

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

RECOMMENDED DECISION

Before
Conrad A. Johnson
Administrative Law Judge

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I. INTRODUCTION

This decision recommends the granting of 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 (Universal-Plum Project or Project). This decision also recommends the granting of six uncontested Applications of Duquesne Light Company to exercise the power of eminent domain to acquire certain portions of the lands in Plum Borough, Allegheny County, Pennsylvania of Sampson Brothers, Inc. at Docket No. A-2018-3000733; Jeffrey G. Woodring and Regina M. Woodring at Docket No. A-2018-3000743; United States Steel Corporation at Docket No. A-2018-3000754; Consol Mining Company, LLC, at Docket No. A-2018-3000756; Parkway Associates, Inc., at Docket No. A-2018-3000766; and Union Railroad Company at Docket No. A-2018-3000769.

Duquesne Light Company's Petitions to Withdraw the Applications to exercise eminent domain to acquire a certain portion of the lands in Plum Borough, Allegheny County, Pennsylvania of Cathleen L. Scott at Docket No. A-2018-3000768, Davidson Property Co., LLC, at Docket No. A-2018-3000755 and Maria Palombo Aiello, Antoinette Cardinale and Ana Louise Palombo, now known as Anna Louise Aspden, at Docket No. A-2018-3000747, were granted by Initial Decisions issued on November 19, 2018, March 13, 2019, and May 1, 2019, respectively.

The sole remaining protest to Duquesne Light Company's Applications to exercise the power of eminent domain is its Application to acquire certain portions of the lands in Plum Borough, Allegheny County, Pennsylvania of Javaid Alvi, Pervaiz Alvi and Walter Lorence (Alvi Property) at Docket No. A-2018-3000732, which was protested by Landowner Javaid Alvi. This decision finds that Duquesne Light Company met its burden of proof to establish that the proposed route of the 138 kV transmission lines through the Alvi Property is reasonable and necessary for the purpose of providing electricity to the public. Therefore, this decision recommends the granting of Condemnation Application at Docket No. A-2018-3000732.

II. HISTORY OF THE PROCEEDING

A. Full Siting Application and Condemnation Applications

On March 23, 2018, Duquesne Light Company (Applicant, Duquesne Light, Company or DLC), pursuant to 52 Pa.Code § 57.72, filed with the Pennsylvania Public Utility Commission (Commission) and served the Company's Application of Duquesne Light Company for Approval of the Siting and Construction of the 138 kV Transmission Lines Associated with the Universal-Plum Project in Penn Hills, Monroeville, and Plum Borough, Allegheny County, Pennsylvania, at Docket No. A-2018-3000708, which included the following attachments:

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

(Full Siting Application). DLC Exhibit (Exh.) 1.

In support of the Full Siting Application, Duquesne Light submitted the written direct testimony of Jason A. Harchick, DLC St. 1, Aimee Kay, DLC St. 2, Meenah Shyu, DLC St. 3, and Mark Hummel, DLC St. 4.

In the Full Siting Application, Duquesne Light averred that the siting and construction of the transmission line, the proposed Project, is required to reinforce the 138 kV systems in the region, resolve identified reliability and planning criteria violations, and improve reliability of service for customers primarily in Braddock Hills Borough, Churchill Borough, Edgewood Borough, Forest Hills Borough, Penn Hills Borough, Penn Hills Township, Monroeville Borough, Pitcairn Borough, City of Pittsburgh, Plum Borough, Swissvale Borough, Wilkins Township, and Wilkesburg Borough, Allegheny County. Duquesne Light further averred the proposed Project would reduce the number of customers affected by a single facility outage, as well as the duration of the outage.

The Applicant asserted that it is a “public utility” and an “electric distribution company” as defined in the Pennsylvania Public Utility Code (Code). 66 Pa.C.S. §§ 102, 2803. According to the Applicant, the Company 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.

The proposed Project involves the construction of the new Universal-Plum 138 kV Transmission Line that would extend approximately 5.26 miles between the Universal Substation in Penn Hills and the Plum Substation in Plum Borough, according to Duquesne Light. The Company submitted (1) that approximately 3.70 miles of the new Universal-Plum

138 kV Transmission Line would be built as an overhead transmission line and approximately 1.56 miles would be constructed as an underground transmission line, and (2) that an approximate 0.51-mile portion of the existing Cheswick-Plum 138 kV Transmission Line would be relocated as part of the proposed Project.¹ The estimated cost to site, design, and construct the Project is approximately \$26.2 million. Subject to the Commission's approval, Duquesne Light anticipated construction to begin on January 1, 2019, to support the Project's scheduled in-service date of June 1, 2020.

Contemporaneous with filing the Full Siting Application, Duquesne Light also filed ten Condemnation 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 certain lands for the siting and construction of transmission lines associated with the Universal Plum Project was necessary or proper for the service, accommodation, convenience or safety of the public (Condemnation Applications). The Condemnation Applications were docketed as follows:

- 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 Palombo, now known as Anna Louise Aspden**, 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**.² DLC Exh. 2 including Exhs. Mark Hummel (MH) 1 to MH-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 **Javaid Alvi, Pervaiz Alvi and Walter Lorence** in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines

¹ The Commission's regulations define an HV transmission line as an *overhead* electric supply line with a design voltage of 100 kV or greater. *See* 52 Pa.Code § 57.1 (emphasis added). While Commission approval is required for the siting and construction of HV transmission lines, under 52 Pa.Code § 57.71, the regulations do not govern the siting and construction of underground transmission lines.

² As noted below, (1) the caption for this Application was amended to correctly list landowner Anna Louise Aspden's name, and (2) this Application was withdrawn.

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**. DLC Exh. 3 including Exhs. MH-1 to MH-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 **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**. DLC Exh. 4 including Exhs. MH-1 to MH-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 **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**. DLC Exh. 5 including Exhs. MH-1 to MH-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**. DLC Exh. 6 including Exhs. MH-1 to MH-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 **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**.³ DLC Exh. 7 including Exhs. MH-1 to MH-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

³ As discussed below, this Application was withdrawn.

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**. DLC Exh. 8 including Exhs. MH-1 to MH-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 **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**. DLC Exh. 9 including Exhs. MH-1 to MH-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 **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**. DLC Exh. 11 including Exhs. MH-1 to MH-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 **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**.⁴

Each Condemnation Application also included the direct testimony of Mark Hummel, a supervisor in DLC's real estate department.

B. Application Publication, Prehearing Conference and Evidentiary Hearing

By letter dated March 30, 2018, the Commission's Secretary's Bureau informed the Applicant that Notice of the Full Siting Application along with the Condemnation Applications (the Universal-Plum Project Applications) would be published in the *Pennsylvania*

⁴ As noted below, this Application was withdrawn, and this docket has been closed.

Bulletin on April 14, 2018, and that the deadline for formal protests and petitions to intervene was June 7, 2018.

On April 2, 2018, a Hearing Notice was issued scheduling an Initial Prehearing Conference for June 15, 2018, at 10:00 a.m., in the 2nd Floor Hearing Room, Piatt Place, Suite 220, 301 Fifth Avenue, Pittsburgh, PA 15222. On April 2, 2018, as the assigned presiding administrative law judge (ALJ), I issued a Prehearing Conference Order concerning regulations pertaining to prehearing conferences, 52 Pa.Code §§ 5.221-5.224, 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 timely filed their respective Prehearing Memorandums.

Notice of the Universal-Plum Project Applications was published in the April 14, 2018 edition of the *Pennsylvania Bulletin*, 48 Pa.B. 2268.

The Prehearing Conference proceeded as scheduled on June 15, 2018. Anthony D. Kanagy, Esquire, and Michael Zimmerman, Esquire, were present for the conference as counsel on behalf of Duquesne Light. Gary Kalmeyer, Esquire, was present for the conference as counsel for landowners, Antoinette Cardinale, Anna Louise Aspden and Maria Palombo Aiello, who were present. Landowners Regina Woodring and Cathleen Scott, each representing themselves, were also present for the conference.

A Prehearing Order was issued on July 2, 2018, memorializing the Prehearing Conference and establishing the litigation schedule. The Prehearing Order also consolidated the Condemnation Applications at Docket Nos. Nos. 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 with Duquesne Light's Full Siting Application at Docket No. A-2018-3000708.

On October 9, 2018, the evidentiary hearing in this matter was convened in the Commission's Pittsburgh Hearing Room. Duquesne Light was represented at the hearing by

Garrett P. Lent, Esquire, and Attorneys Kanagy and Zimmerman. Attorney Kalmeyer represented landowners, Antoinette Cardinale, Anna Louise Aspden, and Maria Palombo Aiello (Palombo Property Owners), who were all present. Landowner Pervaiz Alvi appeared self-represented. Evidence was received from witnesses for Duquesne Light and from the landowners present for the hearing.

Duquesne Light offered for admission into the record DLC Sts. 1 through 4, DLC Sts. 3-R (Rebuttal Testimony of Meenah Shyu), 4-R (Rebuttal Testimony of Mark Hummel together with Exh. MH-6, Palombo) and DLC Exhs. 1 through 9 and 11. DLC's Statements and Exhibits were admitted into the record without objection.

The Palombo Property Owners offered for admission into the record Exh. AC-1 (Direct Testimony of Antoinette Cardinale including Exhs. 1, 2, and 3), Exh. MPA-1 (Direct Testimony of Maria Palombo Aiello) and Exh. ALA-1 (Direct Testimony of Anna Louise Aspden). The Palombo Property Owners Exhibits were admitted into the record without objection.

Landowner Pervaiz Alvi did not offer any exhibits.

The hearing generated a 230-page transcript, which was docketed with the Commission's Secretary's Bureau on October 26, 2018. Main Briefs and Reply Briefs were due on November 26, 2018 and December 10, 2018, respectively.

C. Post-Hearing Motions, Briefs, Petitions, Initial Decisions and Interim Orders

On October 12, 2018, Duquesne Light filed a Motion for a Protective Order (Motion). None of the other parties to this proceeding filed an answer or objection to the Motion. A First Interim Order Granting Applicant's Motion for Protective Order was issued on November 13, 2018.

On October 12, 2018, at Docket No. A-2018-3000768, Duquesne Light filed a Petition for Leave to Withdraw and Terminate the Application of Duquesne Light to Exercise the Power of Eminent Domain to Acquire an Easement and Right of Way Across the Property of Cathleen L. Scott (Scott Withdrawal Petition). The Company averred that Duquesne Light had obtained all necessary real estate rights with respect to the Scott property, which rendered the Scott Condemnation Application unnecessary. An Initial Decision granting the Scott Withdrawal Petition was issued on November 19, 2018.⁵

The Palombo Property Owners filed their Trial Brief (Palombo Brief) on November 23, 2018, and Duquesne Light filed the Company's Main Brief (DLC MB) on November 26, 2018.

By letter dated December 12, 2018, and addressed to the undersigned, the Applicant requested that the Palombo Brief be placed by the Secretary in a separate, non-public folder, pending a ruling on the Applicant's Motion to Strike Certain Portions of the Trial Brief of Owners Aiello, Cardinale and Aspden (Motion to Strike) and attached as Appendix A, a redacted copy of the unpaginated Palombo Brief. The Motion to Strike was filed and served on December 12, 2018.

By electronic mail dated December 12, 2018, counsel for the Palombo Property Owners represented that he had no objection to the Applicant's request to keep certain matters out of the public view. Further, he took no position as to whether some or all of the Palombo Brief should be kept from public view.

