
Garrett P. Lent

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File #: 19

July 15, 2022

VIA ELECTRONIC FILING

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

**RE: Application Of PPL Electric Utilities Corporation, Filed Pursuant To 52 Pa. Code Chapter 57 Subchapter G, For Approval To Rebuild The Existing Summit-Lackawanna #1 And #2 230 kV Transmission Lines Connecting The Summit 230-69 kV Substation And The Lackawanna 500-230-69 kV Substation In Lackawanna County, Pennsylvania
Docket No. A-2022-3030969**

**Application Of PPL Electric Utilities Corporation Under 15 Pa.C.S. § 1511(C) For A Finding And Determination That The Service To Be Furnished By The Applicant Through Its Proposed Exercise Of The Power Of Eminent Domain To Acquire A Certain Portion Of The Lands Of August And Diana Baker In Dickson City Borough And Scott Township, Lackawanna County, Pennsylvania For The Proposed Rebuilding Of The Summit-Lackawanna #1 And #2 230 kV Associated With The Proposed Summit-Lackawanna Project Is Necessary Or Proper For The Service, Accommodation, Convenience, Or Safety Of The Public
Docket No. A-2022-3031013**

Dear Secretary Chiavetta:

Attached for filing is a Joint Stipulation of Facts on behalf of PPL Electric Utilities Corporation in the above-referenced proceeding. Copies will be provided per the Certificate of Service.

Rosemary Chiavetta, Secretary
July 15, 2022
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Respectfully,

A handwritten signature in black ink, appearing to read "Garrett P. Lent". The signature is written in a cursive style with a large initial 'G' and a long horizontal stroke at the end.

Garrett P. Lent

GPL/dmc
Attachments

cc: Honorable Mary D. Long (*via email; w/attachment*)
Certificate of Service

CERTIFICATE OF SERVICE

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

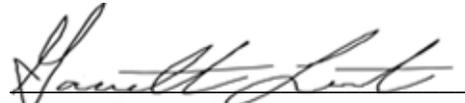
VIA E-MAIL AND FIRST-CLASS MAIL

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Date: July 15, 2022


Garrett P. Lent

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application Of PPL Electric Utilities :
Corporation, Filed Pursuant To 52 Pa. Code :
Chapter 57 Subchapter G, For Approval To : Docket No. A-2022-3030969
Rebuild The Existing Summit-Lackawanna :
#1 And #2 230 kV Transmission Lines :
Connecting The Summit 230-69 kV :
Substation And The Lackawanna 500-230- :
69 kV Substation In Lackawanna County, :
Pennsylvania :

Application of PPL Electric Utilities :
Corporation Under 15 Pa.C.S. § 1511(c) For :
A Finding And Determination That The : Docket No. A-2022-3031013
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 **August** :
and Diana Baker In Dickson City Borough :
and Scott Township, Lackawanna County, :
Pennsylvania For The Proposed Rebuilding :
Of The Summit-Lackawanna #1 And #2 230 :
kV Associated With The Proposed Summit- :
Lackawanna Project Is Necessary Or Proper :
For The Service, Accommodation, :
Convenience, Or Safety Of The Public :

**JOINT STIPULATION OF FACTS OF PPL ELECTRIC UTILITIES CORPORATION
AND AUGUST AND DIANA BAKER**

TO ADMINISTRATIVE LAW JUDGE MARY D. LONG:

AND NOW, PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) and August and Diana Baker (“Protestants”) (together the “Parties”) file this Joint Stipulation of Facts (“Stipulation”) pursuant to the April 29, 2022 Prehearing Order of Administrative Law Judge Mary D. Long (the “ALJ”) and Sections 5.232 and 5.234 of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code §§ 5.232 and 5.234. Through this

Stipulation, the Parties seek to dispose of certain factual disputes, and establish certain agreed-upon facts for the record in this matter upon which a determination may be made by the ALJ.

I. BACKGROUND

1. This proceeding was initiated on February 14, 2022, when PPL Electric filed the above-captioned “Application Of PPL Electric Utilities Corporation, Filed Pursuant To 52 Pa. Code Chapter 57 Subchapter G, For Approval To Rebuild The Existing Summit-Lackawanna #1 And #2 230 kV Transmission Lines Connecting The Summit 230-69 kV Substation And The Lackawanna 500-230-69 kV Substation In Lackawanna County, Pennsylvania” (hereinafter, the “Joint Application and Petition for Waiver”) with the Pennsylvania Public Utility Commission (“Commission”).

