvi argued that Duquesne Light should be required to provide a “clear time schedule, nothing vague” regarding the timeline for construction. (Hearing Tr. 80:24-25.) Finally, Mr. Alvi challenged the compensation offered for the easement traversing his property. (Hearing Tr. 80:25-81:1.)

As an initial matter Duquesne Light notes that the principal basis for Mr. Alvi challenging the location of the segment of the 138 kV Universal-Plum transmission line traversing his property is because he believes the compensation offered by Duquesne Light is inadequate. At hearing, Mr. Alvi testified as follows:

Q. So, I want to make sure I understand your testimony correctly. Your primary objection is to the placement of Poles 15 and 16, is that correct.

A. As far as the route is concerned, yes, sir.

Q. But you would have no objection if those poles were lowered to your [southern] property line.

A. No, sir.

Q. Okay.

A. If the compensation is there.

(Hearing Tr. 85:3-11 (emphasis added).) Upon additional questioning by the ALJ, Mr. Alvi further clarified this testimony as follows:

Q. Well, then, I will ask you this question. So, if you got what you would consider fair compensation for the placement of Poles 15 and 16, then you would have no objection to the poles being placed there?

A. To the route.

Q. To the route. Okay. But if you don't get what you feel is fair compensation, then you would have an objection? Is that what you are telling me?

A. For the route, sir?

Q. Yes.

A. Yes, sir.

(Hearing Tr. 86:14-25 (emphasis added).)

As made clear by this testimony, Mr. Alvi's challenge to the proposed location of the segment of the 138 kV Universal-Plum transmission line traversing his property is based upon the compensation offered by Duquesne Light to obtain an easement for this segment. However, this is not a proper or relevant basis for challenging the location of the line in this proceeding. The sole issue before the Commission relative to the Alvi Condemnation Application is whether the service—*i.e.* the transmission or distribution of electricity to or for the public that will be provided to the public if the subject property is condemned—is necessary or proper for the service, accommodation, convenience, or safety of the public.

Furthermore, Mr. Alvi made clear that, if he received "fair compensation" for the right-of-way proposed in the Alvi Condemnation Application, then he would have no objection to location of the right-of-way proposed by Duquesne Light. (Hearing Tr. 86:14-25.) This testimony demonstrates that Duquesne Light's selected route is reasonable, because Mr. Alvi would not object to the proposed location if the compensation offered by Duquesne Light was "fair." Therefore, Mr. Alvi's compensation-based challenge to the proposed location of the right-of-way traversing his property should be rejected.

Mr. Alvi also challenged the location of the segment of the 138 kV Universal-Plum transmission line traversing his property. Importantly, Duquesne Light's proposed alignment

across Mr. Alvi's property, as reflected in Duquesne Light Exhibit MH-3 (Alvi), runs along the southern border of Mr. Alvi's property to the extent reasonably possible; this alignment was proposed after Duquesne Light was informed of Mr. Alvi's concerns about a proposed alignment that ran through the middle of his property, and decided to align the right-of-way primarily along the southern border to address Mr. Alvi's concerns. (Hearing Tr. 73-74; *see also* Duquesne Light Exhibit MH-3 (Alvi).) At hearing, Mr. Alvi proposed that the right-of-way for the remaining segment of the Universal-Plum Project that did not run along the southern edge of his property be re-located south of its current position, along the southern edge of his property. (Hearing Tr. 74:8-16; *see also* Hearing Tr. 83:22-85:5.) Referencing, Duquesne Light Exhibit MH-3 (Alvi), Mr. Alvi specifically proposed that the segment located between Pole Numbers 15 and 16 of the Z154 line, *i.e.* Z154-15 and Z154-16, be lowered to the southern border of his property. (Hearing Tr. 74:8-16; *see also* Duquesne Light Exh. MH-3 (Alvi).)

The record evidence demonstrates that Duquesne Light acted reasonably in selecting the route for the segment of the 138 kV Universal-Plum transmission line traversing Mr. Alvi's property and that Mr. Alvi's proposed re-location of that segment is unreasonable and should be rejected. Duquesne Light witness Aimee Kay, a professional wetland scientist with expertise in hydrology and soils,¹⁵ conducted an in-person survey over Mr. Alvi's property, while developing the Siting Study. (Hearing Tr. 92:20-93:4.) Ms. Kay testified that a "forested wetland system" was located on Mr. Alvi's property, as well as a "very ste[e]p drop off from the residential neighborhood that borders his property" along the southern border. (Hearing Tr. 94:1-21.) She specifically described the southern portion of Mr. Alvi's property located south of Pole Numbers 15 and 16 as:

¹⁵ (Hearing Tr. 93-94.)

from Pole No. 16 moving southwest to Pole No. 15, the area south of that to his [Mr. Alvi's] property is a large flat forested wetland system with numerous streams in it. But at his property boundary where you can see some small lots from the [residential] subdivision, there is a very steep drop off from the backs of their yards straight down to this area.

(Hearing Tr. 95:15-21.)

Based on these characteristics, Ms. Kay concluded that Mr. Alvi's proposed relocation would increase the environmental impacts of the Universal-Plum Project for the segment of the line that traverses Mr. Alvi's property. (Hearing Tr. 97:3-9.) Ms. Kay explained the environmental impacts associated with Mr. Alvi's proposal to relocate this segment of the transmission line would include additional forest clearing and specific wetland mitigation measures, including in-kind replacements of impacted wetlands. (Hearing Tr. 98:15-100:19.) In addition, Ms. Kay explained that Mr. Alvi's proposed relocation would have other negative impacts, including: the segment of the line would be moved closer to an existing residential community (Hearing Tr. 101:15-102:1); the line would be located on steeper terrain (Hearing Tr. 102:20-23); and the route would not be a direct route and, therefore, would increase the acreage traversed by the transmission line (Hearing Tr. 103:6-10). This undisputed evidence demonstrates that Duquesne Light acted reasonably by selecting a route over Mr. Alvi's property that avoids these impacts.

Finally, the record evidence demonstrates that Duquesne Light, if the Universal-Plum Project is approved, Duquesne Light plans to initiate construction by as early as January 1, 2019, to meet an in-service date of June 1, 2020. (Duquesne Light Exh. No. 1, p. 2.) Therefore, Mr. Alvi's challenge to the segment of the 138 kV Universal-Plum transmission line traversing his property should be rejected.

For the reasons more fully explained above, Mr. Alvi's challenges to the segment of the Universal-Plum Project traversing his property should be rejected. Mr. Alvi has testified that he would have no objection to the route proposed by Duquesne Light if he received sufficient compensation. Moreover, Duquesne Light demonstrated that Mr. Alvi's proposed relocation would result in greater impacts to his property and that its proposed location avoids these impacts. Therefore, the ALJ and the Commission should find that Duquesne Light did not act wantonly, capriciously, or arbitrarily in selecting the proposed right-of-way over Mr. Alvi's property.

b. The Palombo Property Segment

Duquesne Light proposed a right-of-way traversing the Palombo property that constituted the most direct route across the property, minimized the acreage of the property impacted, avoided the location of additional structures in sloped terrain, and minimized the impacts to neighboring properties. However, the Palombo Property Owners challenged the right-of-way location proposed by the Company and submitted testimony requesting the proposed right-of-way traversing their property be relocated along either the extreme northern or southern edge of their property. (St. No. AC-1, Direct Testimony of Antoinette Cardinale, p. 2; Exhibit 1; Exhibit 2.)¹⁶ As explained below, Duquesne Light demonstrated that the proposed relocation along either the southern or northern border of the Palombo property set forth in Ms. Cardinale's testimony is unreasonable.

i. The Palombo Property Owners' Proposed Southern Border Alignment Is Not Reasonable.

The record evidence demonstrates that the Palombo Property Owners' proposed extreme

¹⁶ Maria Palombo Aiello and Ana Louise Aspden submitted Direct Testimony adopting St. No. AC-1, Direct Testimony of Antoinette Cardinale and as the associated Exhibits 1-3. (St. No. MPA-1, Direct Testimony of Maria Palombo Aiello; St. No. ALA-1, Direct Testimony of Anna Louise Aspden.) As such, to the extent that Duquesne Light refers to St. No. AC-1, it is also referencing St. No. MPA-1 and St. No. ALA-1 unless specifically stated otherwise.

southern border alignment is unreasonable. Duquesne Light witness Meenah Shyu explained that, while an engineering solution along the southern border is feasible, it would incur an additional significant cost to the overall project because it would require the installation of an additional structure. (Duquesne Light St. No. 3-R, p. 2.) This additional structure would be required to accommodate the change in route, the steeply sloped terrain along the southern border, and to maintain the existing alignment and current clearances to ground on neighboring spans. (Duquesne Light St. No. 3-R, pp. 2-3.) This additional structure would also cost an additional \$445,000 to install. (Duquesne Light St. No. 3-R, p. 3.)

In addition, Duquesne Light witness Mr. Hummel explained that Ms. Cardinale's proposal to locate the right-of-way along the southern "extreme edge" of the property would require the transmission line to be constructed on unsuitable terrain and disrupt the location of right-of-way on neighboring properties. (Duquesne Light St. No. 4-R, p. 6.) Indeed, examination of the maps of plans entered into evidence confirms that relocating the proposed right-of-way on the extreme southern edge would increase the right-of-way impacts to the Palombo property and disrupt the location of right-of-way on neighboring properties.