By electronic mail dated December 13, 2018, I informed the parties as follows:

Considering Duquesne Light Company's (DLC) request, in the above captioned cases, that the Brief of Landowners Aiello, Cardinale and Aspden be placed by the Secretary's Bureau in a non-public folder until there is a ruling on DLC's Motion to Strike and considering that the Landowners have no objection to keeping certain matters out of the

⁵ On December 27, 2018, by Final Order entered pursuant to 66 Pa.C.S. § 332(h), the Initial Decision became final without further Commission action, thereby closing Docket No. A-2018-3000768.

public view, please note the Secretary's Bureau has moved the Landowners' Brief to a confidential folder.

A ruling on DLC's Motion to Strike Certain Portions of the Landowners' Brief will be prepared and issued.

On December 14, 2018, via electronic mail, Attorney Kalmeyer represented he would "be out of the office starting next week through January 3." Consequently, Attorney Kalmeyer essentially requested that a ruling on the Motion to Strike be held in abeyance "for a response and disposition after that."

On December 26, 2018, Duquesne Light filed and served a Reply Brief. On January 8, 2019, I issued a Second Interim Order granting the Palombo Property Owners an extension of time to file a response to Duquesne Light's Motion to Strike. I directed the Palombo Property Owners to file a responsive pleading by January 28, 2019.

The Palombo Property Owners filed and served a Response to Applicant's Motion to Strike Certain Portions of Owner's [Palombo] Brief (Response to Motion to Strike) on January 23, 2019, together with a cover letter addressed to the Secretary. The cover letter informed the Secretary that the Response to the Motion to Strike should not be made public pending the ALJ's ruling.

On February 26, 2019, at Docket No. A-2018-3000755, the Applicant filed and served a Petition for Leave to Withdraw and Terminate the Application of Duquesne Light Company to Exercise the Power of Eminent Domain to Acquire an Easement and Right of Way Across the Property of Davidson Property Co. LLC (Davidson Withdrawal Petition). The Applicant averred Duquesne Light had obtained all necessary real estate rights with respect to the Davidson property, which rendered the Davidson Condemnation Application unnecessary.

On March 8, 2019, I issued a Third Interim Order Granting in Part and Denying in Part Applicant's Motion to Strike Certain Portions of the Trial Brief of Landowners, Aiello,

Cardinale and Aspden. The Order further directed the Secretary to maintain in a confidential folder certain documents submitted by the Palombo Property Owners.

By Initial Decision issued on March 13, 2019, the Davidson Withdrawal Petition was granted.⁶

During the evidentiary hearing held on October 12, 2018, landowner, Anna Louise Palombo, testified that “Palombo” was her maiden name, and her correct name is Anna Louise Aspden. Counsel for the Applicant, Garrett P. Lent, and counsel for Anna Louise Aspden, Gary Kalmeyer, Esquire stipulated to amending the caption for the Palombo Condemnation Application at Docket No. A-2018-3000747 to reflect the name **Anna Louise Palombo, now known as, Anna Louise Aspden**. Accordingly, on March 15, 2019, I issued a Fourth Interim Order Amending Case Caption at Docket No. A-2018-3000747 to reflect the name Anna Louise Palombo, now known as, Anna Louise Aspden.

D. Closing of the Record

On March 25, 2019, I issued a Fifth Interim Closing the Record, and I informed the Parties that a Recommended Decision in this proceeding shall be prepared and issued. The record in this proceeding consists of the Full Siting Application, the Condemnation Applications, the Exhibits and Statements submitted by the respective parties, the motions and responses, the orders issued herein, and the transcripts.

E. Post-Closing of the Record Petition and Initial Decision

On April 16, 2019, at Docket No. A-2018-3000747, the Applicant filed and served a Petition for Leave to Withdraw and Terminate the Application of Duquesne Light Company to Exercise the Power of Eminent Domain to Acquire an Easement and Right of Way

⁶ On April 22, 2019, by Final Order entered pursuant to 66 Pa.C.S. § 332(h), the Initial Decision became final without further Commission action, thereby closing Docket No. A-2018-3000755.

Across the Property of Maria Palombo Aiello, Antoinette Cardinale and Ana Louise Palombo, now known as Anna Louise Aspden (Palombo Withdrawal Petition). The Applicant averred Duquesne Light had obtained all necessary real estate rights with respect to the Palombo property, which rendered the Palombo Condemnation Application unnecessary.

By Initial Decision issued on May 1, 2019, the Palombo Withdrawal Petition was granted, and the Secretary was directed to mark Docket No. A-2018-3000747 closed.⁷

This matter is now procedurally ready for ruling.

III. FINDINGS OF FACT

A. The Applications

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. DLC Exh. 1 at 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. DLC Exh. 1 at 3.

3. On March 23, 2018, Duquesne Light filed the Application of Duquesne Light Company 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, at Docket No. A-2018-3000708. DLC Exh. 1.

⁷ On June 13, 2019, by Final Order entered pursuant to 66 Pa.C.S. § 332(h), the Initial Decision became final without further Commission Order, thereby closing docket No. A—2018-3000747.

4. On March 23, 2018, Duquesne Light filed ten 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 certain 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 as follows:

- 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 Palombo, now known as Anna Louise Aspden**, 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. DLC Exh. 2.⁸
- 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 **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. DLC Exh. 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. DLC Exh. 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

⁸ See Footnote 7, above.

service, accommodation, convenience or safety of the public at Docket No. A-2018-3000743. DLC Exh. 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 DLC Exh. 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. DLC Exh. 7.⁹
- 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 **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. DLC Exh. 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. DLC Exh. 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 **Union Railroad Company** in Plum Borough, Allegheny County, Pennsylvania for the siting and construction of transmission lines associated with the

⁹ See Footnote 6, above.

proposed Universal-Plum project is necessary or proper for the service, accommodation, convenience or safety of the public at Docket No. A-2018-3000769. DLC Exh. 11.

- 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-2018-3000768.¹⁰

B. Need for Reliability and Planning Criteria

5. Reliable and economical operation of transmission and distribution systems require planning guidelines for system expansion and reinforcement. DLC St. 1 at 2-3; Exh. 1, Attachment (ATTM) 2 at 2-5.

6. As a transmission owner operating in Pennsylvania, Duquesne Light is a member of PJM Interconnection, Inc. (PJM). *Id.*

7. PJM is a Federal Energy Regulatory Commission (FERC) approved Regional Transmission Organization (RTO) charged with ensuring the reliable and efficient operation of the electric transmission system under its functional control and coordinating the transmission of electricity in all or parts of thirteen states, including Pennsylvania, and the District of Columbia. *Id.*

8. In order to ensure reliable transmission service, PJM prepares an annual Regional Transmission Expansion Plan (RTEP).

9. The North American Electric Reliability Corporation (NERC), PJM, and transmission owner reliability criteria are used by PJM and the transmission owners to analyze

¹⁰ See Footnote 5, above.

the system and determine if specific transmission upgrade projects are needed to ensure long-term reliable electric service to customers. *Id.*

10. 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. DLC Statement (St.) 1 at 3-4; Exh. 1, ATTM 2 at 3-5.

11. 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 the 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. DLC Exh. 1, ATTM 2 at 4-5.

12. 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. DLC Exh. 1, ATTM 2 at 9.

13. The Universal-Plum Project addresses certain reliability issues at two existing substations: (1) the Universal 138-23 kV Substation (Universal Substation); and (2) the Plum 138-23 kV Substation (Plum Substation). DLC St. 1 at 4-5; Exh. 1, ATTM 2 at 5-6.

14. Reliability issues put approximately 50,000 customers at risk of service outages, when the existing transmission sources serving the Universal and Plum Substations are affected by planned and unplanned outages. Tr. 60:7-15.

15. Currently, the Universal Substation is non-compliant with 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. DLC St. 1, ATTM 2 at 6-8.

16. 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. DLC St. 1 at 5; Exh. 1, ATTM 2 at 7-8.

17. Duquesne Light experienced an outage at the Universal Substation on September 4, 2003, under its current two-source configuration, which resulted in a loss of power for approximately 29,500 customers. DLC Exh. 1, ATTM 2 at 8; Tr. 60:19-61:1.

18. If both transmission sources to the Universal Substation were lost under its current two-source configuration, approximately 37,600 customers served by this substation could lose power until repairs are made. DLC St. 1 at 5; Exh. 1, ATTM 2 at 8.

19. The Plum Substation is also non-compliant with Duquesne Light's Planning Criteria because, while it has an operating rating of 35.9 MVA, it is only supplied by a single transmission source: the Cheswick- Plum 138 kV Transmission Line. 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. DLC St. 1 at 5-6; DLC Exh. 1, ATTM 2 at 6-7.

20. Currently, substantial operational impacts to the surrounding sub-transmission and distribution systems would occur as a result of an outage on the Cheswick-

Plum 138 kV Transmission Line, which could cause a loss of service to distribution customers. DLC St. 1 at 7; Exh. 1, ATTM 2 at 7.

21. 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. DLC St. 1 at 5-6; Exh. 1, ATTM 2 at 6.

22. 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. Tr. 59:23-60:2.

23. Periodically, the Plum Substation experiences loads in excess of its operating rating of 35.9 MVA, and in 2013 experienced an all-time peak load of 46.2 MVA. DLC Exh.1, ATTM 2 at 6.

24. The existing limitations on the Plum Substation's ability to transfer the load to another substation under its current configuration during times of system peak load or during unusual operation conditions would cause the 23 kV sub-transmission and 23 kV distribution circuits served by the Plum Substation to approach the emergency rating of those conductors. DLC Exh. 1, ATTM 2 at 7; Tr. 59:22-60:6.

25. The existing limitation of the Plum Substations makes 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. *Id.*

26. The Company's eastern service territory has been experiencing significant load growth in recent years, primarily in Plum Borough which is served by the Plum Substation. DLC Exh. 1, ATTM 2 at 6.

27. 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. DLC St. 1 at 6; Exh. 1, ATTM 2 at 6-7.

C. The New Universal-Plum 138 kV Transmission Line

28. Duquesne Light proposes to 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. DLC Exh. 1 at 1-2.

29. The 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. DLC Exh. 1 at 11.

30. Based on preliminary engineering, the new Universal-Plum 138 kV Transmission Line will require approximately 33 new double-circuit structures, which will consist of approximately 27 steel single-pole structures, and 6 steel multi-poles structures. DLC St. 3 at 4.

31. The steel structures for the new Universal-Plum 138 kV Transmission Line will largely consist of tubular steel monopole and multi-pole structures that will range from 45 to 135 feet in height, with an average height of approximately 90 feet. All steel poles will be placed on drilled concrete shaft foundations. The average span between these structures will be approximately 530 feet. *Id.*

32. The minimum line to structure clearance for the new Universal-Plum 138 kV Transmission Line will be 6 feet. The minimum conductor-to-ground clearance for the new Universal-Plum 138 kV Transmission Line at mid-span will be 30 feet under

maximum load and operating temperature. The average clearance under normal load and average weather conditions will be 47.3 feet. *Id.*

33. The Full Siting Application includes cross-sectional diagrams showing the typical placement of the support structures for the proposed Universal-Plum 138 kV Transmission Line. *Id.*; DLC Exh. 1, ATTMs 9a and 9b.