2. In the Joint Application and Petition for Waiver, PPL Electric requested Commission approval to rebuild the existing double-circuit Summit-Lackawanna #1 and #2 230 kV Transmission Lines connecting the Summit 230-69 kV Substation (“Summit Substation”) and the Lackawanna 500-230-69 kV Substation (“Lackawanna Substation”) in Lackawanna County, Pennsylvania (the “Summit-Lackawanna Project” or “Project”) and for waiver of certain of the Commission’s regulations governing review and approval of the siting and construction of high voltage electric transmission lines set forth at 52 Pa. Code §§ 57.71 *et seq.*

3. Also on February 14, 2022, PPL Electric filed the interrelated “Application of PPL Electric Utilities Corporation Under 15 Pa.C.S. § 1511(c) For A Finding And Determination That The Service To Be Furnished By The Applicant Through Its Proposed Exercise Of The Power Of Eminent Domain To Acquire A Certain Portion Of The Lands of **August and Diana Baker** In Dickson City Borough and Scott Township, Lackawanna County, Pennsylvania For The Proposed Rebuilding Of The Summit-Lackawanna #1 And #2 230 kV Associated With The Proposed Summit-Lackawanna Project Is Necessary Or Proper For The Service, Accommodation,

Convenience, Or Safety Of The Public” (hereinafter, the “Baker Condemnation Application”) with the Commission.

4. In the Baker Condemnation Application, PPL Electric seeks a finding and determination by the Commission that the service to be furnished through its proposed exercise of the power of eminent domain, to the extent such exercise is required, to acquire a right-of-way (“ROW”) and easement over a certain portion of the lands claimed by August and Diana Baker in Dickson City Borough and Scott Township, Lackawanna County, Pennsylvania for the proposed rebuild of the Summit-Lackawanna #1 and #2 230 kV Transmission Lines associated with the Summit-Lackawanna Project, is necessary or proper for the service, accommodation, convenience, or safety of the public.

5. The Commission issued an Initial Call-In Telephonic Prehearing Conference Notice for the above-captioned dockets on February 23, 2022.

6. On March 1, 2022, the Commission issued a Secretarial Letter acknowledging receipt of the Joint Application and Petition for Waiver and the Baker Condemnation Application. The Secretarial Letter also indicated that notice of these filings would be published in the March 12, 2022 edition of the *Pennsylvania Bulletin*.

7. On March 3, 2022, the ALJ issued a Prehearing Conference Order.

8. Also on March 3, 2022, PPL Electric received service of the Protest of August Baker and Diana Baker (“Baker Protest”), which was filed at the above-captioned dockets.

9. On March 15, 2022, the Pennsylvania Department of Transportation (“PennDOT”) filed a Notice of Appearance.

10. On March 17, 2022, PPL Electric filed a proof of publication and affidavit showing that notice of the Joint Application and Petition for Waiver and the Baker Condemnation Application was published in The Scranton Times-Tribune on March 12, 2022.

11. The Prehearing Conference was held as scheduled on April 26, 2022.
12. On April 29, 2022, PennDOT filed a Withdrawal of Appearance.
13. On June 15, 2022, PPL Electric served its written direct testimony associated with the Joint Application and Petition for Waiver. PPL Electric had previously served its written direct testimony associated with the Baker Condemnation Application.
14. Also on June 15, 2022, the Protestants served their written direct testimony.
15. Based upon the facts and issues raised by the Parties in their pleadings and preserved written direct testimony, the Parties hereby stipulate that the following facts and issues are not in dispute.

II. STIPULATION OF FACTS

16. PPL Electric is a public utility that provides electric distribution, transmission, and provider of last resort services in Pennsylvania subject to the regulatory jurisdiction of the Commission.

17. PPL Electric is a Pennsylvania business corporation formed in 1920. PPL Electric is subject to the Pennsylvania Business Corporation Law of 1988, P.L. 1444, No. 177, Section 103, *as amended*, 15 Pa. C.S. §§ 1101 *et seq.* (“BCL”).

18. PPL Electric is also a Pennsylvania public utility and has the power of eminent domain pursuant to the Pennsylvania BCL.