If the right-of-way were located along the southern border of the Palombo property, *i.e.* along the dashed line labeled N72° 23' 50" W and 736.14' in Duquesne Light Exh. No. MH-3 (Palombo), additional right-of-way along the eastern border of the Palombo's property, *i.e.* along Davidson Road, would have to be obtained to maintain the existing alignment over other properties. As such, relocation along the southern border would increase the amount of right-of-way traversing the Palombo property and increase the impacts to this property. In addition, relocation of the proposed right-of-way to the southern border would require the proposed right of way over Mr. Alvi's property, which is located to the west, to be altered as well. As such, the

southern border relocation proposed by the Palombo Property Owners would increase the the amount of land impacted on the Palombo property and disrupt the location of right-of-way of Mr. Alvi's property. (See Duquesne Light Exh. No. MH-3 (Palombo); *see also* Duquesne Light Exh. No. MH-1 (Palombo, p. 2) (showing an aerial photo of the proposed right-of-way over the Palombo property (16) and Alvi property (15).)

For these reasons, the Palombo Property Owners' proposed extreme southern border alignment is unreasonable and should be rejected.

ii. The Palombo Property Owners' Proposed Northern Border Alignment Is Not Reasonable.

The record evidence also demonstrates that the Palombo Property Owners' proposed extreme north border alignment is unreasonable. Duquesne Light witness Ms. Shyu explained that it was not feasible to locate the transmission line along the extreme northern border of the Palombo property because that route was obstructed by an existing structure. (Hearing Tr. 142.) Specifically, Ms. Shyu testified that it was Duquesne Light's policy to try to avoid running conducts over existing structures because the structures interfere with maintenance and operations activities, and would interfere with accessing the line in case of an emergency. (Hearing Tr. 142:19-23.)

Mr. Hummel also explained why Ms. Cardinale's proposal to locate the right-of-way along the northern "extreme edge" of the property was not reasonable. The location of the right-of-way along the northern edge of the property is not possible because this route is obstructed by an existing structure on the parcel northeast of the Palombo property. (Duquesne Light St. No. 4-R, p. 6.)

At hearing, counsel for the Palombo Property Owners questioned Mr. Hummel regarding the nature and condition of the structure located on the parcel northeast of the Palomobo

property, *i.e.* the Cooper Parcel. (Hearing Tr. 174-175.) The ALJ further inquired about the structure located on the Cooper Parcel. (Hearing Tr. 176-177.) Duquesne Light witness Mr. Jason Hartle answered this question. Mr. Hartle further explained that Duquesne Light endeavors to avoid locating right-of-way in areas with existing structures to avoid conflicts with the owner's right to maintain and alter the existing structure. (Hearing Tr. 196:19-197:7.) He also testified that the structure on the Cooper property is a garage that is a block structure. (Hearing Tr. 197:4-12.)

Furthermore, an examination of the maps of plans entered into evidence confirms that relocating the proposed right-of-way on the extreme northern edge would disrupt the location of right-of-way on neighboring properties and/or increase the amount neighboring properties are impacted by proposed right-of-way. If the right-of-way were located along the northern border of the Palombo property, *i.e.* the dashed line labeled N88° 44' 41" E and 464.07', additional right-of-way across Mr. Alvi's property to the west and the Cooper property to the northeast would also be required. In particular, the right-of-way across Mr. Alvi's property would have to be angled north, leading to a larger segment of the proposed right-of-way traversing his property. The right-of-way across the Cooper property would also have to be shifted north. This shift would result in the majority of the Cooper property being traversed by the right-of-way and the right-of-way crossing over a pre-existing structure on the Cooper property. As such, the extreme northern border relocation proposed by the Palombo Property Owners would disrupt the location of proposed rights-of-way over Mr. Avli's property and the Cooper property and increase the right-of-way impacts for each of these properties. (*See* Duquesne Light Exh. No. MH-3 (Palombo); *see also* Duquesne Light Exh. No. MH-1 (Palombo, p. 2) (showing an aerial photo of

the proposed right-of-way over the Cooper property (17), the Palombo property (16) and Alvi property (15).)

For the reasons explained above, the Palombo Property Owners' proposed extreme northern border alignment is unreasonable.

iii. The Alignment Proposed By Duquesne Light Does Not Differ From The Alignment Agreed To By The Palombo Property Owners

The Palombo Property Owners, specifically Ms. Cardinale, further testified that Exhibits 1-3 of St. No. AC-1 reflected the evolution and, ultimately, the agreement of the Palombo Property Owners and Duquesne Light regarding the proposed right-of-way traversing the Palombo property. (St. No. AC-1; *see also* Hearing Tr. 200-203.) Duquesne Light witness Mark Hummel testified that Ms. Cardinale's characterization of Exhibits 1-3 of St. No. AC-1 was incorrect.

Mr. Hummel explained that Exhibit 1 to St. No. AC-1 is an aerial photo of a prospective right of way location for the 138 kV Universal-Plum transmission line along the southerly boundary of the Palombo parcel, prepared by a consultant for Duquesne Light using Allegheny geographic information system ("GIS") data, which does not reflect data from field surveys and verified deeds. (Duquesne Light St. No. 4-R, p. 3.) He further explained that Exhibit 2 to St. No. AC-1 is another aerial photo, this time showing a prospective right of way location for the 138 kV Universal-Plum transmission line along the "northern border" of the Palombo parcel, which was prepared after Duquesne Light became aware of certain factors that made the southern border unsuitable for the location of the right of way. (Duquesne Light St. No. 4-R, pp. 3-4.) Finally, Mr. Hummel explained that Exhibit 3 to St. No. AC-1 shows the proposed right of way in the same location as set forth in Exhibit 2 to St. No. AC-1, but corrects the northern property line for the Palombo property. (Duquesne Light St. No. 4-R, p. 4.) Indeed, Exhibit 3 to

St. No. AC-1 corrects the northern boundary line of the Palombo property based upon actual verified data, deeds and mapping from the Allegheny County Recorder of Deeds; Mr. Hummel demonstrated that the northern boundary was corrected by Allegheny County GIS and submitted the corrected GIS map which reflects the same northern boundary set forth in Exhibit 3 to St. No. AC-1. (Duquesne Light St. No. 4-R, pp. 4-5; *see also* Duquesne Light MH-6 (Palombo).)

In addition, at hearing, Ms. Cardinale testified that it would be the Palombo Property Owners' preference that Duquesne Light located the segment of the 138 kV Universal-Plum transmission line traversing their property along the "northern edge" of their property. (Hearing Tr. 205:16-17.) Importantly, Ms. Cardinale described this "northern edge" alignment as the alignment set forth in Exhibit 2 to St. No. AC-1, and testified:

Q. And what did he [Mr. McWilliams] tell you Exhibit 2 was?

A. He brought me this picture and said they are moving it [the proposed right-of-way] to the opposite side of the property. I don't even remember the dollar value he told me anymore, because it's been so long. And as long as it hugged the property edge, I was fine. We were fine with that.

Q. Did you at that point verbally tell him it appeared you might settle your claim?

A. Yes. We were just discussing dollar value at that point, and we were okay with this line being along the northern side. I don't remember because there is so many phone conversations with you and everything about this, but we finally came to a dollar value agreement with this picture that they brought.

Q. Which picture?

A. Exhibit 2.

(Hearing Tr. 201:19-202:11 (emphasis added).)

Ms. Cardinale's testimony reveals that the alignment proposed by Duquesne Light is identical to the alignment set forth in Exhibit 3 to St. No. AC-1 and Duquesne Light Exhibit No.

MH-3 (Palombo). As explained by Mr. Hummel, the alignment set forth in Exhibit 2 to St. No. AC-1 is, in fact, the same alignment set forth in Exhibit 3 to St. No. AC-1 and the same alignment proposed by Duquesne Light for the Palombo property. (Duquesne Light St. No. 4-R, pp. 5-6.) Indeed, Exhibits 2 and 3 to St. No. AC-1 “contain the same location of the right of way, but Exhibit 3 corrects for the actual, verified northern property boundary of the Palombo/Cardinale property.” (Duquesne Light St. No. 4-R, p. 5.)

For these reasons, the alignment of the right-of-way set forth in Exhibit 2 to St. No. AC-1 does not differ from the alignment of the right-of-way proposed by Duquesne Light and, therefore, the Palombo Property Owners’ objection to the location of the proposed right-of-way traversing their property should be rejected.

iv. Conclusion Regarding The Palombo Property Owners’ Proposed Alternatives

For the reasons more fully explained above, the Palombo Property Owners’ challenges to the segment of the Universal-Plum Project traversing their property should be denied. Duquesne Light demonstrated that both the northern and southern border alignments proposed by the Palombo Property Owners are neither reasonable nor desirable from a construction, operation and maintenance perspective. Therefore, the ALJ and the Commission should find that Duquesne Light did not act wantonly, capriciously, or arbitrarily in selecting the proposed right-of-way over property of Ms. Maria Palombo Aiello, Ms. Antoinette Cardinale and Ms. Ana Louise Aspden.