D. Regulatory Compliance

34. The National Electrical Safety Code (NESC) is a set of rules designed to safeguard people during the installation, operation, and maintenance of electric power lines. The NESC contains the basic provisions considered necessary for the safety of employees and the public. Although it is not intended as a design specification, its provisions establish minimum design requirements. DLC St. 3 at 7.

35. The new Universal-Plum 138 kV Transmission Line will be designed to comply with the NESC standards. *Id.*

36. 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. DLC St. 1 at 3, 7; Exh. 1, ATTM 2 at 9.

37. A second source of supply provided to the Plum Substation by the Universal-Plum Project will increase the reliability of the underlying distribution system. Tr. 59-60.

E. Relocation of Existing Transmission Line

38. In order to accommodate the new Universal-Plum 138 kV Transmission Line, Duquesne Light proposes to relocate approximately 0.51 miles of the existing Cheswick-Plum 138 kV Transmission Line as part of the Project. DLC St. 3 at 4.

39. 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. The proximity of the crossing lines would be problematic when maintenance work is required and could result in outages on both circuits. *Id.* at 4-5.

40. The relocated Cheswick-Plum 138 kV transmission line will be designed as a single-circuit 138 kV transmission line. *Id.* at 5

41. Currently, the existing Cheswick-Plum 138 kV Transmission Line is located on the west side of New Texas Road before turning east into Plum Substation. Space is limited on the west side of New Texas Road where the Cheswick-Plum 138 kV Transmission Line is located, as a result, the Universal-Plum 138 kV Transmission Line is proposed to be routed on the east side of New Texas Road as an underground line, before turning east into Plum Substation on new steel poles. When both lines enter the Plum Substation, the Cheswick-Plum 138 kV Transmission Line will take a new southern breaker position in the Plum Substation while the Universal-Plum 138 kV Transmission Line will take the northern breaker position in Plum Substation. *Id.* at 5-6.

42. Based on preliminary engineering, the relocation of Cheswick-Plum 138 kV Transmission Line will require approximately seven new single-circuit structures, which will consist of approximately six steel single-pole structures and one wood single-pole structure. *Id.* at 6.

43. The steel structures for the relocated Cheswick-Plum 138 kV Transmission Line will largely consist of tubular steel monopole structures that will range from 85 to 105 feet in height, with an average height of approximately 95 feet. All steel poles will be placed on drilled concrete shaft foundations. The average span between these structures will be approximately 450 feet. *Id.*

44. The wood pole structure will be installed adjacent to New Texas Road and will have an approximate height of 90 feet. The wood pole will be direct embedded and may be guyed due to accessibility and terrain. *Id.*

45. On the present 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. The Cheswick-Plum 138 kV Transmission Line is to be relocated between 64ft to 155ft to the south of its existing position, before entering Plum Substation. *Id.*

46. The minimum line to structure clearance for the proposed Cheswick-Plum 138 kV Transmission Line will be 6 feet. The minimum conductor-to-ground clearance for the proposed Cheswick-Plum 138 kV Transmission Line at mid-span will be 30 feet under maximum load and operating temperature. The average clearance under normal load and average weather conditions will be 47.3 feet. *Id.* 6-7

47. The Full Siting Application includes a cross-sectional diagram showing the typical placement of the support structures for the relocated Cheswick-Plum 138 kV Transmission Line. *Id.*; DLC Exh. 1, ATTM 10.

48. The relocated segment of the Cheswick-Plum 138 kV Transmission Line will be designed to comply with the NESC standards. DLC St. 3 at 7.

F. Health and Safety

49. In addition to the safety features incorporated by designing the line in accordance with the NESC, Duquesne Light designs its transmission lines for “Grade B construction,” which has more stringent design standards, including the Universal-Plum Project. DLC St. 3 at 7; Exh. 1, ATTM 13 at 1.

50. For the Universal-Plum Project, Duquesne Light’s design loading conditions for structures, wires, and clearances exceed NESC standards. DLC St. 3 at 7-8.

51. Duquesne Light’s work procedures and tooling have been developed to allow work to be performed in a safe manner on energized facilities. *Id.*

52. Duquesne Light personnel are furnished with appropriate protective equipment for the performance of construction or maintenance activities in a safe manner. *Id.*

53. Duquesne Light has adopted a Magnetic Field Management Program, as a part of its Design and Safety Criteria. *Id.* at 8; DLC Exh. 1, ATTM 13 at 3-4.

54. 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. *Id.*

G. Siting Study and Environmental Impacts and Route Selection

55. The Full Siting Application includes information on the regulatory permit requirements and agency coordination regarding cultural and environmental resources. DLC St. 2 at 15-16; Exh. 1, ATTM 3, Section 7.1.

56. Duquesne Light retained GAI Consultants, Inc. (GAI) to conduct an Environmental Assessment and Line Route Siting Study (Siting Study) to evaluate the environmental and social impacts of the available alternative routes for the Universal-Plum Project. Tr. 91-92; DLC St. 2 at 3, 7-9, 15-16; Exh. 1, ATTM 3.

57. As a result of the Siting Study, Duquesne Light selected preferred routes for the Universal-Plum Project that will minimize these impacts when compared to other feasible alternatives. *Id.*

58. 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. DLC St. 2 at 15-16; Exh. 1, ATTM 3, Section 7.1.

59. The goal of the Siting Study was to select a 125-footwide, suitable route for the Universal-Plum 138 kV Transmission Line between the Universal Substation and the Plum Substation, and a feasible route for the relocation of the Cheswick-Plum 138 kV Transmission Line. The Siting Study was also conducted to establish alternative routes for evaluation that were environmentally sound, feasible from an engineering and economic perspective, and compliant with applicable regulatory requirements. DLC St. 2 at 4-5; Exh. 1, ATTM 3 at 2.

60. In selecting a suitable route for a high voltage electric transmission line, environmental soundness includes minimizing environmental impacts while maximizing siting opportunities. *Id.*

61. In selecting a suitable route for a high voltage electric transmission line, engineering and economic feasibility includes minimizing engineering constraints, cost, and distance of the route. *Id.*

62. GAI together with Duquesne Light (Siting Team) 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 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 General Public Utility-Duquesne Light Company (GPU-DQE) 500 kV Transmission Line Project. Tr. 102; DLC St. 2 at 3-8; Exh. 1, ATTM 3.

63. Duquesne Light's analysis of potential routes involved two public open houses, one in September 2009 and one in October 2016, consultation with governmental and non-governmental agencies, and consultation with regulatory agencies. DLC St. 2 at 9.

64. 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. DLC St. 2 at 9-10; Exh. 1, ATTM 3, Section 7.2.

65. The Siting Team identified three feasible Alternative Routes for the Universal-Plum Project, Alternative Routes 1, 2 and 3, using the analysis described above. DLC St. 2 at 10-13; Exh. 1, ATTM 3, Section 3.4.

66. The three Alternative Routes were qualitatively and quantitatively evaluated and compared to identify a Preferred Route. DLC St. 2 at 10-13; Exh. 1, ATTM 3, Sections 4.0 and 5.0.

67. The Siting Team 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 right-of-way (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. DLC St. 2, pp. 7-8, 10; Exh. 1, ATTM 3, Section 4.

68. Utilizing the above analysis, the Siting Team determined Alternative Route 3, the proposed route, would produce significantly fewer overall impacts relative to Alternatives 1 and 2. DLC St. 2 at 13-14; Exh. 1, ATTM 3, Section 5.

69. The Siting Team scored Alternative Route 3's impacts as the lowest of the alternative routes, from environmental, human/built, cultural, and engineering perspectives, for several reasons:

a. Alternative Route 3 is the shortest route and would require the least new ROW acquisition.

b. Alternative Route 3 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 Route 2.

c. Alternative Route 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 the airport's runway.

d. Alternative Route 1 would impact 56.65 acres of forest land and 14 perennial streams; Alternative Route 2 would impact 56.57 acres of forest land and 10 perennial streams; and Alternative Route 3 will impact 41.54 acres of forest land and seven perennial streams.

e. Alternative Route 3 has the least impact to some of the environmental resources including forest land cleared and perennial streams crossed, but, without mitigation of the underground transmission line in Boyce Park, has the most impact to others including natural areas and recreational areas.

f. Alternative Route 3 has slightly less impact on archaeological sites and historic sites than the other two alternatives.

DLC St. 2 at 13-14; Exh. 1, ATTM 3, Section 5.0.

70. 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. DLC Exh.1, ATTM 3 at 70.

71. 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. DLC St. 2 at 14-15.

72. Unless the Cheswick-Plum 138 kV Transmission Line is re-terminated to the south of its present location, the Universal-Plum 138 kV Transmission Line would have to cross the Cheswick-Plum 138 kV Transmission Line to enter the Plum Substation. Such a line crossing would be impractical for several reasons; it would present clearance and reliability

issues; and it would necessitate abnormally tall structures to support the Universal-Plum 138 Transmission Line. *Id.*

73. While relocation of the Cheswick-Plum 138 kV Transmission Line will result in the line crossing two perennial streams and one road, no new properties will be impacted by the relocation. Since the existing facilities to be connected by the relocated section are only 0.51 miles apart, few alternatives would be feasible. Also, the proposed route runs along existing transmission right-of-way and infrastructure; any alternative that deviated from this route would necessarily have higher impacts. *Id.*; DLC Exh. 1, ATTM 3, Section 6.

74. The estimated cost to site, design, and construct the Project is approximately \$26.2 million. DLC Exh. 1, ATTM 2 at 2; Tr. 58.

75. Subject to Commission approval, Duquesne Light anticipated construction on the transmission line to begin on January 1, 2019, to support the Project's scheduled in-service date of June 1, 2020. DLC Exh. 1 at 2, 21 and ATTM 2 at 2.

H. Opposition to Condemnation Application – Landowner Pervaiz Alvi

76. Javaid Alvi, Pervaiz Alvi (Mr. Alvi) and Walter Lorence own approximately 228 acres that stretch on both sides Penn Hills Township and the Plum Borough border, Allegheny County, Pennsylvania (Alvi Property). Tr. 69; DLC Exh. 3 at 3.

77. In 2015 the Alvi Property Owners had an agreement with Maronda Homes to develop 250 residential homes along the southerly boarder of their property in the Plum Borough. Tr. 69, 71-73, 78; DLC Exhs. 3 and MH-3 (Alvi).

78. The route selected by Duquesne Light for the Universal-Plum Project will traverse the Alvi Property where the Alvi Property Owners had originally planned their residential development. Tr. 77-78; DLC Exh. 3 at 3.

79. Mr. Alvi opposes the route of 138 kV Transmission Line selected by Duquesne Light to traverse over his property because he will no longer be able to develop 50 of 250 homes as originally planned. Tr. 78.

80. Mr. Alvi opposes the route of 138 kV Transmission Line selected by Duquesne Light to traverse over his property because the time schedule for constructing the Universal-Plum Project remains undetermined, thereby delaying his plans for residential development of his land. Tr. 79-80.

81. Mr. Alvi opposes the route of 138 kV Transmission Line selected by Duquesne Light to traverse over his property because the compensation for the taking of his land and business loss remains undetermined. *Id.*

82. The indefiniteness of both the time schedule for constructing the Universal-Plum Project and compensation resulted in the cancellation of the agreement the Alvi Property Owners had with Maronda Homes to develop 250 residential homes. *Id.*

83. As to the Alvi Property, Duquesne Light proposes to install 6 utility poles, Z154-14, Z154-15, Z154-16, Z154-17, Z154-18 and Z154-19 at the southerly border of the Alvi Property extending between Penn Hills Township and Plum Borough in Allegheny County. DLC Exhs. 3 and MH-3 (Alvi).

