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File #: 190531

August 19, 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 on behalf of PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) is the Main Brief and associated Appendices A through C. Copies will be provided as indicated on the Certificate of Service.

In addition, pursuant to the Interim Order issued on July 26, 2022, PPL Electric is transmitting, via First Class Mail, one hard copy of its Main Brief to:

Rosemary Chiavetta, Secretary  
August 19, 2022  
Page 2

The Honorable Mary D. Long  
Pennsylvania Public Utility Commission  
Office of Administrative Law Judge  
Piatt Place, Suite 220  
301 Fifth Avenue  
Pittsburgh, PA 15222

Please direct any questions regarding this submission to the undersigned.

Copies have been provided per the Certificate of Service.

Respectfully,

A handwritten signature in black ink, appearing to read "Garrett P. Lent". The signature is fluid and cursive, with a large initial 'G' and 'L'.

Garrett P. Lent

GPL/dmc  
Attachments

cc: The Honorable Mary D. Long (*via email and First- Class Mail*)  
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).

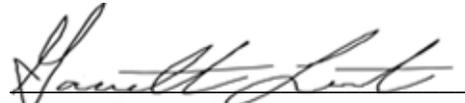
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Date: August 19, 2022

  
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 :

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**MAIN BRIEF OF  
PPL ELECTRIC UTILITIES CORPORATION**

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## I. INTRODUCTION

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) submits this Main Brief in support of its request for the Pennsylvania Public Utility Commission’s (“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”).<sup>1</sup> Specifically, PPL Electric seeks (a) approval to rebuild approximately 5.5 miles of the existing, overhead double-circuit Summit-Lackawanna #1 and #2 230 kilovolt (“kV”) Transmission Lines, which exclusively contemplates rebuilding existing transmission facilities inside of an existing transmission line right-of-way (“ROW”),<sup>2</sup> (b) waivers of certain of the Commission’s regulations,<sup>3</sup> (c) findings that the exercise of the power of eminent domain, to the extent such exercise is required to acquire a right-of-way and easement one tract of land, is necessary or proper for the service, accommodation, convenience or safety of the public,<sup>4</sup> and (d) such other approvals and/or waivers as are necessary or appropriate under all of the circumstances.

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<sup>1</sup> PPL Electric filed the “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” (the “Joint Application and Petition for Waiver”).

<sup>2</sup> As explained below, PPL Electric has all necessary ROW to proceed with the rebuilding of this existing transmission line within the existing right of way. However, due to an ongoing dispute with one landowner, PPL Electric filed one Application pursuant to 15 Pa.C.S. § 1511(c) to ensure that, to the extent a Court of Common Pleas determines PPL Electric’s existing easement is invalid or insufficient and negotiations with the landowner should fail, PPL Electric has ROW necessary to maintain its existing transmission line facilities.

<sup>3</sup> See Section V.B. *infra*. As explained below and in the Joint Application and Petition for Waiver, the Summit-Lackawanna Project involves rebuilding an existing line in place and does not require the acquisition of any new ROW or the siting and construction of transmission line facilities where such facilities do not currently exist. Thus, it is to be expected that some of the information required by the Commission’s comprehensive siting regulations, in particular information pertaining to route selection, environmental analysis, will be inapplicable to the Project.

<sup>4</sup> See footnote 2 *supra*; see also Section V.H. *infra*.

Through these filings, PPL Electric seeks approval to rebuild the existing double-circuit Summit-Lackawanna #1 and #2 230 kV Transmission Lines located in Blakely Borough, City of Scranton, Dickson City Borough, Newton Township, Ransom Township, Scott Township, and South Abington Township, all in Lackawanna County. This Project is required to address asset health conditions and reliability concerns related to the deteriorated condition of the COR-TEN® lattice towers on the Summit-Lackawanna #1 and #2 230 kV Transmission Lines. The prevalence of “pack-out rust”<sup>5</sup> in many of the joints of the subject lattice towers diminishes structural integrity and increases the risk of system failures that could negatively impact public safety and affect approximately 31,875 PPL Electric customers. The Project will immediately and fully resolve the deteriorated condition of the existing structures on a long-term basis by removing the existing COR-TEN® lattice towers and replacing them with steel monopoles. The Project will also resolve reliability contingencies that would occur should the subject transmission lines fail.

In addition, the Joint Application and Petition for Waiver sought waivers of certain of the Commission’s regulations applicable to the siting and construction of overhead high-voltage transmission lines under 52 Pa. Code. §§ 5.43 and 57.72(e). But for dispute regarding PPL Electric’s easement traversing one property, which is pending before the Court of Common Pleas of Lackawanna County, it is clear that PPL Electric’s proposed Summit-Lackawanna Project would qualify for filing as a letter of notification pursuant to 52 Pa. Code § 57.72(d)(1)(i) and (v), because the proposed rebuild of the existing Summit-Lackawanna #1 and #2 230 kV Transmission Lines is located entirely within an existing transmission line ROW and will not substantially alter this ROW. Therefore, and as explained in the Joint Application and Petition for Waiver, certain

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<sup>5</sup> “Pack-out rust” or “pack rust” is a form of localized corrosion typical of steel components that develop a crevice into an open atmospheric environment, which results in rust packing between conjoined steel components. PPL Electric St. 1, at p. 6, n.1. Pack-out rust accelerates the deterioration of asset health and can result in shearing off bolts, loss of structural integrity, members disconnecting from lattice towers, and tower failure. *Id.*

of the information required by the Commission’s comprehensive siting regulations is inapplicable to the Project.

PPL Electric also submitted the Baker Condemnation Application.<sup>6</sup> Therein, PPL Electric sought a finding and determination that the service to continue to be furnished through its proposed exercise of the power of eminent domain—to the extent such exercise is required to acquire a ROW and easement over a certain portion of the lands of August and Diana Baker (the “Bakers”) in Dickson City Borough and Scott Township, Lackawanna County, Pennsylvania for the proposed Summit-Lackawanna Project—is necessary or proper for the service, accommodation, convenience, or safety of the public. 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 Bakers’ claims, and PPL Electric and the Bakers (together, the “Parties”) cannot resolve their dispute pending before that court.

Importantly, both the Joint Application and Petition for Waiver, and the Baker Condemnation Application are essentially uncontested.<sup>7</sup> The Parties to this proceeding submitted the Joint Stipulation of Facts of PPL Electric Utilities Corporation and August and Diana Baker (the “Joint Stipulation”) on July 15, 2022. Through this filed, the Parties stipulated that the required findings of fact and conclusions required by the ALJ and the Commission to (1) approve

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<sup>6</sup> “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,” at Docket No. A-2022-3031013.

<sup>7</sup> See Joint Stipulation ¶ 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.”).

the Summit-Lackawanna Project without modification under 52 Pa. Code § 57.76(a), and (2) approve the Baker Condemnation Application under 15 Pa.C.S. § 1511, are not in dispute.

Accordingly, PPL Electric requests that Administrative Law Judge Mary D. Long (the “ALJ”) and the Commission (a) find that the Summit-Lackawanna Project, as set forth in the Joint Application and Petition Waiver and associated testimony and exhibits, satisfies the requirements of the applicable statutes and regulations, (b) approve the Joint Application and Petition Waiver, and (c) approve the Baker Condemnation Application.

## **II. BACKGROUND AND HISTORY OF THE PROCEEDING**

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. PPL Electric furnishes electric service to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of twenty-nine counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania. PPL Electric 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. PPL Electric is also a “public utility” as defined by the Federal Power Act, 16 U.S.C. § 824(e), a transmission owner, and a member of PJM Interconnection, L.L.C. (“PJM”).

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

On February 14, 2022, PPL Electric filed and served the above-captioned Joint Application and Petition for Waiver at Docket No. A-2022-3030969. Also on February 14, 2022, PPL Electric

filed and served the above-captioned Baker Condemnation Application at Docket No. A-2022-3031013.

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

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*.

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

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.

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

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.

The Prehearing Conference was held as scheduled on April 26, 2022.

On April 29, 2022, PennDOT filed a Withdrawal of Appearance.

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.

Also on June 15, 2022, the Bakers served their written direct testimony.

On July 15, 2022, the Parties filed the Joint Stipulation. Therein, the Parties stipulated that certain facts and issues are not in dispute in this proceeding.

Also on July 15, 2022, PPL Electric served its rebuttal testimony.

On July 18, 2022, the ALJ sent an e-mail to the Parties. Therein, the ALJ acknowledged receipt of the Joint Stipulation, and asked the Parties whether the in-person evidentiary hearings scheduled to begin on August 18, 2022, were necessary. Counsel for PPL Electric and counsel for the Bakers both agreed that an evidentiary hearing was not needed; counsel also jointly proposed that the parties prepare and submit a joint motion for the admission of all pre-served testimony and exhibits via stipulation and verification. The ALJ accepted this proposal, and also indicated that the Parties could propose to modify the briefing schedule as a part of the contemplated motion.

Also on July 18, 2022, a Hearing Cancellation Notice was issued.

The Parties submitted the Joint Motions For The Admission Of Evidence And To Amend The Briefing Schedule on July 22, 2022.

On July 26, 2022, the ALJ issued an Interim Order Admitting Evidence And Amending Briefing Schedule. Therein, the ALJ amended the deadline for Main Briefs and Reply Briefs to August 19, 2022, and September 1, 2022, respectively.

In accordance with the directives set forth in the Interim Order Admitting Evidence And Amending Briefing Schedule, the Parties also filed electronic copies of their pre-served testimony and exhibits to the Commission on July 29, 2022.

PPL Electric hereby files this Main Brief in accordance with the Interim Order Admitting Evidence And Amending Briefing Schedule, and the Commission's regulations.