5. Conclusion As To Minimum Adverse Environmental Impacts

Duquesne Light has demonstrated that the Universal-Plum Project will have minimum adverse environmental impact, considering the electric power needs of the public, the state of the available technology and the available alternatives. No party challenged the methodology used

in or conclusions reached by Duquesne Light's Siting Study with respect to the Universal-Plum Project as a whole. Indeed, Duquesne Light conducted an exhaustive review of potential routes and ultimately selected the feasible alternative that would produce significantly fewer overall impacts (Alternative 3, the Proposed Route) in comparison to other feasible alternatives (Alternatives 1 and 2). While certain landowners contested segments of the Proposed Route traversing their properties, Duquesne Light has demonstrated that the alignments proposed by the landowners are either not feasible or would increase the overall impacts of the Proposed Route. Therefore, and for the reasons more fully explained above, the ALJ and the Commission should find that the Universal-Plum Project will have minimum adverse environmental impact, considering the electric power needs of the public, the state of the available technology and the available alternatives, pursuant to 52 Pa. Code § 57.76(a)(4).

F. EMINENT DOMAIN APPLICATIONS

In this proceeding, Duquesne Light is seeking a finding, under 15 Pa.C.S. § 1511, that the acquisition of rights-of-way and easements for the construction, operation, and maintenance of the proposed Universal-Plum Project over the lands identified in the Condemnation Applications is necessary for the service, accommodation, convenience, or safety of the public. Pennsylvania Appellate Courts have interpreted Section 1511 as requiring a condemning utility to show that the proposed transmission line is necessary and that it has not acted wantonly, capriciously, or arbitrarily in selecting the proposed right-of-way. *Department of Environmental Resources v. Pa. PUC*, 335 A.2d 860 (Pa. Cmwlth. 1975), *aff'd.*, 473 Pa. 378, 374 A.2d 693 (1977); *Dickson v. Pennsylvania Service Commission*, 89 Pa. Super. 126 (1926). Further, 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 reducing or eliminating inconvenience to particular landowners. *Stone v. Pa. PUC*, 162 A.2d 18 (Pa. Super. 1960).

Duquesne Light initially filed with the Commission ten (10) applications for a finding and determination that the service to be furnished by Duquesne Light through its proposed exercise of the power of eminent domain to acquire rights-of-way and easements for the construction, operation, and maintenance of the proposed Universal-Plum Project is necessary or proper for the service, accommodation, convenience, or safety of the public. During the course of the proceeding, Duquesne Light petitioned to withdraw one of the applications because it was able to reach agreements with the property owner.¹⁷ Consequently, Duquesne Light now seeks sufficient land rights for an aerial crossing of the nine (9) properties:

- The property of Maria Palombo Aiello, Antoinette Cardinale and Ana Louise Aspden, f/k/a Anna Louise Palombo, at Docket No. A-2018-3000747. (Duquesne Light Exh. No. 2)
- The property of Javaid Alvi, Pervaiz Alvi and Walter Lorence, at Docket No. A-2018-3000732. (Duquesne Light Exh. No. 3)
- The property of Sampson Brothers, Inc., at Docket No. A-2018-3000733. (Duquesne Light Exh. No. 4)
- The property of Jeffrey G. Woodring and Regina M. Woodring, at Docket No. A-2018-3000743. (Duquesne Light Exh. No. 5)
- The property of United States Steel Corporation, at Docket No. A-2018-3000754 (Duquesne Light Exh. No. 6)
- The property of Davidson Property Co., LLC, at Docket No. A-2018-3000755. (Duquesne Light Exh. No. 7)
- The property of Consol Mining Company, LLC, at Docket No. A-2018-3000756. (Duquesne Light Exhibit No. 8)
- The property of Parkway Associates, Inc., at Docket No. A-2018-3000766. (Duquesne Light Exhibit. No. 9)
- The property of Union Railroad Company, at Docket No. A-2018-3000769. (Duquesne Light Exhibit No. 11)

For the reasons set forth below, Duquesne requests that the ALJ find, and the Commission approve, that the acquisition of the rights-of-way and easements for the aerial crossing of the aforementioned properties is necessary and proper for the service, accommodation, convenience,

¹⁷ Duquesne Light reached agreement with Cathleen L. Scott, Docket No. A-2018-3000768 and filed a Petition to Withdraw the Scott Condemnation Application.

or safety of the public, and grant Duquesne Light's Condemnation Applications associated with the Universal-Plum Project.

Duquesne Light's proposed exercise of the power of eminent domain to acquire rights-of-way and easements for the construction, operation, and maintenance of the proposed Universal-Plum Project over the lands identified in the Condemnation Applications is necessary for the service, accommodation, convenience, or safety of the public. As explained above, the proposed Universal-Plum Project is necessary to provide an additional source of transmission supply to the Universal and Plum Substations and thereby resolve certain violations of Duquesne Light's Planning Criteria that currently exist at each substation. (*See Section VI.B., supra.*) Importantly, no party to this proceeding has contested this issue. Therefore, Duquesne Light's evidence regarding the need for the project is undisputed.

As explained above, the proposed Universal-Plum Project includes the construction of the new 138 kV Universal-Plum Transmission line and the relocation of 0.51 miles of the existing 138 kV Cheswick-Plum transmission line. (*See Section VI.B.3., supra.*) The proposed routes for the Universal-Plum Project were selected after extensive public input and a detailed analysis, which included a comprehensive environmental inventory, identification and analysis of alternative routes, and selection of the preferred route. Factors considered in the siting analysis included functional requirements, environmental impacts, social impacts, public input, cost, and other factors identified in the Commission's siting regulations. (*See Section VI.E.2., supra.*)

Duquesne Light seeks to exercise the power of eminent domain to acquire rights-of-way for the construction, operation, and maintenance of the Universal-Plum Project, specifically the 138 kV Universal-Plum transmission line, over and across the properties identified in the Condemnation Applications. The proposed rights-of-way and easements over the properties

identified in the Condemnation Applications do not interfere or require the condemnation of any place of public worship, burying ground, dwelling or its reasonable cartilage. See 15 Pa.C.S. § 1511(b).

In addition, Duquesne Light did not act wantonly, capriciously, or arbitrarily in selecting the proposed right-of-way. *Department of Environmental Resources v. Pa. PUC*, 335 A.2d 860 (Pa. Cmwlth. 1975), *aff'd.*, 473 Pa. 378, 374 A.2d 693 (1977); *Dickson v. Pennsylvania Service Commission*, 89 Pa. Super. 126 (1926). Duquesne Light conducted a comprehensive Siting Study that analyzed three feasible routes for the Universal-Plum Project. Based upon that analysis, Duquesne Light determined that the Proposed Route will have significantly less overall impacts to the natural and human environment than the other feasible alternative routes, including any alternative alignments over specific properties proposed by Mr. Alvi and the Palombo Property Owners. (See Section VI.E., *supra.*)

Only Mr. Alvi and the Palombo Property Owners actively participated in this proceeding and submitted evidence regarding the rights-of-way traversing their respective properties that were subject to the Alvi and Palombo Condemnation Applications. Importantly, none of these property owners have argued that the Universal-Plum Project is not necessary or proper for the service, accommodation, convenience or safety of the public. Nor have these property owners argued that Duquesne Light has failed to satisfy the Commission's requirements set forth in Chapter 57.76 of its regulations, with respect to the siting of HV transmission lines.

Rather, both Mr. Alvi and Palombo Property Owners argue that the rights-of-way subject to the respective condemnation applications are not the "best route" over their respective properties and should be altered to avoid or mitigate alleged impacts to their respective properties. For the reasons explained in Section IV.E.4., Mr. Alvi and the Palombo Property

Owners have not demonstrated that Duquesne Light's proposed route selection is unreasonable, or that the Company acted wantonly, capriciously, or arbitrarily in selecting the proposed right-of-way. The record evidence instead demonstrates that Mr. Alvi's and the Palombo Property Owners' respective proposals to relocate the rights-of-way traversing their properties would increase the impacts of the Universal-Plum Project.

Duquesne Light must be able to route the Universal-Plum Project over and across the above-mentioned properties in order to site, construct, and operate that transmission lines at the selected routes. The service to be provided by Duquesne Light through the proposed transmission lines and related facilities is necessary or proper for the service, accommodation, convenience or safety of the public for the reasons set forth above. (See Section VI.B., *supra*.) Accordingly, Duquesne Light's proposed exercise of the power of eminent domain to acquire rights-of-way and easements for the proposed Universal-Plum Project over the lands identified in the Condemnation Applications is necessary for the service, accommodation, convenience, or safety of the public and, therefore, should be approved.