84. Duquesne Light proposes to install 4 of the utility poles, Z154-14, Z154-17, Z154-18 and Z154-19, along the property line of the Alvi Property.

85. Duquesne Light proposes to install 2 utility poles, Z154-15 and Z154-16, into the interior of the Alvi Property north of the southerly property line. *Id.*

86. Duquesne Light's proposal for the installation 6 utility poles along the Alvi Property will result in the route of 138 kV Transmission Line forming a curve into the Alvi Property. *Id.*; Tr. 103:11-23.

87. Should Duquesne Light propose to relocate utility poles Z154-15 and Z154-16 at the property line, Mr. Alvi would not oppose the Condemnation Application at Docket No. A-2018-3000732, provided the Alvi Property Owners receive fair compensation for the condemnation. Tr. 85:3-11.

88. Conditioned upon the Alvi Property Owners receiving fair compensation for condemnation of their property as proposed by Duquesne Light to install poles Z154-15 and Z154-16 in the interior of their property, Mr. Alvi would not oppose the Condemnation Application at Docket No. A-2018-3000732. Tr. 86:11-25.

89. Duquesne Light's witness Aimee Kay, a professional wetland scientist with expertise in hydrology and soils, conducted a survey of the Alvi Property in developing the Siting Study. Tr. 92-94.

90. From her observations, Witness Kay determined that a large flat forested wetland system with numerous streams was located on the Alvi Property in the area south of the location for proposed installation of poles Z154-15 and Z154-16. Tr. 95:10-21.

91. From her observations, Witness Kay also determined at the property line south of the location for the proposed installation of poles Z154-15 and Z154-16 there is a steep drop off from backyards of the residential neighborhood down to the border of the southern edge of the Alvi Property. Tr. 94-95.

92. Duquesne Light's proposed route of the 138 kV Transmission Line through the Alvi Property will require the cutting and clearing of trees.

93. Relocating poles Z154-15 and Z154-16 to the southerly property line of the Alvi Property, as proposed by Mr. Alvi, would require the cutting and clearing of trees in a heavily forested wetland system. Tr. 98-99.

94. Under state and federal regulations, the cutting and clearing of forested wetland system requires mitigation of the environmental impact by replacing that system in-kind nearby on site, within the same watershed or elsewhere. Tr. 99-100.

95. Relocating poles Z154-15 and Z154-16 from the interior of the Alvi Property as proposed by Duquesne Light to the southerly property line of the Alvi Property as proposed by Mr. Alvi would increase the environmental impacts of the Universal-Plum Project for the segment of the line. Tr. 97:3-9.

96. Relocating poles Z154-15 and Z154-16 from the interior of the Alvi Property as proposed by Duquesne Light to the southerly property line of the Alvi Property as proposed by Mr. Alvi would result in an adverse socioeconomic impact in moving the 138 kV Transmission Line closer to an existing residential community and locating transmission line route on steeper terrain. Tr. 101-103.

IV. DISCUSSION

A. The Proposed Universal-Plum Project

Duquesne Light's Senior Manager of System Planning and Protection, Jason A. Harchick, who is a registered professional engineer in Pennsylvania, explained the Universal-Plum Project for which the Company is seeking Commission approval.

According to Mr. Harchick, Duquesne Light's transmission system consists of approximately 686 circuit miles of overhead and underground transmission lines operating at voltages of 69 kV, 138 kV and 345 kV. The transmission system forms a large loop around the City of Pittsburgh and its suburbs, and links load centers with generating facilities located to the east and to the west of the service area. DLC St. 1 at 4.

The eastern portion of the Duquesne system consists mainly of 138 kV facilities that form an arc north and east of Pittsburgh comprising the Crescent, North, Pine Creek, Cheswick, Logan's Ferry, Highland, Plum, Universal, Wilmerding, and Dravosburg Substations. These facilities are primarily supplied from 138 kV and 345 kV lines in an arc west and south of Pittsburgh. Mr. Hardwick contends the proposed Project will improve the reliability electric service provided to customers from the Universal and Plum Substations. *Id.*

In 2008 Duquesne Light commenced the transmission line siting process. Initial potential routes were developed, one of which crossed a county park. DLC Exh. 1, ATTM 3 at 2. The Project was put on hold while negotiations were taking place between the county park and Duquesne Light. *Id.* Once the route through the county park was refined, the siting study resumed in 2015. *Id.* Duquesne Light engaged GAI Consultants, Inc. (GAI) to conduct an Environmental Assessment and Line Route Siting Study (Siting Study) to evaluate the environmental and social impacts of the available alternative routes for the Universal-Plum Project. Tr. 91-92; DLC St. 2 at 3, 7-9, 15-16; Exh. 1, ATTM 3 at 1. A public workshop was held on October 20, 2016, to present the three viable alternative routes to the public and encourage public comments. Duquesne Light selected a Preferred Route based on the Siting Study. Exh. 1, ATTM 3 at 1.

Duquesne Light proposes to construct the new Universal-Plum 138 kV Transmission Line that will extend approximately 5.26 miles between the Universal Substation in Penn Hills and the Plum Substation in Plum Borough. DLC St. 3, pp. 6-7 and DLC St. 3, pp. 2-3. Approximately 3.70 miles of the new Universal-Plum 138 kV Transmission Line will be built as an overhead transmission line and approximately 1.56 miles will be constructed as an underground transmission line. *Id.* In addition, in order to accommodate the new Universal-Plum 138 kV Transmission Line, Duquesne Light proposes to relocate approximately 0.51 miles of the existing Cheswick-Plum 138 kV Transmission Line as part of the Project.¹¹ *Id.*

¹¹ For clarity, the reader is referred to DLC Exh. 1, ATTM 7, which displays an aerial map of the proposed route of the transmission line between the Universal Substation and Plum Substation. *Also see*, DLC Exh. 1, ATTM 8, which displays a topographic map of the proposed route and location of the substations.

Mr. Harchick contends the proposed Project will bring the Universal and Plum Substations into compliance with the Duquesne Light Planning Criteria.¹² DLC St. 1 at 7. The proposed Project will provide a third source of supply to the Universal Substation, which will reduce the number of customers affected by an outage to the present two sources of supply to the Universal Substation, as well as the duration of the outage. *Id.* The proposed 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. *Id.*

The estimated cost to siting, designing, and constructing the Project is approximately \$26.2 million. DLC Exh. 1, ATTM 2 at 2; Tr. 58. Mr. Harchick submits that the target date for the new transmission line to be operational is June 1, 2020. DLC St. 1 at 7.

B. Legal Standards

1. Burden of Proof

In seeking Commission approval of its Application, Duquesne Light carries the burden of proof under Section 332(a) the Public Utility Code (Code). 66 Pa.C.S. § 332(a). The term “burden of proof” means a duty to establish a fact by a preponderance of the evidence. *Selling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950) and *Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. PUC 300 (1976). “Preponderance of the evidence” means one party must present evidence that is more convincing, by even the smallest amount, than the evidence presented by the opposing party. *Id.* Accordingly, the record must be reviewed to determine whether the Applicant has satisfied its burden of proof.

¹² The Company’s Planning Criteria are standards formulated to assure that transmission and distribution systems can supply electricity to all customer loads reliably and economically. The standards include guidelines for system expansion and reinforcement. DLC St.1 at 3. The Federal Energy Regulatory Commission requires a transmitting utility, such as Duquesne Light, to submit a report each year outlining its reliability and planning standards. *See* 18 CFR § 141.300; DLC Exh.1 at 6, n.3.

There must also be substantial evidence in the record to support the decision of the Commission. *See, e.g.*, Section 704 of the Administrative Agency Law, 2 Pa.C.S. § 704; and *Yellow Cab Company v. Pa. Pub. Util. Comm'n*, 524 A.2d 1069 (Pa.Cmwlth. 1987).

“Substantial evidence” means such relevant evidence that a reasonable mind may accept as adequate to support a conclusion. *Philadelphia Gas Works v. Pa. Pub. Util. Comm'n*, 898 A.2d 671 (Pa.Cmwlth. 2006). The pertinent inquiry is whether substantial evidence exists to support the Commission’s findings. *Elliot Co. v. Workers’ Comp. Appeal Bd. (Shipley)*, 785 A.2d 480 (Pa.Cmwlth. 2002). More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 194 Pa.Super. 278, 166 A.2d 96 (1961); and *Murphy v. Pa. Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa.Cmwlth. 1984).

2. Standards for Approval of the Universal-Plum Project

a. Reasonable Service Requirement

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

§ 1501. Character of service and facilities.

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

When DLC determines there is a need for upgraded transmission facilities and fails to provide adequate facilities, the Company’s failure to act violates the reasonable service

requirement of Section 1501 of the Code. However, DLC may not upgrade its transmission facilities unless it can demonstrate that the upgrade project is necessary or proper, and that the project complies with the Commission's regulations governing transmission line siting and construction.

b. Siting and Construction Regulations

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

§ 57.76. Determination and order.

(a) The Commission will issue its order, with its opinion, if any, either granting or denying the application, in whole or in part, as filed or upon the terms, conditions or modifications, of the location, construction, operation or maintenance of the line as the Commission may deem appropriate. The Commission will not grant the application, either as proposed or as modified, unless it finds and determines as to the proposed HV line:

(1) That there is a need for it.

(2) That it will not create an unreasonable risk of danger to the health and safety of the public.

(3) That it is in compliance with application statutes and regulations providing for the protection of the natural resources of this Commonwealth.

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

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

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

Pa. Const. art. I, § 27.

The Commission's siting regulations apply the three-part test enunciated by the Commonwealth Court in *Payne v. Kassab*, 312 A.2d 86 (Pa.Cmwlth. 1973) as follows:

- (1) Was there compliance with all applicable statutes and regulations relevant to the protection of the Commonwealth's environment?
- (2) Does the record demonstrate a reasonable effort to reduce the environmental incursion to a minimum?
- (3) Does the environmental harm which would result from the challenged decision or action so clearly outweigh the benefits to be derived therefrom that to proceed further would be an abuse of discretion?

Id. at 94. Also see *Energy Conservation Council of Pennsylvania v. Pa. Pub. Util. Comm'n*, 995 A.2d 465 (Pa.Cmwlth. 2010); *Energy Conservation Council of Pennsylvania v. Pa. Pub. Util. Comm'n*, 25 A.3d 440 (Pa.Cmwlth. 2011) (*Susquehanna-Roseland*); *Re: Proposed Electric Regulation*, 49 Pa. PUC 709, 712 (1976). The Commission uses this test to determine whether a proposed transmission line having environmental impacts should be approved.

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

Commission should consider the electric power needs of the public, the state of the available technology and the available alternatives, under 52 Pa.Code § 57.76.

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

The applicable legal standards for review of the selection of a route for utility lines are whether the powers conferred upon the public utility have been wantonly, capriciously or arbitrarily exercised. *West Penn Power Co. v. Pennsylvania Public Utility Commission*, 199 Pa. Super. 25, 184 A.2d 143 (1962). The degree of inconvenience to a landowner, therefore, would not constitute grounds for withholding the exercise of the power to condemn the easement, *see Stone v. Pennsylvania Public Utility Commission*, 192 Pa. Super. 573, 162 A.2d 18 (1960), where the record establishes that the utility's route selection was reasonable considering all of the factors involved in the selection of the line.