19. PPL Electric proposes to rebuild the existing Summit-Lackawanna #1 and #2 230 kV Transmission Lines associated with the Summit-Lackawanna Project. The Summit-Lackawanna involves, among other things, the rebuilding approximately 5.5 miles of overhead 230 kV transmission lines that connect the Summit Substation and the Lackawanna Substation in Lackawanna County, Pennsylvania.

20. The rebuilding of the 230 kV transmission lines as a part of the Project is needed to address significant asset health conditions and reliability concerns related to the deteriorated condition of the COR-TEN® lattice towers on the existing Summit-Lackawanna #1 and #2 230 kV Transmission Lines. (Joint Application and Petition for Waiver, Attachment 1 at 4-12; PPL Electric St. 1 at 5-12.)

21. The proposed rebuild addresses the safety issues resulting from the presence of pack-out rust (e.g., structures failing due to deteriorated joints at the arms or legs). (Joint Application and Petition for Waiver, Attachment 1 at 11; PPL Electric St. 1 at 10.)

22. Possible shearing of bolts, members disconnecting from lattice towers, or complete tower failure pose a major safety risk to both the public and PPL Electric employees. (Joint Application and Petition for Waiver, Attachment 1 at 11; PPL Electric St. 1 at 10.)

23. The Protestants do not dispute that there is a need for the Summit-Lackawanna Project.

24. The Parties stipulate and agree that there is a need for the Summit-Lackawanna Project, as described in the Joint Application and Waiver and the associated attachments and testimony. 52 Pa. Code § 57.76(a)(1).

25. PPL Electric will design, construct, operate, and maintain the proposed lines in a manner that meets or surpasses all applicable National Electrical Safety Code (“NESC”) minimum standards and all applicable legal requirements. (Joint Application and Petition for Waiver, Attachment 4.)

26. As explained in Attachment 4 to the Joint Application and Petition for Waiver, the Company will follow PPL Electric’s standards for Magnetic Field Management in connection with the Project. (Joint Application and Petition for Waiver, Attachment 4.)

27. The Protestants do not assert that the Summit-Lackawanna Project will create an unreasonable risk of danger to the health and safety of the public.

28. PPL Electric provided a detailed description of the Project Area and the route of each individual component of the Project. (Joint Application and Petition for Waiver, Attachment 1 at 4-12; PPL Electric St. 2 at 4-13.)

29. The rebuild is merely replaced aged infrastructure that has been in place since the 1970s. (PPL Electric St. 2 at 6.)

30. PPL Electric will continue to consult with the jurisdictional agencies regarding potential impacts to protected species, complete all required surveys, obtain all necessary approvals and permits for Project construction, and comply with conditions placed on those permits. (PPL Electric St. 2 at 6; *see also* Joint Application and Petition for Waiver, Attachment 5.)

31. The Protestants do not assert that the Summit-Lackawanna Project is in violation of applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth.

32. The Protestants do not assert that the Summit-Lackawanna Project will have adverse environmental impacts.

33. A portion of the existing right-of-way (“ROW”) that is occupied by the existing Summit-Lackawanna #1 and #2 230 kV Transmission Lines, and is proposed to be continued to be occupied by the rebuilt facilities associated with the Project traverses a portion of the vacant land claimed by August and Diana Baker through multiple quit-claim deeds, situate in Dickson City Borough and Scott Township, Lackawanna County, Pennsylvania.

34. This tract of land is located at parcel number 102030010005, Lackawanna County, Pennsylvania.

35. Quit-claim deeds for the property are recorded at Lackawanna County, Pennsylvania as Instrument Number 201000311 and Instrument Number 201326062. *See* PPL Electric Exhibit AKW-2 (Baker).

36. PPL Electric and the Protestants are parties to active and ongoing litigation before the Court of Common Pleas of Lackawanna County, *August Baker and Diana Baker v. PPL Electric Utilities Corp, and T&D Power, Inc.*, No.: 15-CV4264.

37. A mediation in *August Baker and Diana Baker v. PPL Electric Utilities Corp, and T&D Power, Inc.*, No.: 15-CV4264, is scheduled to occur on August 1, 2022.

38. Failing successful resolution, trial is scheduled to occur for August 25, 2022 through August 29, 2022.

39. The matter before the Court of Common Pleas of Lackawanna County will involve, *inter alia*, a determination of the validity and scope of PPL Electric's right-of-way obtained in 1969 traversing the land claimed by the Protestants at parcel number 102030010005, Lackawanna County, Pennsylvania, and possible damages associated therewith.