VII. CONCLUSION

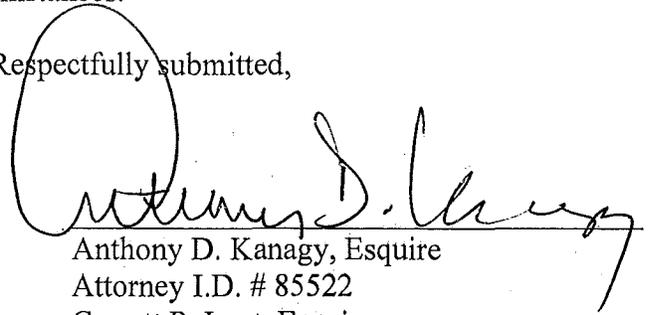
WHEREFORE, Duquesne Light Company respectfully requests that Administrative Law Judge Conrad A. Johnson and the Pennsylvania Public Utility Commission approve the Application of Duquesne Light Company filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 138 kV Transmission Lines Associated with the Universal-Plum Project in Penn Hills, Monroeville, and Plum Borough, Allegheny County, Pennsylvania.

Duquesne Light Company respectfully requests that Administrative Law Judge Conrad A. Johnson and the Pennsylvania Public Utility Commission approve the nine (9) remaining

applications under 15 Pa.C.S. §1511(c) seeking findings and determination that the service to be furnished by the Company through its proposed exercise of the power of eminent domain to acquire rights-of-way and easements over the following lands for the siting and construction of transmission lines associated with the proposed Universal-Plum Project is necessary or proper for the service, accommodation, convenience or safety of the public:

Duquesne Light Company respectfully requests that Administrative Law Judge Conrad A. Johnson and the Pennsylvania Public Utility Commission grant such other approvals as are necessary or appropriate under all of the circumstances.

Respectfully submitted,



Tishekia E. Williams, Esquire
Attorney I.D. #208997
Michael Zimmerman, Esquire
Attorney I.D. # 323715
Duquesne Light Company
411 Seventh Avenue
Pittsburgh, PA 15219
Phone: 412-393-6268
Fax: 412-514-3596
Email: twilliams@duqlight.com
Email: mzimmerman@duqlight.com

Anthony D. Kanagy, Esquire
Attorney I.D. # 85522
Garrett P. Lent, Esquire
Attorney I.D. # 321566
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: akanagy@postschell.com
E-mail: glent@postschell.com

Date: November 26, 2018

Counsel for Duquesne Light Company

APPENDIX “A”

APPENDIX A
PROPOSED FINDINGS OF FACT

Duquesne Light Company (“Duquesne Light” or the “Company”) proposes the following findings of fact:

1. Duquesne Light is a “public utility” and an “electric distribution company” as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 102, 2803. (Duquesne Light Exh. No. 1, p. 3.)

2. Duquesne Light furnishes electric service to approximately 600,000 customers throughout its certificated service territory, which includes all or portions of Allegheny and Beaver Counties and encompasses approximately 800 square miles in western Pennsylvania. (Duquesne Light Exh. No. 1, p. 3.)

3. On March 23, 2018, Duquesne Light filed the 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, which was docketed at Docket No. A-2018-3000708. (Duquesne Light Exh. No. 1)

4. On March 23, 2018, Duquesne Light filed ten (10) applications under 15 Pa.C.S. §1511(c) seeking findings and determination that the service to be furnished by the Company through its proposed exercise of the power of eminent domain to acquire rights-of-way and easements over the following lands for the siting and construction of transmission lines associated with the proposed Universal Plum Project is necessary or proper for the service, accommodation, convenience or safety of the public (collectively the “Condemnation Applications”):

- Application of Duquesne Light Company 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 certain portion of the lands of Maria Palombo Aiello, Antoinette Cardinale and Ana Louise Aspden, f/k/a Anna Louise Palombo, in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000747. (Duquesne Light Exh. No. 2.)
- Application of Duquesne Light Company 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 certain portion of the lands of Javaid Alvi, Pervaiz Alvi and Walter Lorence in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000732. (Duquesne Light Exh. No. 3.)
- Application of Duquesne Light Company 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 certain portion of the lands of Sampson Brothers, Inc. in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000733. (Duquesne Light Exh. No. 4.)
- Application of Duquesne Light Company 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 certain portion of the lands of Jeffrey G. Woodring and Regina M. Woodring in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000743. (Duquesne Light Exh. No. 5)
- Application of Duquesne Light Company 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 certain portion of the lands of United States Steel Corporation in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000754 (Duquesne Light Exh. No. 6.)

- Application of Duquesne Light Company 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 certain portion of the lands of Davidson Property Co., LLC in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000755. (Duquesne Light Exh. No. 7.)
- Application of Duquesne Light Company 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 certain portion of the lands of Consol Mining Company, LLC in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000756. (Duquesne Light Exhibit No. 8.)
- Application of Duquesne Light Company 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 certain portion of the lands of Parkway Associates, Inc. in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000766. (Duquesne Light Exhibit. No. 9.)
- Application of Duquesne Light Company 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 certain portion of the lands of Cathleen L. Scott in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000768.
- Application of Duquesne Light Company 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 certain portion of the lands of Union Railroad Company in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000769. (Duquesne Light Exhibit No. 11.)

5. The reliable and economical operation of transmission and distribution systems requires planning guidelines for system expansion and reinforcement. (Duquesne Light St. No. 1, pp. 2-3; Duquesne Light Exh. No. 1, Attachment 2, pp. 2-5.)

6. Duquesne Light implements PJM's reliability and planning mandates in part through the Planning Criteria. Using the Planning Criteria, Duquesne Light's transmission system is planned so that it can be operated at all projected load levels and during normal scheduled outages. The system is also planned to withstand specific unscheduled contingencies without exceeding the equipment capability, causing system instability or cascade tripping, exceeding voltage tolerances, or causing large-scale, long term or frequent interruptions to customers. (Duquesne Light St. No. 1, pp. 3-4; Duquesne Light Exh. No. 1, Attachment 2, pp. 3-5.)

7. The planning process begins with the development of a computer model of the future system. Once the system model is complete, comprehensive power flow simulations and contingency analyses are performed to determine the ability of the system to comply with the Duquesne Light transmission planning and reliability criteria set forth in Planning Criteria. All conditions where the system is not in conformance with the Planning Criteria are identified, and system reinforcement alternatives are added to bring the system into compliance. Also identified are estimated costs and lead times to implement the reinforcements under consideration. Computer simulations of the system with the identified reinforcement alternatives are completed to identify the best overall reinforcement that will meet the needs of the area in a reliable and economical manner. Finally, all reinforcements are reviewed with stakeholders at either PJM's Transmission Expansion Advisory Committee ("TEAC") or Sub-Regional Transmission Expansion Plan ("SRRTEP") meetings. (Duquesne Light Exh. No. 1, Attachment 2, pp. 4-5.)

8. The proposed Universal-Plum Project was developed consistent with the above-described process, and was reviewed by PJM stakeholders and included in PJM's RTEP as project TOI340.2. (Duquesne Light Exh. No. 1, Attachment 2, p. 9.)

9. The Universal-Plum Project addresses certain reliability issues at two existing substations: (1) the Universal 138-23 kV Substation; and (2) the Plum 138-23 kV Substation. (Duquesne Light St. No. 1, pp. 4-5; Duquesne Light Exh. No. 1, Attachment 2, pp. 5-6.)

10. These reliability issues put approximately 50,000 customers at risk of service outages, where the existing transmission sources serving each substation are affected by planned and unplanned outages. (See Hearing Tr. 60:7-15.)

11. Currently, the Universal Substation violates Duquesne Light's Planning criteria, which provides that a substation with peak load over 100 MVA should have three transmission line sources. The Universal Substation has a maximum historical peak load of 124 MVA, but currently has only two transmission sources. (Duquesne Light St. No. 1, Attachment 2, pp. 6-8.)

12. The existing, two-source configuration for the Universal Substation creates a significant risk of losing the load it serves, specifically during periods where one transmission source is out of service for planned maintenance. (Duquesne Light St. No. 1, p. 5; Duquesne Light Exh. No. 1, Attachment 2, pp. 7-8.)

13. Duquesne Light experienced an outage at the Universal Substation on September 4, 2003, under these circumstances, which resulted in a loss of power for approximately 29,500 customers. (Duquesne Light Exh. No. 1, Attachment 2, p. 8; Hearing Tr. 60:19-61:1.)

14. If both transmission sources to the Universal Substation were lost in a similar event under present conditions, approximately 37,600 customers served by this substation could

lose power until repairs were made. (Duquesne Light St. No. 1, p. 5; Duquesne Light Exh. No. 1, Attachment 2, p. 8.)

15. The Plum Substation also violates Duquesne Light's Planning Criteria because, while its peak is less than 100 MVA, it is only supplied by a single transmission source. In the event of an outage on the Cheswick-Plum 138 kV Transmission Line, either through required maintenance or potential system faults, the Plum Substation would lose its only transmission source of supply until repairs could be made. (Duquesne Light St. No. 1, pp. 5-6; Duquesne Light Exh. No. 1, Attachment 2, p. 7.)

16. Currently, substantial operational impacts to the surrounding sub-transmission and distribution systems would occur as a result of such an outage, which could cause a loss of service to distribution customers. (See Duquesne Light St. No. 1, p. 7; Duquesne Light Exh. No. 1, Attachment 2, p. 7.)

17. Even when the existing single transmission source is operational, the Plum Substation's ability to transfer the load it serves to other distribution substations during times of system peak load and during unusual operating conditions is limited. (Duquesne Light St. No. 1, pp. 5-6; Duquesne Light Exh. No. 1, Attachment 2, p. 6.)