Paxtowne v. Pa. Pub. Util. Comm'n, 398 A.2d 254, 256 (Pa.Cmwlt. 1979).

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

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

Laird v. Pa. Pub. Util. Comm'n, 133 A.2d. 579, 581 (Pa. Super. 1957).

The Commission has adopted interim guidelines, set forth at 52 Pa.Code §§ 69.3101-69.3107, regarding information that electric utilities should provide with a transmission line siting application, in addition to the information required by 52 Pa.Code

§§ 57.71-57.76. The Commission emphasized that these interim guidelines did not alter the legal standards to be met by applicants under the relevant provisions of the Public Utility Code or the regulations at 52 Pa.Code §§ 57.71-57.76. 52 Pa.Code § 69.3101(b).

3. Standards for Approval of Duquesne Light's Exercise of Eminent Domain

DLC filed ten Applications seeking a Commission ruling in each Application that it is necessary or proper for the service, accommodation, convenience or safety of the public for the Company to exercise eminent domain, to acquire portions of the lands of various property owners for the siting and construction of the Universal-Plum Project.¹³

The Business Corporation Law of 1988 (BCL), 15 Pa.C.S. § 1101, *et seq.*, provides for the exercise of eminent domain by certain public utilities such as DLC. Section 1511 of the BCL grants a public utility, such as DLC, the power and authority to take and condemn property for the purpose of providing electricity to the public. Specifically, Section 1511 of the BCL provides in pertinent part as follows:

§ 1511 Additional powers of certain public utility corporations

(a) General Rule. — A public utility corporation shall ... have the right to take, occupy and condemn property for one or more of the following principal purposes and ancillary purposes reasonably necessary or appropriate for the accomplishment of the principal purposes:

...

(3) The ... transmission ... distribution or furnishing of ... electricity ... to or for the public.

15 Pa.C.S. § 1511(a)(3).

¹³ As above-mentioned three Applications have been withdrawn. As discussed below, only one of the seven remaining Applications is contested.

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

The powers conferred by subsection (a) shall not be exercised:

(1) To condemn for the purpose of constructing ... aerial electric transmission ... lines:

(i) Any dwelling house or, except in the case of any condemnation for petroleum or petroleum products transportation lines, any part of the reasonable curtilage of a dwelling house within 100 meters therefrom and not within the limits of any street, highway, water or other public way or place.

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

15 Pa.C.S § 1511(b)(1)(i-ii).

Before a public utility may exercise eminent domain to condemn property for the purpose of constructing aerial electric transmission facilities, it must obtain approval from the Commission. Section 1511(c) of the BCL states, in 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 for the service, accommodation, convenience or safety of the public.

15 Pa.C.S § 1511(c).

Once the Commission has determined that the proposed transmission line is necessary for the public, the Commission's consideration of the condemnation application is very limited.

In *Dickson v. Public Service Com.*, 89 Pa.Super. 126 [1926], the applicable legal principles are set forth as follows: 'Manifestly, the selection of the route for the lines is a matter for the light company in

the first instance, and unless it is shown that it proposes to exercise the powers conferred upon it wantonly, corruptly or capriciously, or that the rights of the land owner have been trifled with, or unreasonably disregarded, the law does not contemplate that the Commission should withhold its approval simply because another route might have been adopted.’

West Penn Power Company, v. Pa. Pub. Util. Comm’n, 184 A.2d 143, 145 (Pa. Super. 1962).

Thus, if the record demonstrates that the public utility’s route selection is reasonable, inconvenience to the landowner does not constitute a bases for the Commission to deny the utility’s exercise of the power of eminent domain to condemn the easement. *See Paxtowne v. Pa. Pub. Util. Comm’n*, cited above.

C. DLC’s Evidence Under Section 57.76(a) of the Regulations

1. Factor One: Need for the Proposed Universal-Plum Project

None of the Parties to this proceeding dispute or challenge Duquesne Light’s assertion that there is a need for some reinforcement of the existing transmission system in Penn Hills, Monroeville, and Plum Borough, in Allegheny County. Still Duquesne Light’s proposed Universal-Plum Project must be examined as a whole to determine whether the Company has met the burden of proving each of the factors listed under Section 57.76(a), cited above, to warrant Commission approval of the Application. DLC submits that it has met this burden of proof. DLC MB at 23. In support of the Company’s position, DLC posits the following.

DLC asserts reliable and economical operation of transmission and distribution systems require planning guidelines for system expansion and reinforcement. DLC St. 1 at 2-3; Exh. 1, ATTM 2 at 2-5. Through the planning process DLC determined there was a need for the Universal-Plum Project. DLC’s engineer, Mr. Harchick, explained the Universal-Plum Project is need for the following reasons. Tr. 59-60.

The proposed Project is required to improve reliability of service for approximately 50,000 customers in the eastern portion of the Company's service territory. The Project will also allow for improved operating flexibility for the Company's Transmission System Operators to reduce the extent and duration of facility outages. This project is needed to:

- (i) Address load growth in the area;
- (ii) Improve ability to restore service to customers in the event of an outage;
- (iii) Address lack of transmission sources to each substation;
and
- (iv) Enhance flexibility for facility maintenance.

DLC Exh. 1, ATTM 2 at 1-2.

a. Transmission Line Planning Process

The planning process for a transmission line project, according to Duquesne Light, 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. DLC MB at 23.

The transmission system planning process administered by PJM, of which DLC, as a transmission owner, is a member,¹⁴ 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 (NERC), PJM, and transmission owner

¹⁴ 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. DLC St. 1 at 3.

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. DLC St. 1 at 2-3; Exh. 1, ATTM 2 at 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. DLC St. 1 at 3-4; Exh. 1, ATTM 2 at 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 the 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. DLC Exh. 1, ATTM 2 at 4-5.

Duquesne Light maintains 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. DLC Exh. 1, ATTM 2 at 9.

b. The Universal and Plum Substations Reliability Issues

Duquesne Light contends 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. DLC St. 1 at 4-5; Exh. 1, ATTM 2 at 5-6. As mentioned above, 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. 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, according to the Company. The Universal Substation has a maximum historical peak load of 124 MVA, but currently has only two transmission sources. *Id.* at 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. DLC St. 1 at 5; Exh. 1, ATTM 2 at 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. Tr. 60:19-61:1; DLC Exh. 1, ATTM 2 at 8. 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. DLC St. 1 at 5; Exh. 1, ATTM 2 at 8.

DLC maintains the Plum Substation also violates the Company's Planning Criteria, because periodically, the Plum Substation experiences loads in excess of its operating rating of 35.9 MVA, and in 2013 experienced an all-time peak load of 46.2 MVA. DLC Exh.1, ATTM 2 at 6. However, the Plum Substation 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. DLC St. 1 at 5-6; Exh. 1, ATTM 2 at 7. Thus, 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. DLC St. 1 at 7; Exh. 1, ATTM 2 at 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. *Id.* ATTM 2 at 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. Tr. 59:23-60:2. As such, the existing limitations on the Plum Substation's ability to transfer 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. DLC Exh. 1, ATTM 2 at 6. These conditions would make it difficult to provide power to all the distribution customers fed from the Plum Substation in the event of an outage on its existing, single transmission source. Tr. 60:2-6.

Considering present load forecasts and in the absence of a new transmission source to the Universal Substation and to the Plum Substation, Duquesne Light argues the above-described reliability issues and the number of customers that may be affected will increase. DLC St. 1 at 6; Exh. 1, ATTM 2 at 6.

c. The Universal-Plum Project Addresses Reliability Issues

Duquesne Light emphasizes the Universal-Plum Project is necessary to resolve the above-described reliability issues and submits resolution of the 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. DLC MB at 27. The Company describes each aspect of the proposed Universal-Plum Project as follows.

d. Design of the New Universal-Plum 138 kV Transmission Line

First, 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. Duquesne Light confidentially submitted maps of the Company's existing and proposed transmission facilities with its Siting Application. *See* DLC Exh. 1, CONFIDENTIAL ATTM 4. Also confidentially submitted with the Siting Application were One Line diagrams of Duquesne Light's existing and proposed transmission facilities. *Id.* ATTMs 5a and 5b, respectively.

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. DLC Exh. 1 at 11. Duquesne Light provided cross-sectional diagrams showing the typical placement of the support structures. DLC Exh. 1, ATTMs 9a and 9b. The Company claims the new Universal-Plum 138 kV Transmission Line will be designed to meet, and generally exceed, the NESC minimum standards. *Id.* at 12.

The Company asserts the new Universal-Plum 138 kV Transmission Line will bring both the Universal and Plum Substations into compliance with the Duquesne Light Planning Criteria. DLC MB at 28. 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. DLC St. 1 at 7; Exh. 1, ATTM 2 at 9. The Company maintains the second source of supply provided to the Plum Substation by the Universal-Plum Project will increase the reliability of the underlying distribution system. Tr. 59-60.

e. 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, according to Duquesne Light. 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. DLC Exh. 1 at 12-13. Duquesne Light submitted cross-sectional diagrams showing the typical placement of the support structures subject to this relocation. DLC Exh. 1, ATTM 10. Duquesne Light contends the relocated segment of the Cheswick-Plum 138 kV Transmission Line will be designed to meet, and generally exceed, the NESC minimum standards. DLC Exh. 1 at 13.

Duquesne Light explains that 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 proximity to the 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. DLC St. 3 at 4-5.

f. There is a Need for the Universal-Plum Project

After due consideration and review of the above evidence, I conclude the Universal-Plum Project is necessary to address existing reliability issues identified at the Universal and Plum Substations through DLC's Planning Criteria process. *See Hess v. Pa. Pub. Util. Comm'n*, 107 A.3d 246, 262-263 (Pa.Cmwlt. 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 No. A-2014-2430565, 2015 Pa. PUC LEXIS 77, at *49 (Opinion and Order dated Feb. 27, 2015) (holding that a project which alleviates violations of an electric utility's own planning criteria provides sufficient evidence to support a finding of need). Significantly, 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

reducing both the potential for an outage and the number of customers that may be affected by an outage, remains unchallenged. 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 as fully explained above, Duquesne Light has demonstrated there is a need for the Universal-Plum Project, under Section 57.76(a)(1) of the Commission's regulations. 52 Pa.Code § 57.76(a)(1).

2. Factor Two: The Public's Health and Safety

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. DLC asserted the proposed transmission lines will be designed, constructed, and maintained to ensure the health and safety of the public. The Company supported its assertion as follows.

a. 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. Tr. 131; DLC St. 3, pp. 7-9; Exh. 1, ATTM 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.¹⁵ 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.

¹⁵ 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 No. A-2009-2082652, 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).

DLC Exh. 1, ATTM 13 at 1. The Company also surpasses NESC standards for clearance requirements and structure overload or multiplying factors. DLC Exh. 1, ATTM 13 at 2. Duquesne Light further contends the design loading conditions for structures, wires, and clearances for the Universal-Plum Project exceed NESC standards. DLC St. 3 at 7-8.