### **III. LEGAL STANDARDS**

#### **A. BURDEN OF PROOF**

PPL Electric is seeking Commission approval of the rebuild of an existing overhead high voltage transmission line. Section 332(a) of the Public Utility Code (“Code”)<sup>8</sup> provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. It is axiomatic that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.”<sup>9</sup> The preponderance of evidence standard requires proof by a greater weight of the evidence.<sup>10</sup> This standard is satisfied by presenting evidence more convincing, by even the smallest amount, than that presented by another party.<sup>11</sup>

Additionally, any finding of fact necessary to support an adjudication of the Commission must be based upon substantial evidence.<sup>12</sup> Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.<sup>13</sup> Although substantial evidence must be “more than a scintilla and must do more than create a suspicion of the existence of the fact to be established,”<sup>14</sup> the “presence of conflicting evidence in the record does not mean that substantial evidence is lacking.”<sup>15</sup>

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<sup>8</sup> 66 Pa.C.S. § 332(a).

<sup>9</sup> *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

<sup>10</sup> *Commonwealth of Pennsylvania v. Williams*, 732 A.2d 1167 (Pa. 1999).

<sup>11</sup> *Brown v. Commonwealth of Pennsylvania*, 940 A.2d 610, 614 n.14 (Pa. Cmwlth. 2008).

<sup>12</sup> *Met-Ed Indus. Users Group v. Pa. PUC*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704).

<sup>13</sup> *Borough of E. McKeesport v. Special/Temporary Civil Service Commission*, 942 A.2d 274, 281 (Pa. Cmwlth. 2008).

<sup>14</sup> *Kyu Son Yi v. State Board of Veterinarian Medicine*, 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted).

<sup>15</sup> *Allied Mechanical and Elec., Inc. v. Pennsylvania Prevailing Wage Appeals Board*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

If the applicant sets forth a *prima facie* case, then the burden shifts to the opponent.<sup>16</sup> Establishing a *prima facie* case requires either evidence sufficient to make a finding of fact permissible or evidence to create a presumption against an opponent which, if not met, results in an obligatory decision for the proponent. Once a *prima facie* case on a point has been established, if contrary evidence is not presented, there is no requirement that the applicant produce additional evidence in order to sustain its burden of proof.<sup>17</sup>

## **B. LEGAL STANDARD FOR WAIVER**

Section 5.43 of the Commission's regulations allows a party to petition for waiver of the Commission's regulations.<sup>18</sup> Pursuant to Section 57.72(e) of the Commission's regulations, one or more of the Commission's siting requirements may be waived.<sup>19</sup> Section 57.72(e) provides as follows:

The Commission or the presiding officer may -- upon the petition of any party, upon the Commission's own motion, or upon the presiding officer's own motion -- waive one or more or all of the requirements in this subchapter. The petition shall clearly state the requirement sought to be waived and the reasons therefor.<sup>20</sup>

Additionally, Section 35.8 of the General Rules of Administrative Practice and Procedure allows a concerned party to petition an agency for waiver of a regulation.<sup>21</sup>

The Commission has granted requests for waivers of its siting regulations in similar circumstances where the project being proposed would be located within the existing ROW.<sup>22</sup> The

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<sup>16</sup> *McDonald v. Pennsylvania Railroad Co.*, 36 A.2d 492 (Pa. 1940).

<sup>17</sup> *District of Columbia's Appeal*, 21 A.2d 883 (Pa. 1941). See, e.g., *Application of Pennsylvania Power & Light Co.*, Docket Nos. A-110500F0196, et al., 1994 Pa. PUC LEXIS 65 (Oct. 21 1994) (holding that the company met its burden to prove that there was an immediate need for the reinforcement of the power supply where the need for the project was uncontested and no party presented any evidence challenging the need for the project).

<sup>18</sup> 52 Pa. Code § 5.43.

<sup>19</sup> 52 Pa. Code § 57.72(e).

<sup>20</sup> *Id.*

<sup>21</sup> 1 Pa. Code § 35.18.

<sup>22</sup> *Application of PPL Electric Utilities Corporation, for Approval to Rebuild Approximately Six Miles of the Breinigsville-Alburtis 500 kV Transmission Line in Lower Macungie and Upper Macungie Townships, Lehigh County, Pennsylvania; Petition for Waiver of Certain Provisions of the Commission's Regulations for Commission Review of*

Commission has also waived the provisions of 52 Pa. Code § 57.75 (requiring hearing and notice) for an application that was simply a rebuild of an existing line.<sup>23</sup>

### C. STANDARDS FOR APPROVAL OF A SITING APPLICATION

Pursuant to Section 1501 of the Public Utility Code, an electric utility has a statutory obligation to provide safe, adequate, and reliable service to its customers.<sup>24</sup> The Commission's regulations provide that an electric utility may not site or construct HV transmission lines, *i.e.*, electrical lines with a voltage of 100 kV or higher, without prior Commission approval.<sup>25</sup> As explained by the Commonwealth Court, the Commission's transmission line siting regulations set forth the following:

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*Siting and Construction of Electric Transmission Lines set forth at 52 Pa. Code § 57.71 et seq.*, Docket No. A-2019-3007945, at pp. 3-9 (Order entered Aug. 14, 2019) (“*Breinigsville-Alburtis Order*”) (granting PPL Electric's requested waivers of 52 Pa. Code § 57.72(c) (4), (7), (8), (10), and (11) and 69.3102 through 69.3106 because, *inter alia*, the proposed project involved the rebuilding of an existing transmission line entirely within existing ROW); *see also Re Pennsylvania Power and Light Company*, Docket No. E-81768002, 1981 Pa. PUC LEXIS 39 (Order dated Aug. 21, 1981) (granting waiver of the Commission's siting regulations for construction of transmission line that would be located within existing ROW and on property of customer to be served where there would be minimal environmental impact and no substantial risk to public health or safety); *Re Metropolitan Edison Company*, Docket No. P-80070232, 1981 Pa. PUC LEXIS 56 (Order dated June 19, 1981) (granting waiver of the Commission's siting regulations for construction of a second transmission line that would be located within an existing ROW where transmission line was already present and construction of the new line would not substantially alter the ROW); *Petition of Philadelphia Electric Company for waiver of siting application requirements under 52 Pa. Code § 57.71 for the proposed Middletown-Morton 230 kV line*, Docket No. P-880293, 1988 Pa. PUC LEXIS 383 (Order dated April 20, 1988) (granting waiver of the siting regulations where use of established railroad ROW eliminated the need to acquire and clear new ROW and, thus, eliminated potential adverse environmental impacts and significantly reduced costs); *Letter of Notification of Pennsylvania Electric Company pursuant to 52 Pa. Code § 57.72(d) to install the East-Towanda Mansfield 115 kV Transmission Line Tap to the Tennessee Gas Pipeline Substation located in Troy Township, Bradford County, Pennsylvania*, Docket No. A-110400F0045 (Order dated Feb. 6, 2006) (granting request for waiver of Commission's siting regulations because the proposed project was 2.6 miles long and was located along the ROW of an existing line and across the property of the sole customer to be served by the line); *cf. Petition for Waiver of Certain Provisions of the Pennsylvania Public Utility Commission's Regulations for Commission Review of Siting and Construction of Electric Transmission Lines Set Forth at 52 Pa. code § 57.71 et seq.*, Docket No. P-2012-228393, 2012 Pa. PUC LEXIS 566 (Order entered April 12, 2012) (denying request for waiver of the Commission's siting regulations where proposed transmission line would parallel existing ROW but would require an additional 100 feet of width thereby altering the existing ROW).

<sup>23</sup> *Petition of West Penn for Waiver in connection with its Moshannon-Milesburg 230 kV transmission line*, Docket No. A-00103909 (Order dated April 30, 1982); *Re Pennsylvania Electric Company*, Docket No. A-00104088, 1982 Pa. PUC LEXIS 90 (Order dated June 10, 1982) (waiving hearing requirement for proposed line that would be located within the existing ROW and would not substantially alter the ROW thereby limiting impact of line on the environment).

<sup>24</sup> 66 Pa.C.S. § 1501.

<sup>25</sup> 52 Pa. Code § 57.71.

(1) the procedures for applying for approval of an HV line -- 52 Pa. Code § 57.72; (2) the procedures for hearings on HV line applications -- 52 Pa. Code § 57.75; and (3) what the [Commission] will consider when deciding whether to approve or deny an HV line application -- 52 Pa. Code § 57.76(a). These regulations, and 52 Pa. Code § 57.76 in particular, represent a codification of the review required by article I, section 27 of the Pennsylvania Constitution. *Re Proposed Electric Regulation*, 1976 Pa. PUC LEXIS 114, 49 Pa. P.U.C. 709, 712 (March 2, 1976) (stating that the “review required by article I, section 27 is being incorporated into our siting regulations”).<sup>26</sup>

In order to grant an application for the construction and siting of a HV transmission line, the Commission must generally 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.<sup>27</sup>

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.<sup>28</sup> Moreover, the General Assembly has recognized the importance of ensuring the reliability of electric transmission systems, and the provision of sufficient electrical power at affordable rates. Section 2802(12) of the Code states that “[r]eliable electric service is of the utmost importance to the health, safety and welfare of the citizens of the Commonwealth. Electric industry restructuring

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<sup>26</sup> *Energy Conservation Council of Pennsylvania v. Pa. PUC*, 995 A.2d 465, 477-78 (Pa. Cmwlth. 2010) (hereinafter “*Trailco*”).

<sup>27</sup> 52 Pa. Code § 57.76(a).

<sup>28</sup> *Stone v. Pa. PUC*, 162 A.2d 18, 19-221 (Pa. Super. 1960); *Dunk v. Pa. PUC*, 232 A.2d 231, 234-35 (Pa. Super. 1967).

should ensure the reliability of the interconnected electric system by maintaining the efficiency of the transmission . . . system.”<sup>29</sup> Section 2802(20) of the Code provides, *inter alia*, that ensuring the reliability of electric service depends on conscientious maintenance of transmission systems, and that electric system operators shall establish inspection, maintenance, repair and replacement standards.<sup>30</sup> Finally, Section 2803 of the Code defines “reliability” as:

Includes adequacy and security. As used in this definition, “adequacy” means the provision of sufficient generation, transmission and distribution capacity so as to supply the aggregate electric power and energy requirements of consumers, taking into account scheduled and unscheduled outages of system facilities; and “security” means designing, maintaining and operating a system so that it can handle emergencies safely while continuing to operate.<sup>31</sup>

The Commonwealth Court of Pennsylvania has explained, however, that nowhere in any of the foregoing statutory or regulatory provisions is there a requirement that a public utility demonstrate a “need” for the installation of the transmission line from an “engineering” perspective.<sup>32</sup>

Indeed, an electric utility can demonstrate that the transmission line project is needed under 52 Pa. Code § 57.76(a)(1) where the project resolves violations of the utility’s internally developed planning and reliability criteria.<sup>33</sup>

With respect to health and safety under 52 Pa. Code § 57.76(a)(2), the Commission has held in numerous cases that transmission lines that meet or exceed the National Electric Safety

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<sup>29</sup> 66 Pa.C.S. § 2802(12).