40. The Commission lacks jurisdiction to determine the validity and scope of an easement or the claims raised by Mr. & Mrs. Baker in the ongoing litigation. *Barbara Gallagher v. PECO Energy Company*, Docket No. C-2010-2201568, 2011 Pa. PUC LEXIS 46, at * 34 (Opinion and Order entered Sept. 22, 2011) ("We agree that we cannot adjudicate the scope or validity of an easement."); *Shedlosky v. Pennsylvania Electric Co.*, Docket No. C-20066937 (Order entered May 28, 2008); *see also Anne E. Perrige v. Metropolitan Edison Co.*, Docket No. C-00004110 (Order entered July 11, 2003) (Commission had no jurisdiction to interpret the meaning of a written right-of-way agreement); *Samuel Messina v. Bell Atlantic-Pennsylvania, Inc.*, Docket No. C-00968225 (Order entered Sept. 23, 1998) ("The Commission has clearly stated in prior decisions that it is without subject matter jurisdiction to adjudicate questions involving

trespass and whether or not utility facilities are located pursuant to valid easements or rights-of-way.” (citation omitted)).

41. The Court of Common Pleas of Lackawanna County has jurisdiction over the Parties’ right-of-way dispute and associated claims at parcel number 102030010005, Lackawanna County, Pennsylvania.

42. Neither PPL Electric nor the Protestants are seeking a finding or determination by the Commission regarding the scope and validity of the easement or the disposition of the associated claims currently pending before the Court of Common Pleas of Lackawanna County.

43. The Parties stipulate and agree that PPL Electric filed the Baker Condemnation Application to ensure it can timely proceed with construction of the Project, to the extent that the Court of Common Pleas of Lackawanna County determines PPL Electric’s rights are not superior to the Protestants’ claims and the Parties cannot resolve their dispute.

44. The Parties stipulate and agree that the electric service to continue to be furnished by PPL Electric through the exercise of the power of eminent domain associated with the Summit-Lackawanna Project, to the extent such exercise is required, is necessary or proper for the service, accommodation, convenience, or safety of the public. 15 Pa.C.S. § 1511(c).

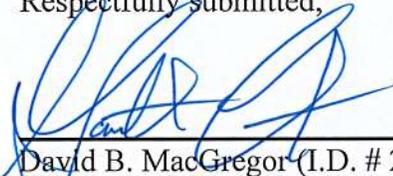
45. The Parties stipulate and agree that the ALJ and the Commission should approve the Joint Application and Petition for Waiver, and the Baker Condemnation Application, consistent with this Stipulation.

46. The Parties further stipulate and agree that the terms of this Joint Stipulation of Facts shall be limited to the Joint Application and Petition for Waiver and the Baker Condemnation Application, and proceedings consistent therewith, and shall not be binding on the Parties in the pending action styled *August Baker and Diana Baker v. PPL Electric Utilities Corp, and T&D Power, Inc.*, No.: 15-CV4264.

III. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation and August and Diana Baker agree that this Joint Stipulation of facts resolves all factual disputes before the Pennsylvania Public Utility Commission associated with the Protest of August and Diana Baker, and agree that these facts be entered into the record of this proceeding.

Respectfully submitted,



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Date: July 15, 2022

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Date: July 15, 2022

Attorneys for August and Diana Baker

III. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation and August and Diana Baker agree that this Joint Stipulation of facts resolves all factual disputes before the Pennsylvania Public Utility Commission associated with the Protest of August and Diana Baker, and agree that these facts be entered into the record of this proceeding.

Respectfully submitted,

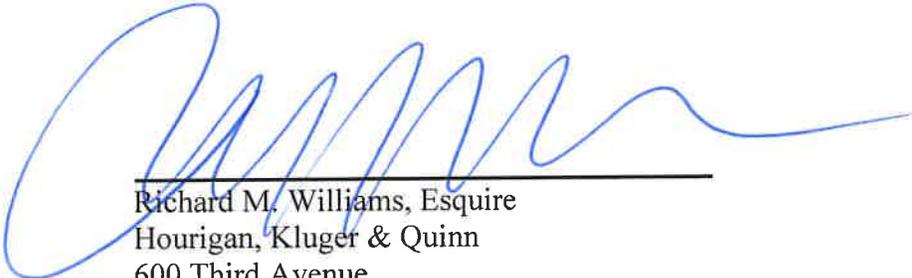
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Date: July 15, 2022

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