According to DLC's Manager of Civil and Transmissions Line Engineer Group, Meenah Shyu, work procedures and tooling have been developed to allow work to be performed in a safe manner on energized facilities. DLC St. 3 at 1, 7-8. Personnel are also furnished with appropriate protective equipment for the performance of construction or maintenance activities in a safe manner. *Id.*

b. Electric and Magnetic Field Mitigation

Duquesne Light argues that 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 submits that the Company 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. DLC Exh. 1, ATTM 13 at 3-4.

Under the Company's 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 running it along the edge of the parcel where the line is located in occupied areas; (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.¹⁶ DLC Exh. 1, ATTM 13 at 4.

c. The Project is Not a Risk to the Public Health and Safety

After due consideration and review of the above evidence, I conclude DLC's proposed Universal-Plum Project will not create an unreasonable risk of danger to the health and safety of the public, which a utility must safeguard against under the Commission's regulations. 52 Pa.Code § 57.76(a). Accordingly, for the reasons as explained above, Duquesne Light has demonstrated there is a need for the Universal-Plum Project, which will not create an unreasonable risk of danger to the health and safety of the public.

3. Factor Three: Protection of Natural Resources Compliance

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 proposed project is in compliance with applicable statutes and regulations, providing for the protection of the natural resources of this Commonwealth. Duquesne Light submits that although the Commission is 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. *See Pa. Environmental Defense Foundation v. Commonwealth of Pa.*, 161 A.3d 911, 931 (Pa. 2017) (*PEDF*); DLC MB at 33.

DLC argues that 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*,

¹⁶ Because only one circuit will initially be installed as part of the Project, the Company claims 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. DLC Exh. 1, ATTM 13 at 4.

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 No. A-2016-25655296 at 12-14 (Opinion and Order entered March 8, 2018) (*Penelec*). *See* DLC MB at 33.

Duquesne Light continues that 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, 69.3106.¹⁷ 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. *Also see* DLC MB at 33-34.

Duquesne Light asserts that consistent with the Commission's Interim Guidelines, the attachments to the Company's filing included information on the regulatory permit requirements and agency coordination efforts regarding cultural and environmental resources. DLC Exh. 1, ATTM 3, Section 7.1 and St. 2, pp. 15-16. DLC maintains that information effectively addresses and exceeds all the requirements of the Commission's siting regulations. *See* DLC MB at 34.

¹⁷ 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.

DLC further argues that the Company 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. DLC Exh. 1, ATTM 3 and St. 2 at 15-16.

According to Duquesne Light, 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 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. *Id.* 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.¹⁸

a. The Project Is Compliant Re Natural Resource Protections

Duquesne Light included with its Application a listing of all expected federal, state, and local government regulatory permits and approvals that may be required for the Universal-Plum Project and the current status of permit applications that may be required by those agencies. Duquesne Light has committed to obtain all required permits prior to

¹⁸ 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).

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. Considering these factors, I conclude Duquesne Light has demonstrated Universal-Plum Project is in compliance with the statutory and regulatory provisions of 52 Pa.Code § 57.76(a)(3), which provides for the protection of natural resources. *See PEDF.*

4. Factor Four: 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 determining whether a proposed route will have minimum adverse environmental impacts, the Commission will examine 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. *See 52 Pa.Code § 57.75(d)(3).* Further, the Commission will examine the proposed route for the transmission line to consider the availability of reasonable alternative routes in reaching a conclusion as to whether the proposed route will have minimum adverse environmental impacts. *See 52 Pa.Code §§ 57.75(d)(4) and 57.76(a)(4).*

Duquesne Light argues that 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 the utility properly considered the factors relevant to siting a transmission line. The court specifically held as follows:

[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, cited above at 449-450, quoting *Energy Conservation Council of Pennsylvania v. Pa. PUC*, 995 A.2d 465, 479-480 (Pa.Cmwlth. 2010) (*Trailco*).

Duquesne Light claims that the Company conducted an extensive evaluation of the environmental and social impacts of the available alternative routes. According to Duquesne Light, the selected routes will have significantly lesser overall impacts to the natural and human environment than the other feasible alternative routes.

a. Overview of the Siting Process

Duquesne Light explains that ultimately the goal of the Universal-Plum Project Siting Study was to select a suitable route for 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 were environmentally sound,¹⁹ feasible from an engineering and economic perspective,²⁰ and compliant with applicable regulatory requirements. DLC St. 2 at 4-5. To achieve that goal, Duquesne Light retained GAI Consultants, Inc. (GAI) to prepare the Siting Study. *Id.* at 3.

Duquesne Light summarized the Siting Study 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

¹⁹ Environmental soundness includes minimizing environmental impacts while maximizing siting opportunities. DLC St. 3 at 4.

²⁰ Engineering and economic feasibility includes minimizing engineering constraints, cost, and distance of the route. *Id.*

alternative routes. The next step is to utilize publicly available data to identify large area constraints (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.

DLC Exh. 1, ATTM 3 at 3-4. Duquesne Light notes that throughout this process, GAI used a variety of publicly available information and conducted field reconnaissance to update the data available for any resources in the vicinity of any preliminary routes considered. DLC St. 2 at 5-6.

Duquesne Light asserts that Witness Kay explained the steps taken by GAI in defining the study area, that is, 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. Tr. 92-102; DLC St. 2; Exh. 1, ATTM 3.

Duquesne Light submits the Company has 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. DLC St. 2 at 9. 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, asserts Duquesne Light. DLC St. 2 at 8-9; Exh. 1, ATTM 3, Section 7.2. Duquesne Light argues that no party has challenged the methodology or criteria used by GAI and the Company to conduct the Siting Study.

b. Selection of the Proposed Route

i. 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. DLC St. 2 at 10-13 and Exh. 1, ATTM 3, Section 3.4. The Company maintains the three Alternative Routes were then qualitatively and quantitatively evaluated and compared to identify a Preferred Route. DLC St. 2 at 10 and Exh. 1, ATTM 3, Sections 4.0 and 5.0.

Witness Kay testified that Alternative Routes 1, 2 and 3 were evaluated and compared 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. Tr. 102. 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* DLC St. 2 at 7-8 and Exh. 1, ATTM 3, Section 4.

DLC contends 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* DLC St. 2 at 13-14 and Exh. 1, ATTM 3, Section 5. DLC asserts 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. According to DLC, Alternative 3 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, because 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 Alternative 3 is not within a straight approach to its runway, DLC contends. 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 slightly less impact to archaeological sites and historic sites than the other two alternatives. DLC Exh. 1, ATTM 3, Section 5.0.

DLC admits that Alternative 3 does have the highest cost estimate to acquire and construct, due to the underground portion of transmission line through Boyce Park. However, DLC argues 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. DLC Exh. 1, ATTM 3 at 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, the Company asserts Alternative 3 has the lowest impact score of the alternative routes and is the best overall alternative from an environmental, human/built, cultural, and engineering perspective.

ii. 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. DLC St. 2 at 14-15.

Duquesne Light contends the proposed relocation of the Cheswick-Plum 138 kV Transmission Line 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. Duquesne Light argues that the proposed route runs along existing transmission right-of-way and infrastructure and any alternative that deviated from this route would necessarily have higher impacts. DLC St. 2 at 14-15 and Exh. 1, ATTM 3, Section 6.0.

Based on the Company's assessment of the proposed relocation of a portion of the Cheswick-Plum 138 kV Transmission Line, Duquesne Light submits it has demonstrated that any other feasible alternative will result in additional impacts. Duquesne Light also notes 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.

c. Mitigation Measures

Duquesne Light emphasizes that the Company 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 landowners 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 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. DLC St. 2 at 15-16 and Exh. 1, ATTM 3, Section 5.1. Duquesne Light underscores that the Company

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 the Siting Study. *See* DLC Exh. 1, ATTM 3, Section 5.1.

The Company's commitment to minimize environmental impacts is set forth at length as follows:

5.1 Preferred alternative Impacts and Mitigation

5.1.1 Land Use and Land Cover

The Preferred Alternative is 5.26-mile-long and includes 4.76 miles of non-paralleling ROW, with approximately 0.5-mile paralleling existing Duquesne Light transmission line ROW. The Preferred Alternative has 0.05-mile of residential areas and 0.22-mile of commercial areas crossed by and/or adjacent to the proposed ROW and only three residential structures within 100 feet of the centerline, none of which were within the ROW. This route does not cross any school properties.

As the majority of the Preferred Alternative is new ROW, there will be permanent land use impacts. All of the forest land cleared for this route will be converted to rangeland. This alternative crosses approximately 2.24 miles of deciduous forest, resulting in the clearing of approximately 41.54 acres of forest land. Any herbaceous and/or mixed rangeland crossed would be temporarily impacted during construction, but would not result in any permanent land use change as the land would return to an herbaceous and/or mixed rangeland state.

Construction of the Project will require the clearing and maintenance of permanent ROW of at least 100 feet wide, and up to 125 feet wide. The Preferred Alternative, as the shortest route at 5.26 miles long, will have the least land use impacts.

The Preferred alternatives will produce temporary and secondary impacts during construction, especially in residential areas and some commercial areas. These impacts include noise and other construction-related disturbances, including disruptions to vehicular traffic. The most substantial land use effects associated with construction of the proposed line include a reduction in woodland and visual effects in residential areas. Total rangeland area will be increased as a result of construction, although a temporary reduction in this land use will occur during the

construction phase until vegetation becomes re-established. The construction of new ROW in wooded areas will result in the removal of a number of mature trees. New access roads may be required to access certain areas of the new transmission line.

Land can continue to be used by the property owner as desired provided it does not interfere with operation or maintenance of the transmission line, access to the transmission line, or specific ROW agreements.

All landowners whose access to their property could be potentially impacted will be notified in writing of the possible use of their land for an Access Easement consistent with the construction, maintenance, repair, renewal, use, or operation of said system. Duquesne Light has the right to trim or remove, and control the growth of, by any means selected by Duquesne Light, any trees, brush or shrubbery, and to remove obstructions, which at any time interfere with or threaten to interfere with the access of this easement. Duquesne Light agrees to pay for all damage to fences, crops, and other personal property caused by construction, operation, maintenance, rebuilding or removal of the transmission line.

During Clearing of the ROW some loss of individual animals may be incurred within the new ROW, it is anticipated that most animals can relocate to suitable adjacent habitat during construction. Depending on the habitat type in question, these displaced animals may be able to re-establish in the maintained ROW following construction.

Although some wildlife population decreases may be experienced in response to limits upon carrying capacity of adjacent habitats, these decreases should be minimal due to the small area of disturbance.

Clearing new ROW will result in somewhat higher predation rates, increased nest parasitism, and human disturbances associated with forest edges. This may have a minor negative effect upon forest birds (Brittingham and Temple, 1983; Bushman and Therres, 1988). Local populations of some forest interior species may also decrease as a result of the Project. Rangeland areas will increase as a result of project implementation. This additional rangeland will provide foraging areas for numerous wildlife species.

The maintenance of ROW, including tree trimming and brush clearing, may have an effect upon terrestrial animal species occurring in the area. Maintenance may destroy the nests and young of some species if it coincides with the breeding season; driving over the ROW for inspection purpose can also destroy nests and young. However, these impacts should be minimal and should not have any adverse effect upon wildlife populations, as they are infrequent.