<sup>30</sup> 66 Pa.C.S. § 2802(20).

<sup>31</sup> 66 Pa.C.S. § 2803.

<sup>32</sup> *Pennsylvania Power & Light Co. v. Pa. PUC*, 696 A.2d 248, 250 (Pa. Cmwlth. 1997).

<sup>33</sup> *See Hess v. Pa. PUC*, 107 A.3d 246, 262-263 (Pa. Cmwlth. 2014), *appeal denied*, 632 Pa. 678, 117 A.3d 1282 (Pa. 2015); *Application of PPL Electric Utilities Corporation filed Pursuant to 52 Pa. Code Chapter 47, Subchapter G, for Approval of the Siting and Construction of the North Lancaster Honey Brook # 1 & # 2 138/69 kV Transmission Lines in Lancaster County, Pennsylvania*, Docket Nos. A-2014-2430565 et al., 2015 Pa. PUC LEXIS 77, at \*49 (Order dated Feb. 27, 2015) (“*PPL North Lancaster-Honey Brook*”) (holding that a project which alleviates violations of an electric utility’s own planning criteria provides sufficient evidence to support a finding of need).

Code (“NESC”) requirements do not create an unreasonable risk of danger to the health and safety of the public.<sup>34</sup>

With respect to natural resources and the environment under 52 Pa. Code § 57.76(a)(3), recent Pennsylvania Supreme Court case law has concluded that Article I, Section 27 of the Pennsylvania Constitution, *i.e.*, the Environmental Rights Amendment,<sup>35</sup> 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.<sup>36</sup> In carrying out these obligations, the Commonwealth, and its agencies, may subject the individual rights of citizens to clean air, pure water, and to the preservation of natural, scenic, historic, and esthetic values to reasonable regulation.<sup>37</sup>

The Commission has determined that its existing rules and policy satisfy its obligations under the Environmental Rights Amendment as described in *PEDF*.<sup>38</sup> The Commission further explained in *Penelec* that:

The Commission’s regulatory scheme for high-voltage line transmission siting cases, therefore, provides for a robust, evidence-based deliberative process that provides due process for all interested parties. The Commission, consistent with our role as a fiduciary responsible for the preservation of the Commonwealth’s natural resources, and consistent with *PEDF*, acts with prudence,

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<sup>34</sup> See *Application of PPL Electric Utilities Corporation Filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the Pennsylvania Portion of The Proposed Susquehanna-Roseland 500 kV Transmission Line*, Docket Nos. A-2009-2082652, *et al.*, 2010 Pa. PUC LEXIS 434, at \*166 (Order entered Feb. 12, 2010); *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 (Order dated July 20, 1984); *Application of PP&L for Authorization to Locate and Construct its Hamlin 138 kV Electric Transmission Line*, Docket No. A-00101826 (Order dated April 3, 1981); *Larken v. Philadelphia Electric Co.*, 39 Pa. PUC 777 (1961).

<sup>35</sup> PA. CONST. art. I, § 27.

<sup>36</sup> *Pa. Environmental Defense Foundation v. Com. Of Pa.*, 161 A.3d 911 (Pa. 2017) (“*PEDF*”).

<sup>37</sup> *PEDF*, 161 A.3d at 931; see also *Application of Pennsylvania Electric Company Seeking Approval to Locate Construct, Operate and Maintain a High-Voltage Transmission Line Referred to as the Bedford North-Central City West 115 kV HV Transmission Line Project*, Docket Nos. A-2016-2565296 *et al.*, at pp. 12-14 (Order entered March 8, 2018) (“*Penelec*”).

<sup>38</sup> *Penelec*, at pp. 13-14 (“Our siting Regulations are in accord with the Environmental Rights Amendment by requiring that the environmental impact of the proposed transmission siting route be minimized.”); see also 52 Pa. Code §§ 69.3105, 69.3106.

loyalty and impartiality when adhering to these regulations. In this manner, we fulfill our responsibility to protect the public's natural resources from depletion or degradation, while also allowing legitimate development that improves the lot of Pennsylvania's citizenry, as the Pennsylvania Supreme Court recognized in *Robinson Township v. Com. of Pa.*, 623 Pa. 564, 658, 83 A.3d 901, 958 (2013).<sup>39</sup>

Generally, the Commission has found compliance with the applicable environmental statutes and regulations where the applicant agrees to obtain any and all necessary environmental permits prior to construction and to comply with any conditions on those permits during construction.<sup>40</sup> Importantly, however, the applicant is not required to receive all necessary permits before the Commission may approve the transmission line, or before construction of the proposed line begins.<sup>41</sup> In addition, the Commission has concluded an applicant can satisfy 52 Pa. Code § 57.76(a)(3) by seeking a waiver of certain of its siting regulations, and demonstrating that a rebuilt transmission line will be located entirely within existing ROW and "state and federal agencies have confirmed that they either have no concerns regarding impacts on endangered or threatened species, or that they will work with [the applicant] to ensure that the construction does not negatively impact such species."<sup>42</sup>

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<sup>39</sup> *Penelec*, p. 14.

<sup>40</sup> 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 Feb. 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 (Opinion and Order entered Feb. 12, 2010).

<sup>41</sup> *Energy Conservation Council of Pennsylvania v. Pa. PUC*, 25 A.3d 440, 452 (Pa. Cmwlth. 2011) (hereinafter "*Susquehanna-Roseland*").

<sup>42</sup> *Breinigsville-Alburtis Order*, at p. 19.

With respect to the selection of a proposed route for a high-voltage transmission line under 52 Pa. Code § 57.76(a)(4), the Commonwealth Court of Pennsylvania has held that a utility’s route for a proposed HV transmission line should be approved where the record evidence shows that the utility’s route-selection process was reasonable, and that the utility properly considered the factors relevant to siting a transmission line.<sup>43</sup> However, the Commission has also concluded that where a transmission “will be constructed entirely on existing ROW and...the line is being rebuilt, consideration of an alternative route is unnecessary.”<sup>44</sup>

#### **D. STANDARDS FOR APPROVAL OF THE EMINENT DOMAIN APPLICATION**

Section 1511 of the Business Corporation Law of 1988 statutorily grants a public utility, such as PPL Electric, the power or authority to take and condemn property for the purpose of providing electricity to the public.<sup>45</sup> However, before a public utility may seek to exercise the authority to condemn property for an aerial transmission line, it must obtain approval from the Commission pursuant to Section 1511(c), which provides, in pertinent part, as follows:

(c) The powers conferred by subsection (a) [for the running of aerial electric facilities] may be exercised to condemn property ... only after the Pennsylvania Utility Public Commission, upon application of the public utility corporation, has found and determined ... that the service to be furnished by the corporation through the exercise of those powers is necessary or proper for the service, accommodation, convenience or safety of the public.<sup>46</sup>

Thus, on an application for condemnation, the Commission must determine whether the service—the transmission or distribution of electricity to or for the public that will be provided to the public if the subject property is condemned—is necessary or proper for the service, accommodation,

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<sup>43</sup> *Susquehanna-Roseland*, at 449-50 (quoting *Trailco*, 995 A.2d 465, 479-80).

<sup>44</sup> *Breinigsville-Alburtis Order*, at p. 6 (emphasis added).

<sup>45</sup> See 15 Pa.C.S. § 1511(a)(3).

<sup>46</sup> *Id.* at § 1511(c).

convenience, or safety of the public. Stated otherwise, the Commission does not determine whether to grant a condemnation application on the basis of the legal authority, scope, validity, damages, or the willingness of a condemnee to negotiate.

Pennsylvania Appellate Courts have interpreted Section 1511 as requiring a condemning utility to show that the proposed transmission line is necessary and that it has not acted wantonly, capriciously, or arbitrarily in selecting the proposed right-of-way.<sup>47</sup> 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.<sup>48</sup>

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<sup>47</sup> *Department of Environmental Resources v. Pa. PUC*, 335 A.2d 860 (Pa. Cmwlth. 1975), *aff’d.*, 473 Pa. 378, 374 A.2d 693 (Pa. 1977); *Dickson v. Pennsylvania Service Commission*, 89 Pa. Super. 126 (Pa. Super. 1926).

<sup>48</sup> *Stone v. Pa. PUC*, 162 A.2d 18 (Pa. Super. 1960). As a further example, in *Paxtowne v. Pa. PUC*, 398 A.2d 254, 256 (Pa. Cmwlth. 1979), the route selected by the public utility was affirmed. In order to establish that the selected route was reasonable in comparison with two alternative routes, the public utility established the following:

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

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

#### **IV. SUMMARY OF ARGUMENT**

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

As an initial matter, PPL Electric has requested waivers of certain of the Commission's regulations applicable to siting applications. PPL Electric has demonstrated that waivers of 52 Pa. Code §§ 57.72(c)(7), (8), (10) and (11), 57.74(c), and 69.3101-69.3107 should be granted, because the proposed Summit-Lackawanna Project involves the rebuild of an existing transmission line. The proposed rebuild will take place entirely within an existing transmission line ROW, and it will not substantially alter the existing ROW. Moreover, PPL Electric has demonstrated that the Commission has granted waivers of these regulations in similar cases, in particular in the *Breinigsville-Alburtis Order*. As such, the Commission should grant PPL Electric its requested waivers, and it should find PPL Electric has satisfied 52 Pa. Code § 57.76(a) in light of the waivers sought in that case.