18. If an outage on the single transmission source occurs during peak load or other unusual operating conditions, the supply for all customers served by the Plum Substation would have to be fed from the underlying distribution system. (Hearing Tr. 59:23-60:2.)

19. As such, the existing limitations on the Plum Substation's ability to transfer of load to another substation under its current configuration would lead the 23 kV sub-transmission and 23 kV distribution circuits served by the Plum Substation to approach the emergency rating of those conductors. (Duquesne Light Exh. No. 1, Attachment 2, p. 6.)

20. These conditions would make it difficult to provide power to all of the distribution customers fed from the Plum Substation in the event of an outage on its existing, single transmission source. (Hearing Tr. 60:2-6.)

21. Given present load forecasts and in the absence of a new transmission source to the Universal Substation and to the Plum Substation, the reliability issues and the number of customers that may be affected will increase. (Duquesne Light St. No. 1, p. 6; Duquesne Light Exh. No. 1, Attachment 2, p. 6.)

22. Duquesne Light will address the reliability issues by constructing the new Universal-Plum 138 kV transmission line to interconnect the Plum and Universal Substations and relocating a portion of the existing Cheswick-Plum 138 kV transmission line. (Duquesne Light Exh. No. 1.)

23. The proposed Universal-Plum 138 kV Transmission Line will be designed as a double-circuit 138 kV transmission line, but initially will be operated as a single circuit transmission line until load growth makes it necessary to install the second circuit. (Duquesne Light Exh. No. 1, p. 11.)

24. Duquesne Light provided cross-sectional diagrams showing the typical placement of the support structures. (Duquesne Light Exh. No. 1, Attachments 9a and 9b.)

25. The new Universal-Plum 138 kV Transmission Line will be designed to meet, and generally exceed, the National Electrical Safety Code ("NESC") minimum standards. (Duquesne Light Exh. No. 1, p. 12.)

26. The new Universal-Plum 138 kV transmission line will bring both the Universal and Plum Substations into compliance with the Duquesne Light Planning Criteria. The proposed Universal-Plum Project will provide a third source of supply to the Universal Substation, which

will reduce the potential for outages for customers served by the Universal Substation. The proposed Universal-Plum Project will also provide a second source of supply to the Plum Substation, which will reduce the operational impact of an outage of the current single transmission source of supply to the Plum Substation. (Duquesne Light St. No. 1, p. 7; Duquesne Light Exh. No. 1, Attachment 2, p. 9.) Importantly, the second source of supply provided to the Plum Substation by the Universal-Plum Project will increase the reliability of the underlying distribution system. (Hearing Tr. 59-60.)

27. The relocated Cheswick-Plum 138 kV transmission line will be designed as a single-circuit 138 kV transmission line. On the existing Cheswick-Plum 138 kV transmission line, ten existing wood poles will be removed and one wood pole will be modified to accommodate the Universal-Plum 138 kV transmission line. (Duquesne Light Exh. No. 1, pp. 12-13.)

28. Duquesne Light provided cross-sectional diagrams showing the typical placement of the support structures subject to this relocation. (Duquesne Light Exh. No. 1, Attachment 10.)

29. The relocated segment of the Cheswick-Plum 138 kV transmission line will be designed to meet, and generally exceed, the NESC minimum standards. (Duquesne Light Exh. No. 1, p. 13.)

30. The proposed relocation of approximately 0.51 miles of the Cheswick-Plum 138 kV transmission line is necessary because, without this relocation, the proposed Universal-Plum 138 kV Transmission Line would cross directly above the Cheswick-Plum 138 kV Transmission Line before heading into an available breaker position in Plum Substation. (Duquesne Light St. No. 3, pp. 4-5.)

31. In addition to the safety features incorporated by designing the line in accordance with the NESC, Duquesne Light designs all of its transmission lines for "Grade B construction," which has more stringent design standards, including the Universal-Plum Project. (Duquesne Light Exh. No. 1, Attachment 13, p. 1.)

32. For the Universal-Plum Project, Duquesne Light's design loading conditions for structures, wires, and clearances exceed NESC standards. (Duquesne Light St. No. 3, pp. 7-8.)

33. Duquesne Light's work procedures and tooling have been developed to allow work to be performed in a safe manner on energized facilities. (Duquesne Light St. No. 3, pp. 7-8.)

34. Duquesne Light personnel are also furnished with appropriate protective equipment for the performance of construction or maintenance activities in a safe manner. (Duquesne Light St. No. 3, pp. 7-8.)

35. Duquesne Light has adopted a Magnetic Field Management Program, as a part of its Design and Safety Criteria. (Duquesne Light Exh. No. 1, Attachment 13, pp. 3-4.)

36. Pursuant to its Magnetic Field Management Program, Duquesne Light designed the Universal-Plum Project to mitigate EMFs by: (1) wherever possible, locating the proposed transmission lines through unoccupied parcels and, where the line is located in occupied areas, running it along the edge of the parcel; (2) locating the segment of the line that traverses the largest publicly accessible area along the Preferred Route (i.e. the William D. Boyce Park segment) underground, which effectively eliminates EMF along that span; (3) establishing a wide buffer area around the lines by utilizing a minimum conductor clearance of 30 feet; and (4) configuring the transmission lines to maximize reverse phasing opportunities. (Duquesne Light Exh. No. 1, Attachment 13, p. 4.)

37. The attachments to Duquesne Light's filing included information on the regulatory permit requirements and agency coordination regarding cultural and environmental resources. (Duquesne Light Exh. No. 1, Attachment 3, Section 7.1; Duquesne Light St. 2, pp. 15-16.)

38. Duquesne Light conducted a highly detailed and extensive evaluation of the environmental and social impacts of the available alternative routes for the Universal-Plum Project. Duquesne Light selected preferred routes for the Universal-Plum Project that will minimize these impacts when compared to all other feasible alternatives. (Duquesne Light Exh. No. 1, Attachment 3; Duquesne Light St. 2, pp. 15-16.)

39. Duquesne Light has committed to obtain all required permits prior to construction of the Universal-Plum Project, and will comply with any and all conditions placed on such permits by those agencies that have appropriate jurisdiction over environmental matters. (Duquesne Light Exh. No. 1, Attachment 3, Section 7.1; Duquesne Light St. 2, pp. 15-16.)

40. The ultimate goal of the Universal-Plum Project Siting Study was to select a suitable route the Universal-Plum 138 kV transmission line and a feasible route for the relocation of the Cheswick-Plum 138 kV transmission line. Furthermore, the Siting Study established alternative routes for evaluation that are environmentally sound, feasible from an engineering and economic perspective, and compliant with applicable regulatory requirements. (Duquesne Light St. No. 2, pp. 4-5.)

41. Environmental soundness includes minimizing environmental impacts while maximizing siting opportunities. (Duquesne Light St. No. 3, p. 4.)

42. Engineering and economic feasibility includes minimizing engineering constraints, cost, and distance of the route. (Duquesne Light St. No. 3, p. 4.)

43. Duquesne Light retained GAI Consultants, Inc. (“GAI”) to prepare the Siting Study. (Duquesne Light St. No. 2, p .3.)

44. GAI in defined the study area, identified constraints and opportunities in the study area, identified possible alignments to develop preliminary routes, modified the preliminary routes based on actual field data to select alternative routes, and compared the alternative routes based 30 environmental, human/built, and engineering resource criteria that were scored and weighted in accordance with weights established by the Siting Criteria Council (SCC) for the GPU-DQE 500 kV Transmission Line Project. (See Duquesne Light St. No. 2; Duquesne Light Exh. No. 1, Attachment 3.)

45. Duquesne Light’s analysis of potential routes involved two public open houses, substantial consultation with governmental and non-governmental agencies, and consultation with regulatory agencies. (Duquesne Light St. No. 2, p. 9.)

46. The Siting Study also involved review and consideration of local zoning ordinances and comprehensive land use plans to evaluate the impact of the Proposed Route on municipalities. (Duquesne Light St. No. 2, pp. 8-9; Duquesne Light Exh. No. 1, Attachment 3, Section 7.2.)

47. Duquesne Light identified three feasible Alternative Routes for the Universal-Plum Project, Alterative Routes 1, 2 and 3, using the analysis described above. (Duquesne Light St. No. 2, pp. 10-13; Duquesne Light Exh. No. 1, Attachment 3, Section 3.4.)

48. The three Alternative Routes were qualitatively and quantitatively evaluated and compared to identify a Preferred Route. (Duquesne Light St. No. 2, p. 10; Duquesne Light Exh. No. 1, Attachment 3, Sections 4.0 and 5.0.)