Vegetation management practices that will be used by Duquesne Light to minimize impacts to vegetation and wildlife include, but are not limited to:

- Plant cover in the in the center of the ROW will be maintained as a low shrub-herb-fern-grass community.
- Implement selective clearing, based on stem density, on the edges of the ROW and allow compatible herbaceous and shrub species to grow. Use selective herbicide applications to manage undesirable vegetation in and along the ROW corridor. Specific herbicides designed for wetland use may also be utilized to promote best practices.
- Considering span length, allow tree growth in deep valleys and ravines where the conductor height exceeds the mature height of the surrounding trees factoring for minimum allowable electrical safety clearance requirements.
- All disturbed areas will be restored to their original contours. Seeding and mulching will immediately follow seedbed preparation.
- All cutting in and along the ROW less than five inches in diameter, other than buffer areas, will be piled and crushed or disposed of by chipping or shredding. Cutting larger than five inches in diameter will be stacked behind the edge of the ROW or removed, as directed by the landowner.
- Tree pruning and removal and wood disposal efforts in and along the ROW edge will be performed in such a manner as to minimize, as much as possible, damage to desirable plant species.

An Erosion and Sedimentation (E&S) Control Plan will be executed during the construction phase of the Preferred Alternative, minimizing impacts from erosion and resulting sedimentation.

5.1.2 Hydrology

The Preferred Alternative crosses seven perennial streams and no NWI [Natural Wetland Inventory] wetlands. Additional detailed wetland delineations would be required in the field in order to thoroughly define potential wetland impacts of the Preferred Alternative. It is likely that additional wetlands may be identified during wetland delineations conducted. Wetlands provide a number of significant benefits to the

environment. With the exception of forested wetlands, transmission line construction, operation and maintenance do not change the wetlands' basic ecological function; any unavoidable effects would be minimal and temporary. It is anticipated that no structures would be located in wetlands for any of the alternative routes. Therefore, no permanent loss of wetlands is expected.

None of these streams crossed by the Preferred Alternative are expected to be affected by the placement of poles. However, all streams may be crossed by temporary access roads within the ROW. Temporary equipment crossings will be installed to minimize impacts and will be removed following construction. Temporary equipment crossings will result in a temporary impact to the riparian buffer. The riparian buffers will be replanted following construction and vegetation that is compatible with the transmission line will be allowed to grow. Therefore, no long-term impacts to surface waters are anticipated from any of the alternatives. The potential for construction impacts on water quality during construction will be minimized by implementation of the E&S Control Plan.

It is anticipated that crossings of waterbodies for construction of the Project will require a General Permit 5 (GP-5) for Utility Line Stream Crossings and a GP-8 for Temporary Access Roads from the Pa DEP, as well as a PA State Programmatic General Permit from the United States Army Corps of Engineers. Among the protection measures that will be incorporated in this plan are:

- Stream or wetland crossings by vehicles will be restricted to temporary equipment crossings. Access to structures will be gained from upland locations wherever possible.
- Temporary stream and wetland crossings will be used as needed, consisting of equipment pads. If needed, culverts will be constructed in streams with clean stone and gravel fill.
- Any required construction access roads will be laid out to prevent sediments from reaching streams and wetlands. A strip of undisturbed land will be left between the construction road and the stream (filter strip). The width of the filter strip will be greater in steep slope areas than on level areas.
- Best management practices will be used along the stream banks and wetlands to prevent entry of sediment into the stream.

- During construction, drainage ditches, creeks and waterways will be kept free of obstructions.
- Where available, existing access roads will be used to avoid the crossing of streams.
- Appropriate controls will be used at structure locations to prevent sediments from discharging from the area of disturbance.

5.1.3 Scenic and Recreational Areas

The Preferred Alternative crosses a portion of the undeveloped Cottonwood Park and Greenleaf Park near the Universal Substation parallel to an existing transmission line. Therefore, visual impacts to the park and its functions are anticipated to be minimal. Approximately 1.24 miles of the Preferred Alternative crosses the northern portion of Boyce Park travelling within existing roadways and avoiding major tree removal throughout its route. Duquesne Light has coordinated with the Allegheny County Department of Parks and Recreation concerning the location of Alternatives across the park. Duquesne Light has come to an agreement with the Allegheny County Department of Parks and Recreation that the transmission line will be buried underground within Boyce Park. This will eliminate the visual impact to the park and will reduce the amount of tree clearing in the park. The width of clearing will be reduced to 25 feet wide within the park which is the minimum width required to install an underground transmission line. The Allegheny County Parks Comprehensive Master Plan (2000) recommends that an 18-hole golf course be developed near the existing recreation area in the northeast corner of the park. The Preferred Alternative would be compatible with this use, should it be developed. Alternative 3 travels in a relatively straight path across Boyce Park. No functions of adjacent soccer fields or the baseball fields will be impacted.

5.1.4 Natural Areas and Rare Threatened and Endangered Species

The Preferred Alternative does not impact designated natural/wilderness areas, national natural landmarks, or Core RTE [Rare, Threatened, and Endangered] Habitat.

The Preferred Alternative is within the range of the Indiana bat, northern long-eared bat, and bald eagle. However, Duquesne Light coordinate with the USFWS [United States Fish and Wildlife Service] concerning the Preferred Alternative and avoidance measures were not requested.

The Preferred Alternative crosses a Land Trust Protected areas that is associated with Boyce Park, Duquesne Light has agreed to install the transmission line underground to mitigate the impact to the park.

5.1.5 Terrain and Landscape

The Preferred Alternative will have a minimal to moderate visual impact on the surrounding viewshed. Visual impacts are considered minimal to moderate because of the limited number of populated areas crossed by the route, the underground transmission line within Boyce Park, and by the low amount of new ROW required. The Preferred Alternative crosses 0.53 miles of steep terrain and 1.22 miles of landslide-prone area. These areas will be taken into consideration for the final design and construction of the Project.

5.1.6 Archaeological and Architectural/Historical Resources

Additional investigations will be conducted, as necessary, during final design and permitting of the Preferred Alternative to determine the presence, extent, and eligibility of architectural and historical resources that could be affected by the Project. These efforts will be coordinated with the PA SHPO.

5.1.7 Airports

The Preferred Alternative, at its closet point is approximately 3,000 feet northwest of and parallel to the runway of the Pittsburgh-Monroeville Airport. Approximately 3.74 miles of the Preferred Alternative is within two miles of the Pittsburgh-Monroeville Airport. Duquesne Light will coordinate with the FAA [Federal Aviation Association] and will provide markers or beacons as required.

See DLC Exh. 1, ATTM 3, Section 5.1.

Thus, DLC submits that the planned mitigation efforts as described in the Siting Study demonstrate the Company has incorporated appropriate mitigation measures for the impacts associated with the Universal-Plum Project.

D. Protest to Condemnation Application – Landowner Pervaiz Alvi

Javaid Alvi, Pervaiz Alvi (Mr. Alvi) and Walter Lorence own approximately 228 acres that stretch on both sides of the Penn Hills Township and Plum Borough border, Allegheny

County, Pennsylvania (Alvi Property), which is subject to condemnation proceedings at Docket No. A-2018-3000732. Tr. 69; DLC Exh. 3 at 3. Mr. Alvi explained his opposition to the Universal-Plum Project for the following reasons.

In 2015 the Alvi Property Owners had an agreement with Maronda Homes to develop 250 residential homes along the southerly border of their property in Plum Borough. Tr. 69, 71-73, 78; DLC Exhs. 3 and MH-3 (Alvi). The route selected by Duquesne Light for the Universal-Plum Project will traverse the Alvi Property where the Alvi Property Owners had originally planned their residential development. Tr. 77-78; DLC Exh. 3 at 3.

Mr. Alvi opposes the route of the 138 kV transmission line selected by Duquesne Light to traverse over his property because (1) he will no longer be able to develop 50 of 250 homes as originally planned; (2) the time schedule for constructing the Universal-Plum Project remains undetermined, thereby delaying his plans for residential development of his land; and (3) the compensation for the taking of his land and business loss remains undetermined. Tr. 78-80.

Mr. Alvi argues that the indefiniteness of both the time schedule for constructing the Universal-Plum Project and compensation resulted in the cancellation of the agreement the Alvi Property Owners had with Maronda Homes to develop 250 residential homes. *Id.*

As to the Alvi Property, Duquesne Light proposes to install six utility poles, Z154-14, Z154-15, Z154-16, Z154-17, Z154-18 and Z154-19 at the southerly border of the Alvi Property extending between Penn Hills Township and Plum Borough in Allegheny County. *See* DLC Exhs. 3 and MH-3 (Alvi). Duquesne Light proposes to install four of the utility poles, Z154-14, Z154-17, Z154-18 and Z154-19, along the property line of the Alvi Property. Duquesne Light proposes to install two utility poles, Z154-15 and Z154-16, into the interior of the Alvi Property north of the southerly property line. *Id.*

Duquesne Light's proposal for the installation of six utility poles along the Alvi Property will result in the route of the 138 kV transmission line forming a curve into the Alvi Property. *Id.*; Tr. 103:11-23. Should Duquesne Light propose to relocate utility poles Z154-15

and Z154-16 to the property line, Mr. Alvi would not oppose the Condemnation Application at Docket No. A-2018-3000732, provided the Alvi Property Owners receive fair compensation for the condemnation. Tr. 85:3-11. Mr. Alvi reiterated he would not oppose the installation of poles Z154-15 and Z154-16 in the interior of their property, conditioned upon the Alvi Property Owners receiving fair compensation for condemnation of their property. Tr. 86:11-25.

E. DLC's Response to Alvi Protest

Duquesne Light argues 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. DCL MB at 43. Duquesne Light contends that compensation for condemning part of the Alvi Property is not a proper or relevant basis for challenging the location of the line in this proceeding. *Id.* at 44. Rather Duquesne Light submits that the Commission must determine whether “the transmission or distribution of electricity to or for the public that will be provided to the public if the [Alvi] property is condemned—is necessary or proper for the service, accommodation, convenience, or safety of the public.” *Id.*

In support of condemning the Alvi Property, Duquesne Light relied upon the testimony of Witness Aimee Kay, a professional wetland scientist with expertise in hydrology and soils, who conducted a survey of the Alvi Property in developing the Siting Study. Tr. 92-94. From her observations, Witness Kay determined that a large flat forested wetland system with numerous streams was located on the Alvi Property in the area south of the location for the proposed installation of poles Z154-15 and Z154-16. Tr. 95:10-21. Witness Kay also noted that at the property line south of the location for the proposed installation of poles Z154-15 and Z154-16 there is a steep drop off from backyards of the residential neighborhood down to the border of the southern edge of the Alvi Property. Tr. 94-95.

Witness Kay explained that Duquesne Light's proposed route of 138 kV transmission line through the Alvi Property will require the cutting and clearing of trees; relocating poles Z154-15 and Z154-16 to the southerly property line of the Alvi Property would

require the cutting and clearing of trees in a heavily forested wetland system. Tr. 98-99. Under state and federal regulations, the cutting and clearing a forested wetland system requires mitigation of the environmental impact by replacing that system in-kind nearby on site, within the same watershed or elsewhere. Tr. 99-100.

Witness Kay asserted that relocating poles Z154-15 and Z154-16 from the interior the Alvi Property as proposed by Duquesne Light to the southerly property line of the Alvi Property as proposed by Mr. Alvi would increase the environmental impacts of the Universal-Plum Project for the segment of the line. Tr. 97:3-9. According to Witness Kay relocating poles Z154-15 and Z154-16 from the interior the Alvi Property as proposed by Duquesne Light to the southerly property line of the Alvi Property as proposed by Mr. Alvi would result in an adverse socioeconomic impact in moving the 138 kV transmission line closer to an existing residential community and locating the transmission line route on steeper terrain. Tr. 101-103.