In addition, it is important to recognize that PPL Electric's evidence regarding each of the findings required under 52 Pa. Code § 57.76(a) for the Joint Application and Petition for Waiver, and its evidence regarding the finding required under 15 Pa.C.S. § 1511(c) for the Baker

Condemnation Application, is uncontested. While the Bakers initially protested the Joint Application and Petition for Waiver and the Baker Condemnation, the Parties entered into the Joint Stipulation. Under the Joint Stipulation, “[t]he Parties stipulate and agree that the ALJ and the Commission should approve the Joint Application and Petition for Waiver, and the Baker Condemnation Application.”<sup>49</sup> In addition, it makes clear that the Bakers (a) have stipulated to the fact that PPL Electric has satisfied the criteria set forth in 52 Pa. Code § 57.76(a)(1)-(4) and 15 Pa.C.S. § 1511, and/or (b) do not assert that PPL Electric has failed to satisfy these criteria.

Regarding need, the undisputed record evidence demonstrates that the Project is required to immediately and permanently address asset health conditions and reliability concerns related to the deteriorated condition of the COR-TEN® lattice towers that make up the existing Summit-Lackawanna #1 and #2 230 kV Transmission Lines. The deteriorated condition of these structures is due to the prevalence of pack-out rust, which has been analyzed in detail by PPL Electric. Importantly, when the presence of pack-out rust becomes too severe, it can deform steel members and connecting hardware. Pack-out rust can also shear off bolts, cause loss of structural integrity, cause members to disconnect from the tower, and even result in tower failure. Based on several analyses, including specific evaluations of the lattice towers at issue, PPL Electric has demonstrated that the prevalence of pack-out rust in the existing COR-TEN® lattice towers that comprise the Summit-Lackawanna #1 and #2 230 kV Transmission Lines has accelerated the deterioration of these structures and brought the assets to the end of their service life much sooner than would have been anticipated.

The Project addresses these needs in a cost-effective and efficient manner compared to other feasible alternatives. PPL Electric specifically compared the proposed Project to alternatives

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<sup>49</sup> Joint Stipulation ¶ 45.

that involved (1) the replacement of the existing COR-TEN® lattice towers with new lattice tower structures, which would subsequently require the lines to be reconductored, or (2) remediation of the existing COR-TEN® lattice towers. However, both of these alternatives were rejected. Each of these alternatives did not resolve both of the identified needs on an immediate and long-term basis, there are substantial uncertainties regarding their efficacy, and each would result in incremental costs or impacts relative to the proposed Project.

The record evidence further demonstrates that the Summit-Lackawanna Project will not create an unreasonable risk of danger to the health and safety of the public. PPL Electric has designed the Project to meet or exceed the requirements specified by the most recent revisions to the NESC. PPL Electric will also construct the Project using standard practices to perform all work safely. Furthermore, PPL Electric has demonstrated that it has considered and taken into account electric and magnetic field mitigation measures with respect to the Project.

PPL Electric has also demonstrated that the Project will comply with all applicable statutes and regulations providing for the protection of natural resources in Pennsylvania. Importantly, PPL Electric sought, and should be granted, a waiver of certain of the Commission's regulations that require detailed analysis of environmental and cultural resources. Nevertheless, PPL Electric analyzed the environmental and land use impacts associated with the Summit-Lackawanna Project and demonstrated that the Project will not impact various environmental resources, cultural resources, and land uses. PPL Electric has also shown that it has coordinated (or will coordinate) with the appropriate state and/or federal agencies to obtain all necessary permits. The Company will also comply with any and all conditions placed on such permits.

In addition, PPL Electric demonstrated that the Project will have minimal adverse impacts. In this proceeding, PPL Electric has proposed to rebuild an existing transmission line entirely

within an existing transmission line ROW. While PPL Electric has conducted environmental studies within the existing corridor to support construction permitting, it has not undertaken a siting analysis identifying alternative routes for this Project. The need for a siting study is obviated by the fact that any alternative route would require the location of transmission lines where none presently exist; in this regard, the existing ROW would have fewer environmental impacts and constitute the preferred ROW in comparison to other reasonable alternatives.

Finally, PPL Electric has demonstrated 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. Recognizing that the Bakers and PPL Electric were engaged in litigation related to an existing easement and ROW for the existing transmission lines that traverse a portion of the Bakers' property, 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. PPL Electric has demonstrated that the Project is needed. Moreover, the Parties "stipulate[d] and agree[d] 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."<sup>50</sup>

For these reasons and as more fully explained below, PPL Electric requests that the ALJ and the Commission approve the Company's Joint Application and Petition for Waiver and the

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<sup>50</sup> Joint Stipulation ¶¶ 43-44 (emphasis added).

Baker Condemnation Application, which necessary to permit the prompt construction of the Summit-Lackawanna Project.

## V. ARGUMENT

### A. INTRODUCTION

PPL Electric has a responsibility to provide transmission assets and maintain them in a manner that is safe, reliable, and resilient to meet the needs of the electric system and the service expectations of its customers. To meet this duty, PPL Electric applies its Transmission Asset Management Procedure, which includes system performance and condition assessments. These performance and condition assessments identify system needs and prioritize projects based on several variables such as equipment age, condition, maintenance schedule, and impact on system reliability and performance to ensure a reliable electric grid and reasonable service to its customers. The Transmission Asset Management Procedure is further addressed in Section V.C. *below* and in Attachment 1 – Necessity Statement to the Joint Application and Petition for Waiver.<sup>51</sup>

In order to grant an application for the construction and siting of an 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.<sup>52</sup>

PPL Electric will separately address each of these required findings. However, two threshold factors should guide the ALJ's and the Commission's analysis of these findings.

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<sup>51</sup> See PPL Electric Exhibit 1, at pp. 45-46.

<sup>52</sup> 52 Pa. Code § 57.76(a).

First, PPL Electric has demonstrated that waivers of a number of the Commission’s siting regulations are appropriate in this case. The Summit-Lackawanna Project involves the rebuilding of an existing transmission line entirely within existing ROW, and the proposed rebuild will not substantially alter the existing ROW. The Commission previously approved a similar application in the *Breinigsville-Alburtis Order*. This analysis of 52 Pa. Code § 57.76(a), in light of the waivers sought in that case, should guide the analysis of the Summit-Lackawanna Project.

Second, PPL Electric’s evidence regarding each of the findings required under 52 Pa. Code § 57.76(a) is essentially uncontested.<sup>53</sup> Indeed, “[t]he Parties stipulate[d] and agree[d] that the ALJ and the Commission should approve the Joint Application and Petition for Waiver, and the Baker Condemnation Application” consistent with the Joint Stipulation.<sup>54</sup>

Therefore, and for the reasons explained below, the record evidence clearly demonstrates that PPL Electric has met its burden with respect to its request for waivers of 52 Pa. Code §§ 57.72(c)(7), (8), (10) and (11), 57.74(c), and 69.3101-69.3107, and each of the required findings under 52 Pa. Code 57.76(a).

**B. PPL ELECTRIC’S REQUESTED WAIVERS OF THE COMMISSION’S SITING REGULATIONS AND INTERIM SITING GUIDELINE’S SHOULD BE GRANTED**

Unlike many siting applications before the Commission, the Summit-Lackawanna Project involves rebuilding an existing line in place and does not require the acquisition of any new ROW or the siting and construction of transmission line facilities where such facilities do not currently

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<sup>53</sup> Although the Bakers initially filed a Protest to the Joint Application and Petition for Waiver and the associated Baker Condemnation Application, the Parties entered into a Joint Stipulation that made clear the Bakers did not submit any evidence on any of the findings set forth in 52 Pa. Code § 57.76(a). Joint Stipulation ¶¶ 20-32. Moreover, as explained further in Section V.H. *infra*, “[t]he Parties stipulate[d] and agree[d] 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,” under 15 Pa.C.S. § 1511(c). Joint Stipulation ¶ 44.

<sup>54</sup> Joint Stipulation ¶ 45.

exist. Critically, but for a dispute with the Bakers with respect to the existing easement that PPL Electric possesses regarding the existing transmission line ROW that traverses their property,<sup>55</sup> the proposed Summit-Lackawanna Project would qualify for filing as a Letter of Notification pursuant to 52 Pa. Code § 57.72(d)(1)(i) and (v).<sup>56</sup> Thus, some of the information required by the Commission’s comprehensive siting regulations, in particular information pertaining to route selection and environmental analysis, are inapplicable to the Project.

In recognition of the facts and circumstances surrounding the Summit-Lackawanna Project, PPL Electric requested waivers of 52 Pa. Code §§ 57.72(c)(7), (8), (10) and (11), 57.74(c), and 69.3101-69.3107.<sup>57</sup> PPL Electric fully explained the bases for the waivers sought in the Joint Application and Petition for Waiver, and incorporates paragraphs 72-87 of the Joint Application and Petition for Waiver into this Main Brief as if they were fully set forth herein.

Importantly, the waivers sought by PPL Electric in this proceeding are similar to the waivers sought and granted in the *Breinigsville-Alburtis Order*. In that case, PPL Electric filed an application and concurrent petition for waiver, seeking Commission approval to rebuild an existing high voltage transmission line located entirely within an existing transmission line ROW.<sup>58</sup> PPL Electric sought waivers of 52 Pa. Code § 57.72(c) (4), (7), (8), (10), and (11) and

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<sup>55</sup> Joint Stipulation ¶¶ 36-39, 41. While PPL Electric explained that it acquired and possessed an easement to construct, operate and maintain, and from time to time to reconstruct its electric lines on the subject property, it nevertheless acknowledged that the Bakers had disputed these rights before the Court of Common Pleas of Lackawanna County. *See* PPL Electric Exhibit 1, pp. 16-17; PPL Electric Exhibit 2, at pp. 9-10.

<sup>56</sup> 52 Pa. Code § 57.72(d)(1)(i) authorizes the filing of a letter of notification where “[a]n HV line which is proposed to be located entirely on an existing transmission line right-of-way, so long as the size, character design or configuration of the proposed HV line does not substantially alter the right-of-way. 52 Pa. Code § 57.72(d)(1)(v) authorizes the filing of a letter of notification where “[a]n HV line which is to be reconducted or reconstructed so long as the size, character, design or configuration of the proposed HV line does not substantially alter the right-of-way.”

<sup>57</sup> PPL Electric Exhibit 1, at pp. 3-4, 23-33 (Joint Application and Petition for Waiver ¶¶ 7, 72-87).