49. Duquesne Light evaluated and compared Alternative Routes 1, 2 and 3 against each other using 30 environmental, human/built, and engineering resource criteria that were scored and weighted in accordance with weights established by the Siting Criteria Council (SCC) for the GPU-DQE 500 kV Transmission Line Project. SCC weights existed for 22 of the 30 resource criteria. The Siting Team assigned weights for the remaining eight resource criteria (Land Trust Protected Area, Cemeteries, Exceptional Value Streams, Landslide Prone Area, Commercial/Industrial Areas, Forest Land Cleared, Non-existing ROW, and Length of ROW). The scaled scores for each criterion were then multiplied by its respective weight to obtain the impact scores shown in Section 4 and Appendix A of the Siting Study. These impact scores were summed to obtain an overall impact score for each alternative route. These scores are presented in Section 4.0 of the Siting Study. (*See Duquesne Light St. No. 2, pp. 7-8; Duquesne Light Exh. No. 1, Attachment 3, Section 4.*)

50. Alternative Route 3, the proposed route, would produce significantly fewer overall impacts relative to Alternatives 1 and 2. (*See Duquesne Light St. No. 2, pp. 13-14; Duquesne Light Exh. No. 1, Attachment 3, Section 5.*)

51. Alternative 3 has the lowest/best final impact score of all the alternative routes and is the best overall alternative from an environmental, human/built, cultural, and engineering perspective, for several reasons. Alternative 3 is the shortest route and would require the least new ROW acquisition. It also has the least impact on human/built resources, residential structures, road crossings, and has the second least impact to commercial/industrial areas and institutional complexes that are only slightly more than Alternative 2. Alternative 3 is the best alternative from an engineering perspective, as it crosses the least steep terrain, crosses the second least landslide-prone area, and has the shortest distance within 2 miles of Pittsburgh-

Monroeville Airport, and is not within a straight line approach to its runway. Alternative 3 has the least impact to some of the environmental resources including forest land cleared and perennial streams crossed, but, without mitigation, has the most impact to others including natural areas and recreational areas (*i.e.* Boyce Park). Alternative 3 has the slightly less impact to archaeological sites and historic sites than the other two alternatives. (Duquesne Light Exh. No. 1, Attachment 3, Section 5.0.)

52. The additional costs associated with locating a portion of the transmission line underground will mitigate the visual impacts on Boyce Park and minimize impacts on the park's function. (Duquesne Light Exh. No. 1, Attachment 3, p. 70.)

53. The Proposed Route for the Universal-Plum 138 kV Transmission line will also require the terminus of the Cheswick-Plum 138 kV Transmission Line to be relocated 65 to 155 feet south of its current location, between the Plum Substation and the west side of New Texas Road. (Duquesne Light St. No. 2, pp. 14-15.)

54. The proposed relocation of the Cheswick-Plum 138 kV would have fewer impacts than any other feasible alternative. (Duquesne Light St. No. 2, pp. 14-15; Duquesne Light Exh. No. 1, Attachment 3, Section 6.0.)

55. Duquesne Light strives to avoid and/or minimize the impacts of transmission lines upon property owners and the environment. (Duquesne Light St. No. 2, pp. 15-16; *see also* Duquesne Light Exh. No. 1, Attachment 3, Section 5.1.)

56. Duquesne Light described its efforts to minimize impacts to land use and land cover, hydrology, scenic and recreational area, natural areas and rare/threatened/endangered species, terrain and landscape, archaeological and architectural/historical resources, and airports in Section 5.1 of the Siting Study. (Duquesne Light Exh. No. 1, Attachment 3, Section 5.1.)

57. Mr. Alvi testified that he had three challenges to the Universal-Plum Project. First, Mr. Alvi challenged the location of the segment of the 138 kV Universal-Plum transmission line that traverses his property and requests that the poles associated with this segment of the line be relocated to the southern edge of his property line. (Hearing Tr. 80:17-23.)

58. Second, Mr. Alvi argued that Duquesne Light should be required to provide a “clear time schedule, nothing vague” regarding the timeline for construction. (Hearing Tr. 80:24-25.)

59. Finally, Mr. Alvi challenged the compensation offered for the easement traversing his property. (Hearing Tr. 80:25-81:1.)

60. Mr. Alvi testified that, if he received “fair compensation” for the right-of-way proposed in the Alvi Condemnation Application, then he would have no objection to location of the right-of-way proposed by Duquesne Light. (Hearing Tr. 86:14-25.)

61. Duquesne Light’s proposed alignment across Mr. Alvi’s property, as reflected in Duquesne Light Exhibit MH-3 (Alvi), runs along the southern border of Mr. Alvi’s property to the extent reasonably possible; this alignment was proposed after Duquesne Light was informed of Mr. Alvi’s concerns about a proposed alignment that ran through the middle of his property, and decided to align the right-of-way primarily along the southern border to address Mr. Alvi’s concerns. (Hearing Tr. 73-74; see also Duquesne Light Exhibit MH-3 (Alvi).)

62. Mr. Alvi proposed that the segment located between Pole Numbers 15 and 16 of the Z154 line, i.e. Z154-15 and Z154-16, be lowered to the southern border of his property. (Hearing Tr. 74:8-16; see also Duquesne Light Exh. MH-3 (Alvi).)

63. Duquesne Light witness Aimee Kay is a professional wetland scientist with expertise in hydrology and soils. (Hearing Tr. 93-94.)

64. Ms. Kay conducted an in-person survey over Mr. Alvi's property, while developing the Siting Study. (Hearing Tr. 92:20-93:4.)

65. Ms. Kay testified that a "forested wetland system" was located on Mr. Alvi's property, as well as a "very steep drop off from the residential neighborhood that borders his property" along the southern border. (Hearing Tr. 94:1-21.)

66. The southern portion of Mr. Alvi's property located south of Pole Numbers 15 and 16 is:

from Pole No. 16 moving southwest to Pole No. 15, the area south of that to his [Mr. Alvi's] property is a large flat forested wetland system with numerous streams in it. But at his property boundary where you can see some small lots from the [residential] subdivision, there is a very steep drop off from the backs of their yards straight down to this area.

(Hearing Tr. 95:15-21.)

67. Ms. Kay concluded that Mr. Alvi's proposed relocation would increase the environmental impacts of the Universal-Plum Project for the segment of the line that traverses Mr. Alvi's property. (Hearing Tr. 97:3-9.)

68. The environmental impacts associated with Mr. Alvi's proposal to relocate this segment of the transmission line would include additional forest clearing and specific wetland mitigation measures, including in-kind replacements of impacted wetlands. (Hearing Tr. 98:15-100:19.)

69. Mr. Alvi's proposed relocation would have other negative impacts, including: the segment of the line would be moved closer to an existing residential community (Hearing Tr. 101:15-102:1); the line would be located on steeper terrain (Hearing Tr. 102:20-23); and the

route would not be a direct route and, therefore, would increase the acreage traversed by the transmission line (Hearing Tr. 103:6-10).

70. If the Universal-Plum Project is approved, Duquesne Light plans to initiate construction by as early as January 1, 2019, to meet an in-service date of June 1, 2020. (Duquesne Light Exh. No. 1, p. 2.)

71. The Palombo Property Owners challenged the right-of-way location proposed by the Company and submitted testimony requesting the proposed right-of-way traversing their property be relocated along either the extreme northern or southern edge of their property. (St. No. AC-1, Direct Testimony of Antoinette Cardinale, p. 2; Exhibit 1; Exhibit 2.)

72. While an engineering solution along the southern border it feasible, it would incur an additional significant cost to the overall project because it would require the installation of an additional structure. (Duquesne Light St. No. 3-R, p. 2.)

73. This additional structure would be required to accommodate the change in route, the steeply sloped terrain along the southern border, and to maintain the existing alignment and current clearances to ground on neighboring spans. (Duquesne Light St. No. 3-R, pp. 2-3.) This additional structure would also cost an additional \$445,000 to install. (Duquesne Light St. No. 3-R, p. 3.)

74. Ms. Cardinale's proposal to locate the right-of-way along the southern "extreme edge" of the property would require the transmission line to be constructed on unsuitable terrain and disrupt the location of right-of-way on neighboring properties. (Duquesne Light St. No. 4-R, p. 6.)

75. If the right-of-way were located along the southern border of the Palombo at the dashed line labeled N72° 23' 50" W and 736.14' in Duquesne Light Exh. No. MH-3 (Palombo),

additional right-of-way along the eastern border of the Palombo's property along Davidson Road would have to be obtained to maintain the existing alignment over other properties. (*See* Duquesne Light Exh. No. MH-3 (Palombo); *see also* Duquesne Light Exh. No. MH-1 (Palombo, p. 2) (showing an aerial photo of the proposed right-of-way over the Palombo property (16) and Alvi property (15).)

76. Relocation along the southern border would increase the amount of right-of-way traversing the Palombo property and increase the impacts to this property. (*See* Duquesne Light Exh. No. MH-3 (Palombo); *see also* Duquesne Light Exh. No. MH-1 (Palombo, p. 2).)

77. Relocation of the proposed right-of-way to the southern border would require the proposed right of way over Mr. Alvi's property, which is located to the west, to be altered. (*See* Duquesne Light Exh. No. MH-3 (Palombo); *see also* Duquesne Light Exh. No. MH-1 (Palombo, p. 2) (showing an aerial photo of the proposed right-of-way over the Palombo property (16) and Alvi property (15).)

78. The southern border relocation proposed by the Palombo Property Owners would increase the amount of land impacted on the Palombo property and disrupt the location of right-of-way of Mr. Alvi's property. (*See* Duquesne Light Exh. No. MH-3 (Palombo); *see also* Duquesne Light Exh. No. MH-1 (Palombo, p. 2).)