Considering Witness Kay's testimony, Duquesne Light maintains that the Company 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. DLC MB at 46.

F. Disposition of Alvi Protest

Here, the evidence, as presented through the testimony of Witness Kay, established that Duquesne Light's Proposed Route of the new 138 kV transmission line through Mr. Alvi's property was reasonable. Weighing Mr. Alvi's testimony, I am compelled to conclude that he does not seriously challenge the proposed route of Duquesne Light's new 138 kV transmission line through his property. Specifically, when I questioned Mr. Alvi, he 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.

Tr. 85:3-11.

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.

Tr. 86:14-25.

Mr. Alvi did not contend that Duquesne Light's route selection of the 138 kV transmission line was wanton, capricious or arbitrary. These are the legal standards for denying a utility authority to exercise eminent domain. *See Paxtowne*, cited above. Mr. Alvi is primarily concerned about receiving just compensation for the condemning of his property. The Commission does not have authority to award compensation. Rather Mr. Alvi must seek compensation in the appropriate court of common pleas. Under these circumstances, in the order paragraphs below, I will recommend that Mr. Alvi's protest be dismissed.

G. The Universal-Plum Project Will Have Minimum Adverse Environmental Impacts

The evidentiary record, i.e. the Siting Study, in this proceeding establishes that the route proposed for the Universal-Plum Project will have minimum adverse impacts compared to other reasonable alternatives. *See* DLC Exh. 1, ATT3. Witness Kay credibly explained the methodology used to evaluate potential route alternatives which led to selection of Alternative Route 3. Significantly, no protest was filed to seven of the ten Condemnation Applications. As to the other three, two of the Condemnation Applications were resolved over the course of this proceeding. The only Application that did not achieve resolution was the Alvi Condemnation. However as discussed above, Mr. Alvi would not challenge the Proposed Route, Alternative 3, provided he receives just compensation for his property. Mr. Alvi's position draws the reasonable inference that the adverse environmental impacts to his property will be at a minimum compared to other reasonable alternatives. Therefore, I conclude that the Universal-Plum Project will have minimum adverse environmental impacts, 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).

H. Eminent Domain Applications

Duquesne Light submits that the Company 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. The Company argues that 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. Pub. Util. Comm'n*, 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). Additionally, 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. Pub. Util. Comm'n*, 162 A.2d 18 (Pa. Super. 1960). DLC MB at 54.

Duquesne Light initially filed ten 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. As previously discussed, Duquesne Light filed petitions to withdraw three Condemnation Applications, which were granted. Consequently, Duquesne Light now seeks adequate land rights for an aerial crossing over the remaining seven properties:

- The property of Javaid Alvi, Pervaiz Alvi and Walter Lorence, at Docket No. A-2018-3000732. DLC Exh. 3.
- The property of Sampson Brothers, Inc., at Docket No. A-2018-3000733. DLC Exh. 4.
- The property of Jeffrey G. Woodring and Regina M. Woodring, at Docket No. A-2018-3000743. DLC Exh. 5.
- The property of United States Steel Corporation, at Docket No. A-2018-3000754 DLC Exh. 6.
- The property of Consol Mining Company, LLC, at Docket No. A-2018-3000756. DLC Exh. 8.
- The property of Parkway Associates, Inc., at Docket No. A-2018-3000766. DLC Exh. 9.
- The property of Union Railroad Company, at Docket No. A-2018-3000769. DLC Exh. 11.

Duquesne Light maintains that the Company'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. Duquesne Light asserts that 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.²¹ Duquesne Light emphasizes that no party to this proceeding has contested this issue. Thus, Duquesne Light concludes the 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.²² Duquesne Light asserts that the alternative routes for the Universal-Plum Project were selected after 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.²³ 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 seven Condemnation Applications.

The evidence establishes that the Proposed Route, Alternative 3, is the shortest route and requires the least amount of new ROW.

Alternative 3 crosses the least residential area and impacts the fewest residential structures. Also, Alternative 3 crosses the fewest roads. Additionally, Alternative 3 crosses the least amount of forested land. While Alternative 3 did not have the lowest impacts for institutional

²¹ See Section IV. Subsections C. 1. a. through C. 1. f., above, for a detailed analysis of the Company's evidence establishing the need for the transmission line.

²² *Id.* § C. 1. e.

²³ See Section IV. Subsection C. 3, above, for a detailed analysis of the Company's evidence establishing compliance with the Commission's siting regulations.

area crossed or commercial/industrial areas crossed, its impact was only slightly higher than the lowest scoring alternative. From a land use and land cover perspective, Alternative 3 has the least impact.

DLC Exh. 1, ATTM 3 at 36-37.

The proposed rights-of-way and easements over the properties identified in the Condemnation Applications do not interfere with or require the condemnation of any place of public worship, burying ground, dwelling or its reasonable cartilage as required by statute. *See* 15 Pa.C.S. § 1511(b) and DLC St. 1 at 4 and Exh. 1, ATTM 11.

In addition, Duquesne Light did not act wantonly, capriciously, or arbitrarily in selecting the proposed right-of-way. *Department of Environmental Resources v. Pa. Pub. Util. Comm'n*, 335 A.2d 860 (Pa.Cmwlt. 1975), *aff'd.*, 473 Pa. 378, 374 A.2d 693 (1977); *Dickson v. Pa. 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 overall significantly lesser impacts to the natural and human environment than the other feasible alternative routes, including any alternative alignments over specific properties proposed by Mr. Alvi.

As discussed above, resolution of Mr. Alvi's protest was not achieved during this proceeding. He testified at the evidentiary hearing and argued the transmission line should traverse the southern border of his property. Duquesne Light again emphasizes that 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 any of the 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. DLC MB at 57.

Mr. Alvi argued that the rights-of-way subject to the respective condemnation applications are not the best route over his property and should be altered to avoid or mitigate alleged impacts to his property. However, as previously discussed, Duquesne Light's witness

countered the Mr. Alvi's suggested route would increase the environmental impacts.²⁴ Duquesne Light argues that Mr. Alvi did not demonstrate that Duquesne Light's route Alternative 3 selection is unreasonable, or that the Company acted wantonly, capriciously, or arbitrarily in selecting the proposed right-of-way. This is the standard that a property owner must overcome to warrant a denial of the condemnation application. Duquesne Light essentially argues Mr. Alvi did not overcome this standard.

Duquesne Light explains that the Company 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 offered above. Duquesne Light summarizes that the Company'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.

Here, the evidence demonstrates that Duquesne Light has met the statutory requirements for approving a utility's exercising of eminent domain. *See* DLC Exh. 1, ATTM 3. Duquesne Light's Siting Study demonstrates that the Company has not acted wantonly, capriciously, or arbitrarily in selecting the proposed right-of-way for the subject transmission line in conformity with the mandate set forth *Susquehanna-Roseland*, cited above. Therefore in separate ordering paragraphs below, I will recommend that the Commission approve the acquisition of the rights-of-way and easements for the aerial crossing of the aforementioned properties as necessary and proper for the service, accommodation, convenience, or safety of the public, and grant Duquesne Light's Condemnation Applications associated with the Universal-Plum Project.

²⁴ *See* Section IV. Subsection E, above, for a detailed analysis of the Company's evidence refuting Mr. Alvi's suggestion that the route of the transmission line should be at the southern border of his property.

V. SUMMARY

To warrant Commission approval of Duquesne Light's Application for the Universal-Plum Project, the Company was required to carry its burden of proving the following: (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 analyzed above, Duquesne Light has satisfied its burden.

Reviewing the need for the 138 kV transmission line, the 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 Light's 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.

So too, 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. Notably, there is no contest to these fundamental facts and conclusions regarding need.

The 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 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.

Duquesne Light has also established 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.

Only one landowner, Mr. Alvi, continued to protest the proposed location of the rights-of-way traversing his property. Mr. Alvi did not establish that his proposed alternative route was reasonable. Importantly, Duquesne Light established the Mr. Alvi's suggested alternative route would increase environmental impacts.

Concurrent with filing the Siting Application, Duquesne Light also filed ten Condemnation Applications. Three of the Condemnation Applications were resolved over the course of the proceeding. Significantly, no party argued that the Universal-Plum Project is not needed. 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.

After carefully reviewing and weighing the evidence in this proceeding, I will recommend that the 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 and grant the seven Condemnation Applications.

VI. 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 7 eminent domain applications, has the burden of proof. 66 Pa.C.S. § 332(a).

2. To satisfy the burden of proof, the applicant must establish its case by a preponderance of the evidence, which is substantial and legally credible. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa.Cmwlth. 1990), *alloc. denied*, 529 Pa. 654, 602 A.2d 863 (1992).

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. Pub. Util. Comm'n*, 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 No. A-110500F0196, 1994 Pa. PUC LEXIS 65 (Oct. 21, 1994).

6. Under 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 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. Pub. Util. Comm'n*, 995 A.2d 465, 477-78 (Pa.Cmwlt. 2010).

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. Pub. Util. Comm'n*, 162 A.2d 18, 19-221 (Pa. Super. 1960); *Dunk v. Pa. Pub. Util. Comm'n*, 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 No. A-2014-2430565, 2015 Pa. PUC LEXIS 77, at *49 (Opinion and 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*, Initial Decision, 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, that is, 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. Commonwealth of Pa.*, 161 A.3d 911 (Pa. 2017).

17. In implementing the provisions of the Environmental Rights Amendment, 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 No. A-2016-2565296, at 12-14 (Order entered March 8, 2018).

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 3-14; *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 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. Pub Util. Comm'n*, 25 A.3d 440, 452 (Pa.Cmwlt. 2011).

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 for 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, cited above 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*, cited above at 448-49.

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

29. Duquesne Light 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 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. *Id.*

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 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. Pub Util. Comm’n*, 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. Pub. Util. Comm’n*, 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 certain landowners. *Stone v. Pa. Pub. Util. Comm’n*, 162 A.2d 18 (Pa.Super. 1960).

35. Duquesne Light met its burden of proof to establish 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 seven 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 Javaid Alvi, Pervaiz Alvi and Walter Lorence, at Docket No. A-2018-3000732. DLC Exh. 3.
- The property of Sampson Brothers, Inc., at Docket No. A-2018-3000733. DLC Exh. 4.
- The property of Jeffrey G. Woodring and Regina M. Woodring, at Docket No. A-2018-3000743. DLC Exh. 5.
- The property of United States Steel Corporation, at Docket No. A-2018-3000754. DLC Exh. 6.
- The property of Consol Mining Company, LLC, at Docket No. A-2018-3000756. DLC Exh. 8.
- The property of Parkway Associates, Inc., at Docket No. A-2018-3000766. DLC Exh. 9.
- The property of Union Railroad Company, at Docket No. A-2018-3000769. DLC Exh. 11.

VII. ORDER

THEREFORE,

IT IS RECOMMENDED:

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 **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.

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 **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.

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 **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.

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 **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.

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 **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.

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 **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.

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 **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.

9. The proceedings at Docket Nos. A-2018-3000708, A-2018-3000732, A-2018-3000733, A-2018-3000743, A-2018-3000754, A-2018-3000756, A-2018-3000766, and A-2018-3000769 be marked closed.

Date: June 14, 2019

/s/
Conrad A. Johnson
Administrative Law Judge