<sup>58</sup> *Breinigsville-Alburtis Order*, at p. 3. By way of background, PPL Electric had previously sought Commission approval of rebuild approved in the *Breinigsville-Alburtis Order* through the filing of a letter of notification, which was denied by the Commission. *Id.*, at p. 2. PPL Electric appealed the Commission’s denial. *Id.* While the appeal was pending, the parties “reached an agreement under which PPL Electric would file a full siting

69.3102 through 69.3106.<sup>59</sup> With respect to the requests for waivers of 52 Pa. Code § 57.72(c) (7), (8), (10), and (11), the Commission recognized that waiver of these regulations was appropriate because the project proposed involved the rebuilding of an existing transmission line within an existing ROW.<sup>60</sup> With respect to the requests for waivers of 52 Pa. Code § 69.3102 through 69.3106, the Commission recognized that PPL Electric did not require the acquisition of new ROW to complete the contemplated project.<sup>61</sup> In addition, the Commission explained that no applications to exercise the power of eminent domain or exemptions from municipal zoning standards for project had been filed, and that the anticipated permits required will be minimal compared to the permits required for the construction of a new transmission line on new ROW.<sup>62</sup> Therefore, the Commission granted all waivers sought by PPL Electric and approved the proposed rebuild of an existing transmission line under 52 Pa. Code § 57.76(a) in light of those waivers.

PPL Electric demonstrated in the Joint Application and Petition for Waiver that waivers of 52 Pa. Code §§ 57.72(c)(7), (8), (10) and (11), 57.74(c), and 69.3101-69.3107 should be granted. Like the waivers sought and granted in the *Breinigsville-Alburtis Order*, PPL Electric seeks waiver of these regulations because the Summit-Lackawanna Project involves the rebuilding of an existing transmission line, located entirely within an existing transmission line ROW, which will not substantially alter the existing ROW. In addition, PPL Electric has complied with the

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application (FSA) to rebuild the Breinigsville-Alburtis 500 kV Transmission Line and a concurrent petition for waiver of certain FSA requirements with the Commission at a new docket number.” *Id.*, at p. 3.

<sup>59</sup> *Id.*, at p. 3.

<sup>60</sup> *Breinigsville-Alburtis Order*, at pp. 5 (granting waiver of Section 57.72(c)(7) because “the Proposed Project will be constructed entirely on existing ROW which is currently dedicated to utility...[and] all replacement structures will be located in close proximity to existing structures and have heights similar to the existing structures”), 6 (granting waiver of Section 57.72(c)(8) because “that the Proposed Project will be constructed entirely on existing ROW,” and granting waiver of Section 57.72(c)(10) because “the Proposed Project will be constructed entirely on existing ROW and that because the line is being rebuilt, consideration of an alternative route is unnecessary”), and 7 (granting waiver of Section 57.72(c)(11) because “the Proposed Project will be constructed entirely on existing ROW and that because the line is being rebuilt and is not a new line, the Proposed Project will not substantially alter the existing ROW...”).

<sup>61</sup> *Breinigsville-Alburtis Order*, at p. 8.

<sup>62</sup> *Breinigsville-Alburtis Order*, at p. 8.

requirements of 52 Pa. Code §§ 52.91, 69.3102 and 69.3103 with respect to the Baker Condemnation Application;<sup>63</sup> otherwise, the remaining provisions of 52 Pa. Code §§ 69.3101-69.3107 do not pertain to the Project because it does not require acquisition of new ROW.<sup>64</sup>

For these reasons, and those more fully set forth in the Joint Application and Petition for Waiver, the ALJ and the Commission should grant PPL Electric's request waivers of 52 Pa. Code §§ 57.72(c)(7), (8), (10) and (11), 57.74(c), and 69.3101-69.3107. Furthermore, the Commission's analysis of the criteria set forth in 52 Pa. Code § 57.76(a) should take into account the waivers sought by PPL Electric.

### **C. THERE IS A NEED FOR THE SUMMIT-LACKAWANNA PROJECT**

#### **1. PPL Electric Has A Comprehensive Transmission Planning Process.**

PPL Electric has a responsibility to provide transmission assets and maintain them in an adequate, efficient, safe, reliable, and reasonable manner to meet the needs of the electric system and the expectations of its customers.<sup>65</sup> To achieve this, PPL Electric applies its Transmission Asset Management Procedure as part of its system performance and condition assessment process.<sup>66</sup> These performance and condition assessments identify system needs and prioritize projects based on several variables such as equipment age, condition, maintenance schedule, and impact on system reliability and asset performance to ensure a reliable electric grid and service to its customers.<sup>67</sup>

PPL Electric engages in proactive planning and action to ensure that its system operates safely and reliably.<sup>68</sup> System needs are identified using the Company's Transmission Asset

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<sup>63</sup> PPL Electric Exhibit 1, at p. 36 (Joint Application and Petition for Waiver ¶ 85).

<sup>64</sup> PPL Electric Exhibit 1, at p. 36 (Joint Application and Petition for Waiver ¶ 86).

<sup>65</sup> PPL Electric St. 1, at p. 3.

<sup>66</sup> PPL Electric St. 1, at p. 3.

<sup>67</sup> PPL Electric St. 1, at p. 3.

<sup>68</sup> PPL Electric Exhibit 1, at pp. 10-11 (Joint Application and Petition for Waiver ¶ 9).

Management Procedure based on the overarching goals of reducing outage frequency and duration, improving system reliability, decreasing system maintenance cost, and maintaining operational flexibility to ensure safe and reliable electric service of the transmission system and to PPL Electric's customers.<sup>69</sup> This allows PPL Electric to identify future reliability problems and correct them before they occur.<sup>70</sup> The system planning process is not designed to wait until a violation actually occurs before taking measures to resolve it.<sup>71</sup> Rather, the system planning process is designed to prevent violations from occurring in the first place.<sup>72</sup>

PPL Electric witness Mr. Joseph B. Lookup further explained PPL Electric's role as a member of PJM.<sup>73</sup> He explained:

PJM is a Federal Energy Regulatory Commission ("FERC")-approved Regional Transmission Organization ("RTO") charged with ensuring the reliability of the electric transmission system under its functional control (100 kV and above), and coordinating the movement of electricity in all or parts of thirteen states and the District of Columbia, including Pennsylvania. To ensure reliable transmission service, PJM prepares an annual Regional Transmission Expansion Plan ("RTEP") to identify system reinforcements that are required to, among other things, meet the NERC Reliability Standards, PJM reliability planning criteria, and Transmission Owner reliability criteria.

When transmission owning utilities (including PPL Electric) set up PJM as an RTO, they agreed to bind themselves to maintaining their existing transmission systems using Good Utility Practice. The Consolidated Transmission Owners Agreement ("TOA") is an agreement among (1) individual Transmission Owners operating within the PJM Region and (2) between the Transmission Owners and PJM. The TOA facilitates the planning and operation of the Transmission Grid within the PJM region and establishes the rights and responsibilities of each party to the TOA. Section 4.6 of the TOA requires that transmission systems "[b]e kept in place and maintained in good operating condition in accordance with Good

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<sup>69</sup> PPL Electric St. 1, at p. 5.

<sup>70</sup> PPL Electric Exhibit 1, at pp. 10-11 (Joint Application and Petition for Waiver ¶ 9).

<sup>71</sup> PPL Electric Exhibit 1, at pp. 10-11 (Joint Application and Petition for Waiver ¶ 9).

<sup>72</sup> PPL Electric Exhibit 1, at pp. 10-11 (Joint Application and Petition for Waiver ¶ 9).

<sup>73</sup> PPL Electric St. 1, at pp. 4-5.

Utility Practice and principles, guidelines and standards of the applicable Regional Reliability Council and NERC.” The Project is required to fulfill PPL Electric’s obligations under the TOA.

The Summit-Lackawanna Project is a Supplemental Project.<sup>74</sup> Although Supplemental Project upgrades are not mandated or directed by PJM, PPL Electric witness Mr. Lookup explained that PPL Electric presented its plan to address COR-TEN® needs on the 230 kV system at the October 2020 PJM TEAC meeting.<sup>75</sup> As a part of this presentation, the Company shared the need with PJM stakeholders to address COR-TEN® towers on the Summit-Lackawanna #1 and #2 230 kV Transmission Lines (need # PPL-2020-0001).<sup>76</sup> Moreover, as explained below, the Summit-Lackawanna Project is needed to immediately and permanently address asset health concerns associated with the prevalence of pack-out rust in the existing COR-TEN® lattice towers that currently comprise the Summit-Lackawanna #1 and #2 230 kV Transmission Lines.

The undisputed record evidence demonstrates that the Summit-Lackawanna Project was developed consistent with the PPL Electric’s comprehensive transmission planning process, and was reviewed by PJM stakeholders and included in PJM’s RTEP as project s2363.<sup>77</sup>

**2. The Summit-Lackawanna Project Is The Most Cost-Effective And Efficient Solution To Immediately, And Permanently, Resolve The Asset Health Needs Associated With The Existing COR-TEN® Lattice Towers Comprising The Summit-Lackawanna #1 and #2 230kV Transmission Lines.**

The Summit-Lackawanna Project is required to address the substantial prevalence of pack-out rust in the existing COR-TEN® lattice towers that comprise the existing Summit-Lackawanna #1 and #2 230 kV Transmission Lines.<sup>78</sup> The manner in which the Summit-Lackawanna Project resolves each of these needs is described in further detail below.

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<sup>74</sup> PPL Electric St. 1, at p. 14.

<sup>75</sup> PPL Electric St. 1, at p. 14.

<sup>76</sup> PPL Electric St. 1, at p. 14.

<sup>77</sup> PPL Electric St. 1, at p. 14.

<sup>78</sup> PPL Electric Exhibit 1, at pp. 47-54.