79. Duquesne Light witness Ms. Shyu explained that it is not feasible to locate the transmission line along the extreme northern border of the Palombo property because that route was obstructed by an existing structure. (Hearing Tr. 142.)

80. It is Duquesne Light's policy to try to avoid running conducts over existing structures because the structures interfere with maintenance and operations activities, and would interfere with accessing the line in case of an emergency. (Hearing Tr. 142:19-23.)

81. Duquesne Light endeavors to avoid locating right-of-way in areas with existing structures to avoid conflicts with the owner's right to maintain and alter the existing structure. (Hearing Tr. 196:19-197:7.)

82. The structure on the Cooper property is a garage that is a block structure. (Hearing Tr. 197:4-12.)

83. If the right-of-way were located along the northern border of the Palombo property along the dashed line labeled N88° 44' 41" E and 464.07', additional right-of-way across Mr. Alvi's property to the west and the Cooper property to the northeast would also be required. (*See* Duquesne Light Exh. No. MH-3 (Palombo); *see also* Duquesne Light Exh. No. MH-1 (Palombo, p. 2) (showing an aerial photo of the proposed right-of-way over the Cooper property (17), the Palombo property (16) and Alvi property (15).)

84. If the right-of-way were located along the northern border of the Palombo property along, the right-of-way across Mr. Alvi's property would have to be angled north, leading to a larger segment of the proposed right-of-way traversing his property. (*See* Duquesne Light Exh. No. MH-3 (Palombo); *see also* Duquesne Light Exh. No. MH-1 (Palombo, p. 2).)

85. If the right-of-way were located along the northern border of the Palombo property along, the right-of-way across the Cooper property would also have to be shifted north. (*See* Duquesne Light Exh. No. MH-3 (Palombo); *see also* Duquesne Light Exh. No. MH-1 (Palombo, p. 2).)

86. If the right-of-way across the Cooper property were shifted north, it would result in the majority of the Cooper being traversed by the right-of-way and the right-of-way crossing over a pre-existing structure on the Cooper property. (*See* Duquesne Light Exh. No. MH-3 (Palombo); *see also* Duquesne Light Exh. No. MH-1 (Palombo, p. 2).)

87. The extreme northern border relocation proposed by the Palombo Property Owners would disrupt the location of proposed rights-of-way over Mr. Avli's property and the Cooper property and increase the right-of-way impacts for each of these properties. (*See* Duquesne Light Exh. No. MH-3 (Palombo); *see also* Duquesne Light Exh. No. MH-1 (Palombo, p. 2).)

88. The Palombo Property Owners, specifically Ms. Cardinale, further testified that Exhibits 1-3 of St. No. AC-1 reflected the evolution and, ultimately, the agreement of the Palombo Property Owners and Duquesne Light regarding the proposed right-of-way traversing the Palombo property. (St. No. AC-1; *see also* Hearing Tr. 200-203.)

89. Duquesne Light witness Mr. Hummel explained that Exhibit 1 to St. No. AC-1 is an aerial photo of a prospective right of way location for the 138 kV Universal-Plum transmission line along the southerly boundary of the Palombo parcel, prepared by a consultant for Duquesne Light using Allegheny geographic information system ("GIS") data, which does not reflect data from field surveys and verified deeds. (Duquesne Light St. No. 4-R, p. 3.)

90. Mr. Hummel further explained that Exhibit 2 to St. No. AC-1 is another aerial photo, this time showing a prospective right of way location for the 138 kV Universal-Plum transmission line along the "northern border" of the Palombo parcel, which was prepared after Duquesne Light became aware of certain factors that made the southern border unsuitable for the location of the right of way. (Duquesne Light St. No. 4-R, pp. 3-4.)

91. Finally, Mr. Hummel explained that Exhibit 3 to St. No. AC-1 shows the proposed right of way in the same location as set forth in Exhibit 2 to St. No. AC-1, but corrects the northern property line for the Palombo property. (Duquesne Light St. No. 4-R, p. 4.)

92. Exhibit 3 to St. No. AC-1 corrects the northern boundary line of the Palombo property based upon actual verified data, deeds and mapping from the Allegheny County Recorder of Deeds; Mr. Hummel demonstrated that the northern boundary was corrected by Allegheny County GIS and submitted the corrected GIS map which reflects the same northern boundary set forth in Exhibit 3 to St. No. AC-1. (Duquesne Light St. No. 4-R, pp. 4-5; *see also* Duquesne Light MH-6 (Palombo).)

APPENDIX “B”

APPENDIX B
PROPOSED CONCLUSIONS OF LAW

Duquesne Light Company (“Duquesne Light” or the “Company”) proposes the following conclusions of law:

1. Duquesne Light, as the applicant seeking Commission approval of a siting application for new high voltage transmission lines, two zoning exemption petitions for control equipment buildings at two new substations, and 29 eminent domain applications, has the burden of proof. 66 Pa.C.S. § 332(a).

2. It is well established that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

3. Any finding of fact necessary to support an adjudication of the Commission must be based upon substantial evidence. *Met-Ed Indus. Users Group v. Pa. PUC*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704).

4. If the applicant sets forth a prima facie case, then the burden shifts to the opponent. *McDonald v. Pa. Railroad Co.*, 348 Pa. 558, 36 A.2d 492 (1940).

5. Once a prima facie case has been established, if contrary evidence is not presented, there is no requirement that the applicant produce additional evidence in order to sustain its burden of proof. *District of Columbia’s Appeal*, 343 Pa. 65, 21 A.2d 883 (1941); *Application of Pennsylvania Power & Light Co.*, Docket Nos. A-110500F0196, et al.; 1994 Pa. PUC LEXIS 65 (Oct. 21 1994).

6. Pursuant to Section 1501 of the Public Utility Code, an electric distribution company has a statutory obligation to provide safe, adequate, and reliable electrical service to its customers. 66 Pa.C.S. § 1501.

7. The Commission's regulations provide that an electric distribution company may not construct high voltage ("HV") transmission lines, *i.e.*, electrical lines with an operating voltage of 100 kV or higher, without prior Commission approval. 52 Pa. Code § 57.71.

8. The Commission's transmission line siting regulations set forth the following: (1) the procedures for applying for approval of an HV line -- 52 Pa. Code § 57.72; (2) the procedures for hearings on HV line applications -- 52 Pa. Code § 57.75; and (3) what the [Commission] will consider when deciding whether to approve or deny an HV line application -- 52 Pa. Code § 57.76(a). These regulations, and 52 Pa. Code § 57.76 in particular, represent a codification of the review required by article I, section 27 of the Pennsylvania Constitution. *Re Proposed Electric Regulation*, 1976 Pa. PUC LEXIS 114, 49 Pa. P.U.C. 709, 712 (March 2, 1976) (stating that the "review required by article I, section 27 is being incorporated into our siting regulations"). *Energy Conservation Council of Pennsylvania v. Pa. PUC*, 995 A.2d 465, 477-78 (Pa. Cmwlth. 2010) (hereinafter "*Trailco*").

9. In order to grant an application for the construction and siting of a HV transmission line, the Commission must find and determine the following as to the proposed 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 the available technology and the available alternatives.

52 Pa. Code § 57.76(a).

10. The Public Utility Code does not define need; however, Pennsylvania courts have recognized that there is a need for reliable regional electric service and transmission systems. *Stone v. Pa. PUC*, 162 A.2d 18, 19-221 (Pa. Super. 1960); *Dunk v. Pa. PUC*, 232 A.2d 231, 234-35 (Pa. Super. 1967).

11. The General Assembly has recognized the importance of ensuring the reliability of electric transmission systems, and the provision of sufficient electrical power at affordable rates. 66 Pa. C.S. §§ 2802(12), (20), and 2803.

12. An electric utility can demonstrate that the transmission line project is needed where the project resolves violations of the utility's internally developed planning and reliability criteria. See *Hess v. Pa. Pub. Util. Comm'n*, 107 A.3d 246, 262-263 (Pa. Cmwlth. 2014); *Application of PPL Electric Utilities Corporation filed Pursuant to 52 Pa. Code Chapter 47, Subchapter G, for Approval of the Siting and Construction of the North Lancaster Honey Brook # 1 & # 2 138/69 kV Transmission Lines in Lancaster County, Pennsylvania*, Docket Nos. A-2014-2430565 et al., 2015 Pa. PUC LEXIS 77, at *49 (Order dated Feb. 27, 2015).

13. Duquesne Light has met its burden to demonstrate that the proposed Universal-Plum Project is necessary for the service, accommodation, convenience, or safety of the public.

14. Transmission lines that meet or exceed the National Electric Safety Code ("NESC") requirements do not create an unreasonable risk of danger to the health and safety of the public. *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*, Docket Nos. A-

2009-2082652, *et al.*, 2010 Pa. PUC LEXIS 434 at *166 (Feb. 12, 2010); *Investigation on Commission Motion of the Safety of the Cabett-Wylei Ridge 500 kV Transmission Line*, I.D. 236 (Sept. 18, 1981); *Application of PP&L for Approval to Locate and Construct a 138 kV Transmission Line Between West Allentown and Salisbury Substations*, Docket No. A-00104160 (July 20, 1984); *Application of PP&L for Authorization to Locate and Construct its Hamlin 138 kV Electric Transmission Line*, Docket No. A-00101826 (April 3, 1981); *Larken v. Philadelphia Electric Co.*, 39 Pa. PUC 777 (1961).