**a. The Summit-Lackawanna Project Resolves Significant Asset Health Concerns Related To The Existing COR-TEN® Lattice Towers.**

The Summit-Lackawanna Project will rebuild the existing double-circuit Summit-Lackawanna #1 and #2 230 kV Transmission Lines.<sup>79</sup> The existing transmission lines are approximately 5.5 miles long and connect the Summit Substation and Lackawanna Substation.<sup>80</sup> All the COR-TEN® lattice structures, as well as the conductor at the 30 locations will be replaced.<sup>81</sup> Figure 1-1 in Attachment 1 – Necessity Statement, provides a map of the existing system configuration.<sup>82</sup>

The Project is needed to address asset health concerns that are being accelerated by increased incidences of pack-out rust.<sup>83</sup> The weathering-steel lattice towers that comprise the Summit-Lackawanna 1 and #2 230 kV Transmission Lines were originally constructed in the early 1970s.<sup>84</sup> COR-TEN® lattice towers were commonly installed by the industry during this time because it was believed that the corrosion-resistant properties of weathering-steel would reduce future maintenance needs/costs.<sup>85</sup> These towers had an expected service life of approximately 75 years at the time they were installed.<sup>86</sup>

PPL Electric has conducted deliberate analyses of the prevalence of pack-out rust in COR-TEN® lattice towers, and the impacts of pack-out rust on the health of these assets. As explained by PPL Electric witness Mr. Lookup, in 2013 PPL Electric utilized a third-party contractor to

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<sup>79</sup> PPL Electric St. 1, at p. 12; PPL Electric Exhibit 1, at p. 58.

<sup>80</sup> PPL Electric St. 1, at p. 5.

<sup>81</sup> PPL Electric St. 1, at p. 12; PPL Electric Exhibit 1, at p. 58.

<sup>82</sup> PPL Electric Exhibit 1, at p. 60.

<sup>83</sup> PPL Electric St. 1, at p. 6. Mr. Lookup further explained that “‘Pack-out rust’ or ‘pack rust’ is a form of localized corrosion typical of steel components that develop a crevice into an open atmospheric environment, which results in rust packing between conjoined steel components. Pack-out rust accelerates the deterioration of asset health and can result in shearing off bolts, loss of structural integrity, members disconnecting from lattice towers, and tower failure.” PPL Electric St. 1, at p. 6, n.1.

<sup>84</sup> PPL Electric Exhibit 1, at p. 47.

<sup>85</sup> PPL Electric Exhibit 1, at p. 48.

<sup>86</sup> PPL Electric Exhibit 1, at p. 47.

perform an assessment of the COR-TEN® lattice structures on its 230 kV transmission lines under a steel structure capital maintenance program.<sup>87</sup> The assessment identified that 126 of 131 COR-TEN® structures (96%) inspected as a part of this assessment had one or more structure legs rated Condition C (poor) or Condition D (very poor); relatedly, twenty-five structures had one or more legs that were identified as “priority” and required immediate attention, and protective coating was applied to the 101 other non-priority structures.<sup>88</sup> PPL Electric conducted repairs to the “priority” structures, and applied protective coating to the Condition C or D structures not identified as “priority” in 2014.<sup>89</sup> Ongoing inspections since 2014 have confirmed these structures are continuing to degrade.<sup>90</sup>

The asset health concerns revealed by the 2013 inspection were further heightened by the discovery of pack-out rust in the section joints of the COR-TEN® lattice towers. As explained in Attachment 1 – Necessity Statement:

In particular, the protective surface coating of weathering steel that provides resistance to atmospheric corrosion, known as the patina, did not form properly on the structure joints and members due to moisture trapped between the joints. The trapped moisture prevented completion of the required wetting and drying cycle needed to form the patina. Over time, this has led to the formation of pack-out rust within the joints of connecting tower members and section-loss in the steel members and joints. When the pack rust becomes too severe, it can deform steel members and connecting hardware. It can shear off bolts, cause loss of structural integrity, cause members to disconnect from the tower, and even result in tower failure. PPL Electric is experiencing pack-out rust failures on its transmission line system, which are a leading indicator of ultimate structure failure as outlined above. Over the past few years, PPL Electric has encountered multiple instances of COR-TEN® tower members becoming detached, broken, and deformed/corroded to failure due to severe pack-out rust. Failures of this nature on a

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<sup>87</sup> PPL Electric Statement 1, at p. 6. PPL Electric explain the evaluation performed by the contractor in greater detail in Attachment 1 – Necessity Statement. See PPL Electric Exhibit 1, at p. 48

<sup>88</sup> PPL Electric Statement 1, at p. 6.

<sup>89</sup> PPL Electric Exhibit 1, at p. 48.

<sup>90</sup> PPL Electric Statement 1, at p. 6.

transmission tower create emergent safety and reliability concerns  
which must be proactively addressed.<sup>91</sup>

The negative impacts of pack-out rust on COR-TEN® structures have diminished the expected service life of the existing COR-TEN® lattice towers that comprise the Summit-Lackawanna #1 and #2 230 kV Transmission Lines from 75 to 50 years.<sup>92</sup> As these structures were installed approximately 50 years ago, they have effectively reached end-of-life.<sup>93</sup>

PPL Electric subsequently contracted three additional independent, non-affiliated inspection companies to conduct evaluations of COR-TEN® lattice towers and determine the overall condition of these towers on the PPL Electric Transmission System in 2019.<sup>94</sup> The contractors' reports revealed that "over 90% of the joints at each structure exhibited visible pack-out in the connections."<sup>95</sup> In addition, the reports showed that pack-out rust and section-loss was most prominent on the lower portions of the towers where there was higher likelihood of moisture build up.<sup>96</sup>

A further, more robust, evaluation of COR-TEN® lattice towers was initiated in early 2020 to determine the full extent of the deterioration on the transmission system.<sup>97</sup> PPL Electric's Data Analytics Team used an statistical analysis and model to comprehensively determine the overall condition of the COR-TEN® lattice towers in a cost-efficient manner.<sup>98</sup> The statistical analysis determined that inspection of 192 randomly selected COR-TEN® towers would provide a statistically significant representation of all 1,284 COR-TEN® towers on the PPL Electric

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<sup>91</sup> PPL Electric Exhibit 1, at p. 49 (emphasis added).

<sup>92</sup> PPL Electric Exhibit 1, at p. 49.

<sup>93</sup> PPL Electric Exhibit 1, at p. 49.

<sup>94</sup> PPL Electric St. 1, at p. 7. The details of how these inspections were performed are explained in Attachment 1 – Necessity Statement. PPL Electric Exhibit 1, at p. 50.

<sup>95</sup> PPL Electric St. 1, at p. 7 (emphasis added).

<sup>96</sup> PPL Electric St. 1, at p. 7.

<sup>97</sup> PPL Electric St. 1, at p. 8.

<sup>98</sup> PPL Electric St. 1, at p. 8.

system.<sup>99</sup> The results of the random inspection and structure rating analysis performed in 2020 are reproduced below:<sup>100</sup>

**TABLE 1-1: Structure Rating Summary**

<b>Overall Structure Rating</b>			
<b>Class</b>	<b>Condition</b>	Structure Count	Percent
<b>A</b>	<b>Good</b>	0	0.0%
<b>B</b>	<b>Fair</b>	0	0.0%
<b>C</b>	<b>Poor</b>	95	49.5%
<b>D</b>	<b>Severe</b>	88	45.8%
<b>F</b>	<b>Priority</b>	9	4.7%

The results of the 2020 inspection program confirmed the severity of deterioration noted during the 2019 inspection.

Finally, PPL Electric retained RTR Energy Solutions, Inc. (“RTR”) to prepare a condition assessment of the Summit-Lackawanna #1 and #2 230 kV Transmission Lines in October 2021.<sup>101</sup> RTR’s assessment analyzed each joint of all 30 structures that comprise this transmission line.<sup>102</sup> Each structure was then assessed with a condition rating of “Mild” (less than 25% of total joints contain pack rust), “Moderate” (more than 25% but less than 50% of total joints contain pack rust), or “Severe” (more than 50% of total joints contain pack rust).<sup>103</sup> A summary of the results of the inspection are represented in Table 1-2 of Attachment 1 – Necessity Statement, which is reproduced below:<sup>104</sup>

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<sup>99</sup> PPL Electric St. 1, at p. 8.

<sup>100</sup> PPL Electric Exhibit 1, at p. 51 (Table 1-1).

<sup>101</sup> PPL Electric St. 1, at pp. 8-9.

<sup>102</sup> PPL Electric St. 1, at p. 9.

<sup>103</sup> PPL Electric St. 1, at p. 9; PPL Electric Exhibit 1, at p. 52.

<sup>104</sup> PPL Electric Exhibit 1, at p. 52 (Table 1-2).

**TABLE 1-2: Structure Condition Rating Summary**

<b>Condition</b>	Structure Count
<b>Mild</b>	0
<b>Moderate</b>	22
<b>Severe</b>	8
<b>Total</b>	30

While pack-out rust was observed in joints all the way up some towers, the majority of it was observed in the lower sections of the post legs where horizontal and diagonal members are bolted to the post leg.<sup>105</sup> Moreover, none of the structures were in “Mild” condition and “[b]ased on the inspection results, the average structure...rated as ‘Moderate’ [had] over 40% of their total joints containing pack rust, indicating that those structures are on the more critical end of the spectrum for that condition rating.”<sup>106</sup>

PPL Electric has clearly demonstrated that the existing COR-TEN® lattice towers have deteriorated and have been brought to the end of their service life much sooner than would have been anticipated. At roughly 50 years of age, the COR-TEN® lattice towers that comprise the Summit-Lackawanna #1 and #2 230 kV Transmission Lines have exceeded their useful life and can no longer be relied upon to safely operate as designed.<sup>107</sup> 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.<sup>108</sup>

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<sup>105</sup> PPL Electric Exhibit 1, at p. 52.

<sup>106</sup> PPL Electric Exhibit 1, at p. 52.

<sup>107</sup> PPL Electric Exhibit 1, at p. 53.

<sup>108</sup> PPL Electric Exhibit 1, at p. 53.

These asset health concerns are also important because a failure of the Summit-Lackawanna #1 and #2 230 kV Transmission Lines would also likely result in reliability issues for PPL Electric's Bulk Transmission system.<sup>109</sup> Mr. Lookup explained that "if these transmission lines fail, it is expected that the service of approximately 31,875 customers would be impacted for the next contingency."<sup>110</sup> Customers impacted would include "customers such as Williams Pipeline Compressor Station 605, Metropolitan Insurance, Clark Summit Sewer, Clark Summit State Hospital, and PA American Water."<sup>111</sup>

PPL Electric also showed that the increased relevance of severe weather, and changing weather patterns, will impact the reliability of the existing COR-TEN® lattice towers.<sup>112</sup> Specifically, the risks of failure increase where a wind event impacts a structurally compromised COR-TEN® lattice tower.<sup>113</sup>

For these reasons, the Project is needed to immediately and fully resolve the deteriorated condition of the existing COR-TEN® lattice structures on a long-term basis. By removing the existing COR-TEN® lattice towers and replacing them with steel monopoles, PPL Electric will resolve the existing COR-TEN® issue and avoid the possibility of the issue worsening and/or recurring with respect to these structures. The Project will also avoid these asset health concerns from developing into both a reliability and public safety issue.

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<sup>109</sup> PPL Electric Exhibit 1, at p. 53.

<sup>110</sup> PPL Electric St. 1, at pp. 10-11; *see also* PPL Electric Exhibit 1, at p. 53.

<sup>111</sup> PPL Electric St. 1, at pp. 10-11; *see also* PPL Electric Exhibit 1, at p. 53.

<sup>112</sup> PPL Electric Exhibit 1, at p. 54.

<sup>113</sup> PPL Electric Exhibit 1, at p. 54.

**b. The Proposed Summit-Lackawanna Project Resolves The Identified Needs On A More Efficient And Cost-Effective Basis Than Alternatives.**

The proposed Project will address the asset health needs associated with COR-TEN® lattice tower replacement, as well as improve overall reliability, safety, and system resiliency.<sup>114</sup> It will also resolve reliability contingencies that would occur should the subject transmission lines fail.<sup>115</sup> With respect to the COR-TEN® asset health condition, the Project will immediately and fully resolve the deteriorated condition of the existing structures on a long-term basis by removing the existing COR-TEN® lattice towers and replacing them with steel monopoles.<sup>116</sup> By rebuilding these structures, PPL Electric will resolve the existing COR-TEN® issue and avoid the possibility of the issue worsening and/or recurring with respect to these structures and developing into both a reliability and public safety issue.<sup>117</sup>

PPL Electric evaluated three potential solutions to address the degrading health of the Summit-Lackawanna #1 and #2 230 kV Transmission Lines.<sup>118</sup> The first alternative PPL Electric consider was to replace each of the existing COR-TEN® lattice towers with new standard lattice tower structures.<sup>119</sup> As explained in Attachment 1 – Necessity Statement, this alternative would have an initial replacement cost of \$435,331 per structure.<sup>120</sup> However, this alternative would also require PPL Electric to replace the existing conductors in 2026 (i.e., when the conductors reached their end of life) at an additional \$192,789 per structure.<sup>121</sup> Moreover, there would be ongoing incremental O&M costs for these facilities for the remainder of their service lives.<sup>122</sup>

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<sup>114</sup> PPL Electric Exhibit 1, at pp. 16-17 (Joint Application and Petition for Waiver ¶ 33).

<sup>115</sup> PPL Electric Exhibit 1, at pp. 16-17 (Joint Application and Petition for Waiver ¶ 33).

<sup>116</sup> PPL Electric Exhibit 1, at pp. 16-17 (Joint Application and Petition for Waiver ¶ 33).

<sup>117</sup> PPL Electric Exhibit 1, at pp. 16-17 (Joint Application and Petition for Waiver ¶ 33).

<sup>118</sup> PPL Electric Exhibit 1, at pp. 54-58.

<sup>119</sup> PPL Electric Exhibit 1, at p. 54.

<sup>120</sup> PPL Electric Exhibit 1, at p. 54.

<sup>121</sup> PPL Electric Exhibit 1, at p. 54.

<sup>122</sup> PPL Electric Exhibit 1, at p. 54.

The second alternative considered by PPL Electric was to remediate the entire lattice tower line, which would include replacing badly damaged members with galvanized steel members, installing new hardware and spacers, and cleaning pack-out from affected joints.<sup>123</sup> The average estimated cost of remediation is approximately \$183,891/structure.<sup>124</sup> However, PPL Electric rejected this alternative due to substantial uncertainties regarding its immediate and long-term effectiveness to address the COR-TEN® issue.<sup>125</sup> The Company explained that:

[t]he contractors that provided the cost estimate have never performed a full weathering-steel COR-TEN® lattice tower remediation before. And, moreover, it is PPL Electric's understanding that complete remediation of COR-TEN® lattice towers has never been undertaken by another electric utility. Given the lack of industry experience with remediation, PPL Electric cannot adequately benchmark the efficacy and costs of this alternative. Rebuilding the subject transmission lines, as proposed by the Project, would avoid these potential unknown risks and costs.<sup>126</sup>

Furthermore, while remediation could extend the life of the structures, re-evaluation (at a minimum) and possible subsequent remediation every 10 years following the initial remediation may be required.<sup>127</sup> In addition, the health and safety risks associated with the assets' advanced age and degree of deterioration are so great that remediation would fail to adequately address the poor asset health conditions.<sup>128</sup> Finally, PPL Electric explained that remediation would require additional O&M expense and would yet require the structures to be replaced in 30 years, resulting in additional duplicative projects to resolve the COR-TEN®-related asset health concerns.<sup>129</sup>

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<sup>123</sup> PPL Electric Exhibit 1, at p. 54.

<sup>124</sup> PPL Electric Exhibit 1, at p. 55. As further explained in Attachment 1 – Necessity Statement, this figure was developed using an average of three contractors' estimated costs to remediate each tower, which ranged from \$140,000 to \$240,000. PPL Electric Exhibit 1, at p. 50.

<sup>125</sup> PPL Electric Exhibit 1, at p. 55.

<sup>126</sup> PPL Electric Exhibit 1, at p. 55, n.14.

<sup>127</sup> PPL Electric Exhibit 1, at p. 55.

<sup>128</sup> PPL Electric Exhibit 1, at p. 55.

<sup>129</sup> PPL Electric Exhibit 1, at p. 56.

The third alternative evaluated by PPL Electric (i.e., the Proposed Solution or the Project) was to fully rebuild the existing Summit-Lackawanna #1 and #2 230 kV Transmission Lines.<sup>130</sup> Importantly, the proposed rebuild is more cost-effective and much less risky than the remediation alternative.<sup>131</sup> In addition, the concerns regarding (1) the lack of full-remediation experience with COR-TEN® lattice towers, (2) the lack of evidence of the long-term remediation effectiveness for COR-TEN® lattice towers, and (3) the possible return of pack-out rust in the joints of remediated COR-TEN® lattice tower structures, are fully avoided by the proposed rebuild contemplated by the Project.<sup>132</sup> Furthermore, the proposed rebuild option avoids the ongoing O&M expense and additional, eventual reconductoring costs associated with the replacement alternative.<sup>133</sup> Finally, the Project has the additional benefit of improving performance by increasing clearances and improving lightning performance by replacing the existing lattice towers with monopoles.<sup>134</sup>

The proposed Project is also more cost-effective than the identified alternatives on a long-term cost of service basis.<sup>135</sup> The approximate total cost of the entire Project is approximately \$16.2 million.<sup>136</sup> PPL Electric presented a cost of service comparison over a 45-year and 75-year period for the proposed Project, and the other two alternatives,<sup>137</sup> which is reproduced below:

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<sup>130</sup> PPL Electric Exhibit 1, at p. 57.

<sup>131</sup> PPL Electric Exhibit 1, at p. 57.

<sup>132</sup> PPL Electric Exhibit 1, at p. 57.

<sup>133</sup> PPL Electric Exhibit 1, at p. 57.

<sup>134</sup> PPL Electric Exhibit 1, at p. 57.

<sup>135</sup> PPL Electric St. 1, at p. 12.

<sup>136</sup> PPL Electric Exhibit 1, at p. 59.

<sup>137</sup> PPL Electric Exhibit 1, at p. 58.

**TABLE 1-3: Cost of Service of Evaluated Options**

Project Scope	45 Year Cost of Service (\$M)	75 Year Cost of Service (\$M)
Replace Structures on Summit-Lackawanna #1 and #2 230 kV Transmission Lines	\$55.0	\$66.4
Remediate Structures on Summit-Lackawanna #1 and #2 230 kV Transmission Lines	\$51.5	\$100.2
Full Rebuild of Summit-Lackawanna #1 and #2 230 kV Transmission Lines	\$47.5	\$57.8

On a total cost of service basis, the Proposed Solution is approximately 86% of the cost of Alternative 1 (i.e., replacing the existing structures) on a 45-year basis and 87% of the cost of Alternative 1 on 75-year basis.<sup>138</sup> In addition, on a total cost of service basis, the Proposed Solution is approximately 92% of the cost of Alternative 2 (i.e., remediating the existing structures) on a 45-year basis and 58% of the cost of Alternative 1 on 75-year basis.<sup>139</sup>

**c. PPL Electric’s Evidence Regarding The Need For The Summit-Lackawanna Project Is Undisputed.**

Importantly, no party has challenged PPL Electric’s evidence showing the need for the Summit-Lackawanna Project. The only other active party in this proceeding, the Bakers, entered into a Joint Stipulation with PPL Electric whereby the Parties have stipulated and agreed, *inter alia*, that:

<sup>138</sup> PPL Electric Exhibit 1, at p. 59.

<sup>139</sup> PPL Electric Exhibit 1, at p. 59.

- “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.)”<sup>140</sup>
- “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.)”<sup>141</sup>
- “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.)”<sup>142</sup>
- “there is a need for the Summit-Lackawanna Project, as described in the Joint Application and Waiver and the associated attachments and testimony” pursuant to 52 Pa. Code § 57.76(a)(1).<sup>143</sup>

Moreover, the Joint Stipulation also makes clear that “[the Bakers] do not dispute that there is a need for the Summit-Lackawanna Project.”<sup>144</sup> The need for the Summit-Lackawanna Project is, therefore, undisputed.