15. Duquesne Light has met its burden to demonstrate that the proposed Universal-Plum Project will not create an unreasonable risk of danger to the health and safety of the public.

16. Article I, Section 27 of the Pennsylvania Constitution, *i.e.* the Environmental Rights Amendment, placed Pennsylvania's public natural resources in trust and named the Commonwealth as its trustee, to conserve and maintain those resources for the benefit of all people, including future generations. *Pa. Environmental Defense Foundation v. Com. Of Pa.*, 161 A.3d 911 (Pa. 2017) ("*PEDF*").

17. In carrying out these obligations, the Commonwealth, and its agencies, may subject the individual rights of citizens to clean air, pure water, and to the preservation of natural, scenic, historic, and esthetic values to reasonable regulation. *PEDF*, 161 A.3d at 931; *see also Application of Pennsylvania Electric Company Seeking Approval 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*, Docket Nos. A-2016-2565296 *et al.*, at pp. 12-14 (Order entered March 8, 2018) ("*Penelec*").

18. The Commission's siting Regulations are in accord with the Environmental Rights Amendment by requiring that the environmental impact of the proposed transmission siting route be minimized. *Penelec*, at p. 13-14; *see also* 52 Pa. Code §§ 69.3105, 69.3106.

19. The Commission is required, under 57 Pa. Code §§ 57.72(e)(7) and (8), to consider environmental impacts of proposed transmission lines. *Re: Interim Guidelines for the Filing of Electric Transmission Line Siting Applications*, Docket No. M-2009-2141293, 2010 Pa. PUC LEXIS 2069 at *56 (Nov. 5, 2010).

20. The Commission has adopted Interim Siting Guidelines that require, among other things, 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. 52 Pa. Code §§ 69.3105, 69.3106.

21. Duquesne Light's filing effectively addresses and, in most cases, exceeds all the requirements of the Commission's siting regulations.

22. The Commission has generally found compliance with the applicable environmental statutes and regulations where the applicant agrees to obtain any and all environmental permits necessary prior to construction and to comply with any conditions on those permits during construction. *See, e.g., 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*, Docket Nos. A-2011-2247862, et al., 2012 Pa. PUC LEXIS 298 at *61 (Initial Decision February 9, 2012); *Application of Trans-Allegheny Interstate Line Company 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 Township, Perry Township, and Whiteley Township, Greene County in Southwestern Pennsylvania, Docket Nos. A-2010-2187540, et al., 2011 Pa. PUC LEXIS 2028 (Recommended Decision March 28, 2011); 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, Docket Nos. A-2009-2082652, et al., 2010 Pa. PUC LEXIS 434 at *191-201 (February 12, 2010).*

23. Duquesne Light is not required to complete the required environmental studies and obtain all required permits before the Commission may approve a project or before Duquesne Light may begin construction on other portions of the project. *Energy Conservation Council of Pennsylvania v. Pa. PUC*, 25 A.3d 440, 452 (Pa. Cmwlth. 2011) (hereinafter “*Susquehanna-Roseland*”).

24. Duquesne Light will obtain all required permits for construction of the Universal-Plum Project, and will comply with any and all conditions placed on such permits by those agencies that have appropriate jurisdiction over environmental matters.

25. Duquesne Light has met its burden to demonstrate that the proposed Universal-Plum Project is in compliance with applicable statutes and regulations, providing for the protection of the natural resources of this Commonwealth.

26. A utility's route for a proposed transmission line should be approved where the 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:

[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.

Susquehanna-Roseland, at 449-50 (quoting *Trailco*, 995 A.2d 465, 479-80).

27. The route selected by the applicant must demonstrate reasonable efforts to minimize adverse environmental impacts when compared to the available alternative routes, but the utility need not consider all possibilities. *Susquehanna-Roseland*, at 448-49.

28. Duquesne Light has met its burden to demonstrate that its route-selection process was reasonable.

29. Duquesne Light has met its burden to demonstrate that the route selected for the proposed Universal-Plum Project will have minimum adverse environmental impact, considering the electric power needs of the public, the state of the available technology and the available alternatives.

30. Duquesne Light has met its burden to demonstrate that it will implement appropriate measures to minimize adverse environmental impacts of the routes selected for the proposed Universal-Plum Project.

31. An applicant is not required to choose a route that has no adverse impacts. *Susquehanna-Roseland*, at 448-49.

32. On an application for condemnation, the Commission must determine whether the service—the transmission or distribution of electricity to or for the public that will be provided to the public if the subject property is condemned—is necessary or proper for the service, accommodation, convenience, or safety of the public. 15 Pa. C.S. § 1511(c).

33. The Commission’s only role under 15 Pa.C.S. § 1511 is to consider if the project is necessary or proper for the benefit of the public, and that the Commission is expressly barred from considering the power of the utility to condemn. *SEPTA v. Pa. PUC*, 991 A.2d 1021, 1023 (Pa. Cmwlth. 2010).

34. Pennsylvania Appellate Courts have interpreted Section 1511 as requiring a condemning utility to show that the proposed transmission line is necessary or proper and that it has not acted wantonly, capriciously, or arbitrarily in selecting the proposed right-of-way. *Department of Environmental Resources v. Pa. PUC*, 335 A.2d 860 (Pa. Cmwlth. 1975), *aff’d.*, 473 Pa. 378, 374 A.2d 693 (1977); *Dickson v. Public Service Commission*, 89 Pa. Super. 126 (1926). 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 reducing or eliminating inconvenience to particular landowners. *Stone v. Pa. PUC*, 162 A.2d 18 (Pa. Super. 1960).

35. Duquesne Light has met its burden to demonstrate that the service to be furnished by Duquesne Light through its proposed exercise of the power of eminent domain to acquire rights-of-way and easements across the following nine properties for the construction, operation, and maintenance of the proposed Universal-Plum Project is necessary or proper for the service, accommodation, convenience, or safety of the public:

- The property of Maria Palombo Aiello, Antoinette Cardinale and Ana Louise Aspden, f/k/a Anna Louise Palombo, at Docket No. A-2018-3000747. (Duquesne Light Exh. No. 2)
- The property of Javaid Alvi, Pervaiz Alvi and Walter Lorence, at Docket No. A-2018-3000732. (Duquesne Light Exh. No. 3)
- The property of Sampson Brothers, Inc., at Docket No. A-2018-3000733. (Duquesne Light Exh. No. 4)
- The property of Jeffrey G. Woodring and Regina M. Woodring, at Docket No. A-2018-3000743. (Duquesne Light Exh. No. 5)
- The property of United States Steel Corporation, at Docket No. A-2018-3000754 (Duquesne Light Exh. No. 6)
- The property of Davidson Property Co., LLC, at Docket No. A-2018-3000755. (Duquesne Light Exh. No. 7)
- The property of Consol Mining Company, LLC, at Docket No. A-2018-3000756. (Duquesne Light Exhibit No. 8)
- The property of Parkway Associates, Inc., at Docket No. A-2018-3000766. (Duquesne Light Exhibit. No. 9)
- The property of Union Railroad Company, at Docket No. A-2018-3000769. (Duquesne Light Exhibit No. 11)

APPENDIX “C”

APPENDIX C

PROPOSED ORDERING PARAGRAPHS

Duquesne Light Company (“Duquesne Light” or the “Company”) proposes the following ordering paragraphs:

1. The 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 is approved.

2. The Application of Duquesne Light Company 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 certain portion of the lands of Maria Palombo Aiello, Antoinette Cardinale and Ana Louise Aspden, f/k/a Anna Louise Palombo, in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000747, is approved.

3. The Application of Duquesne Light Company 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 certain portion of the lands of Javaid Alvi, Pervaiz Alvi and Walter Lorence in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000732, is approved.

4. The Application of Duquesne Light Company 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 certain portion of the lands of Sampson Brothers, Inc. in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000733, is approved.

5. The Application of Duquesne Light Company 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 certain portion of the lands of Jeffrey G. Woodring and Regina M. Woodring in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000743, is approved.

6. The Application of Duquesne Light Company 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 certain portion of the lands of United States Steel Corporation in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000754, is approved

7. The Application of Duquesne Light Company 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 certain portion of the lands of Davidson Property Co., LLC in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000755, is approved.

8. The Application of Duquesne Light Company 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 certain portion of the lands of Consol Mining Company, LLC in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000756, is approved.

9. The Application of Duquesne Light Company 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 certain portion of the lands of Parkway Associates, Inc. in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000766, is approved.

10. The Application of Duquesne Light Company 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 certain portion of the lands of Union Railroad Company in Plum Borough, Allegheny County, Pennsylvania for the siting

and construction of transmission lines associated with the proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000769, is approved.

11. The Petition filed by Duquesne Light Company to Withdraw the Eminent Domain Application at Docket No. A-2018-3000768, regarding the property owned by Cathleen L. Scott, is granted.

12. The proceedings at 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 be marked closed.