**d. Conclusion Regarding The Need For The Project.**

PPL Electric has demonstrated that the Summit-Lackawanna Project immediately resolves the identified asset health conditions, efficiently rebuilds the transmission lines to ensure the continued provision of safe and reliable service, and resolves the identified additional reliability concerns. Moreover, the Project as proposed avoids the additional costs and uncertainties associated with the replacement and remediation alternatives, and is also more cost-efficient than these alternatives. Therefore, and for the reasons more fully explained in the PPL Electric Exhibit

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<sup>140</sup> Joint Stipulation ¶ 20.

<sup>141</sup> Joint Stipulation ¶ 21.

<sup>142</sup> Joint Stipulation ¶ 22.

<sup>143</sup> Joint Stipulation ¶ 24.

<sup>144</sup> Joint Stipulation ¶ 23.

1 and PPL Electric Statement No. 1, the ALJ and the Commission should find and determine that the Summit-Lackawanna Project is needed.

**D. THE SUMMIT-LACKAWANNA PROJECT WILL NOT CREATE AN UNREASONABLE RISK OF DANGER TO THE HEALTH AND SAFETY OF THE PUBLIC**

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

**1. The Rebuilt Transmission Lines Associated With The Summit-Lackawanna Project Will Meet And Exceed The NESC Standards.**

The rebuilt Summit-Lackawanna #1 and #2 230 kV Transmission Lines associated with the Summit-Lackawanna Project will be designed, constructed, operated, and maintained in a manner that meets or surpasses all applicable NESC minimum standards and all applicable legal requirements.<sup>145</sup> 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.<sup>146</sup>

In addition to the safety features incorporated by designing the line in accordance with or in excess of the NESC, PPL Electric designs and constructs projects with high regard to both public

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<sup>145</sup> PPL Electric Exhibit 1, at p. 20 (Joint Application and Petition for Waiver ¶ 45); PPL Electric Exhibit 1, at pp. 87-93.

<sup>146</sup> See, e.g., *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 (Opinion and Order entered Feb. 12, 2010); *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 (Order dated July 20, 1984); *Application of PP&L for Authorization to Locate and Construct its Hamlin 138 kV Electric Transmission Line*, Docket No. A-00101826 (Order dated Apr. 3, 1981); *Larken v. Philadelphia Electric Co.*, 39 Pa. PUC 777 (1961).

and employee safety and follows or exceeds all codes and requirements.<sup>147</sup> PPL Electric’s safety rules include: procedures to allow work to be performed on energized facilities in a safe manner, including specific tagging procedures; the use of temporary safety grounds on de-energized facilities for employee lineman safety during maintenance, construction, or reconstruction work; pre-grounding voltage tests to confirm a line is de-energized; pre-climbing inspection of pole and/or structure integrity; and the required use of appropriate safety gear.<sup>148</sup>

## **2. The Application Adequately Addresses Electric And Magnetic Field Mitigation.**

The Commission has found that electric and magnetic fields (also referred to jointly as electromagnetic fields or “EMF”) from transmission lines do not pose a danger to the health and safety of the public.<sup>149</sup> Nevertheless, PPL Electric has taken EMF mitigation into account.<sup>150</sup>

Ground clearances for the proposed Project will be increased between approximately 3.0 and 7.0 feet higher than those required by the NESC standard in order to reduce the magnetic field exposure.<sup>151</sup> The proposed rebuild of the Summit-Lackawanna #1 and #2 230 kV Transmission Lines will continue to allow for double-circuit operation, which will allow for reverse phasing.<sup>152</sup> A reduction in magnetic field exposure is anticipated due to the higher ground clearances and reverse phasing.<sup>153</sup>

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<sup>147</sup> PPL Electric Exhibit 1, at p. 92.

<sup>148</sup> PPL Electric Exhibit 1, at p. 92.

<sup>149</sup> *Application of Pennsylvania Power & Light Co.*, Docket Nos. A-110500F0196, *et al.*, 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.”).

<sup>150</sup> PPL Electric St. 1 at 17; *see also* PPL Electric Exhibit 1, at p. 93.

<sup>151</sup> PPL Electric St. 1 at 17; *see also* PPL Electric Exhibit 1, at p. 93.

<sup>152</sup> PPL Electric St. 1 at 17; *see also* PPL Electric Exhibit 1, at p. 93.

<sup>153</sup> PPL Electric St. 1 at 17; *see also* PPL Electric Exhibit 1, at p. 93.

### **3. PPL Electric’s Evidence Regarding Health And Safety Is Undisputed.**

Importantly, no party has challenged PPL Electric’s evidence showing that the Summit-Lackawanna Project will not create an unreasonable risk of danger to the health and safety of the public. The only other active party in this proceeding, the Bakers, entered into a Joint Stipulation with PPL Electric whereby the Parties have stipulated and agreed, *inter alia*, that:

- “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.)”<sup>154</sup>
- “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.)”<sup>155</sup>

Moreover, the Joint Stipulation also makes clear that “[the Bakers] do not assert that the Summit-Lackawanna Project will create an unreasonable risk of danger to the health and safety of the public.”<sup>156</sup>

### **4. Conclusion Regarding Health And Safety.**

The undisputed evidence presented by PPL Electric satisfies the criteria set forth in Section 57.76(a)(2) of the Commission’s regulations and demonstrated that the Summit-Lackawanna Project will not create an unreasonable risk of danger to the health and safety of the public.<sup>157</sup> Therefore, and for the reasons more fully explained above, the ALJ and the Commission should find that the Summit-Lackawanna will not create an unreasonable risk of danger to the health and safety of the public, pursuant to 52 Pa. Code § 57.76(a)(2).

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<sup>154</sup> Joint Stipulation ¶ 25.

<sup>155</sup> Joint Stipulation ¶ 26.

<sup>156</sup> Joint Stipulation ¶ 27.

<sup>157</sup> 52 Pa. Code § 57.76(a)(2).

**E. THE SUMMIT-LACKAWANNA PROJECT IS IN COMPLIANCE WITH STATUTES AND REGULATIONS PROVIDING FOR THE PROTECTION OF NATURAL RESOURCES**

The third requirement under Section 57.76 of the Commission’s regulations for approval of the siting and construction of transmission lines is that the project is in compliance with applicable statutes and regulations, providing for the protection of the natural resources of this Commonwealth.<sup>158</sup> Although it 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.<sup>159</sup> 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.<sup>160</sup>

However, the Commission has previously granted waivers of the siting regulations requiring certain environmental and cultural resource analyses. In the *Breinigsville-Alburtis Order*, the Commission evaluated a proposal by PPL Electric to rebuild the existing single-circuit Breinigsville-Alburtis transmission line to a double-circuit configuration.<sup>161</sup> PPL Electric filed a siting application and concurrent petition for waivers of the Commission’s regulations, including of 52 Pa. Code § 57.72(c)(7), with respect to the proposed rebuild.<sup>162</sup> PPL Electric explained that the proposed rebuild of the subject transmission line involved “reconstructing an existing transmission line in place and does not require the acquisition of new right-of-way” and, therefore, “some of the information required by the Commission’s comprehensive siting regulations

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<sup>158</sup> 52 Pa. Code § 57.76(a)(3).

<sup>159</sup> *PEDF*, 161 A.3d at 931.

<sup>160</sup> *PEDF*, 161 A.3d at 931; *see also Penelec*, at pp. 12-14.

<sup>161</sup> *Id.*, at pp. 2, 3.

<sup>162</sup> *Id.*, at p. 3.

pertaining to route selection, environmental analysis, and affected landowners, will be inapplicable.”<sup>163</sup>

The Commission’s granted PPL Electric’s waivers, and specifically granted its waiver of the requirement of 52 Pa. Code § 57.72(c)(7) (requiring a description of studies made as to the projected environmental impact of the transmission line).<sup>164</sup> The Commission granted the waiver of Section 57.72(c)(7) because “the Proposed Project will be constructed entirely on existing ROW which is currently dedicated to utility...[and] all replacement structures will be located in close proximity to existing structures and have heights similar to the existing structures.”<sup>165</sup>

Analogous to the proposed rebuild project in the *Breinigsville-Alburtis Order*, the Summit-Lackawanna Project will be constructed entirely within the existing ROW currently occupied by the existing Summit-Lackawanna #1 and #2 230 kV Transmission Lines or on the same PPL Electric fee-owned properties as the existing transmission lines.<sup>166</sup> In addition, the Project facilities will be rebuilt upon the same structure alignment as the existing facilities.<sup>167</sup> As such, waiver of 52 Pa. Code § 57.72(c)(7) is appropriate.<sup>168</sup>

Nevertheless, PPL Electric has provided information on regulatory permit requirements and agency coordination regarding cultural and environmental resources.<sup>169</sup> This information effectively addresses and exceeds all the requirements of the Commission’s siting regulations for which PPL Electric has not sought any waivers.

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<sup>163</sup> *Id.*, at p. 4 (emphasis added).

<sup>164</sup> *Id.*, at pp. 4-5.

<sup>165</sup> *Id.*, at p. 5.

<sup>166</sup> PPL Electric Exhibit 1, at p. 21 (Joint Application and Petition for Waiver ¶ 51).

<sup>167</sup> PPL Electric Exhibit 1, at p. 21 (Joint Application and Petition for Waiver ¶ 51).

<sup>168</sup> *See also* Section V.B. *supra*.

<sup>169</sup> PPL Electric Exhibit 1, at pp. 70-86; *see also* PPL Electric St. 2.

PPL Electric has also conducted environmental studies within the existing corridor to support construction permitting.<sup>170</sup> However, to undertake any further environmental studies for a Project of this nature that is expected to have very little environmental impact would be an unnecessary expenditure of resources.<sup>171</sup>

Indeed, PPL Electric witness Mr. Barry A. Baker explained PPL Electric’s analysis of environmental and land use impacts contained in Attachment 3 – Project Area Description.<sup>172</sup>

Importantly:

- no national parks, state parks, local parks, recreational areas, or natural landmarks will be affected by the Project, because none are located in the Project Area;<sup>173</sup>
- while two State Historic Preservation Office (“SHPO”) eligible properties were identified with respect to the Project (one located within the Project Area and one in close proximity to the Project Area), neither property is anticipated to be impacted by the project and permitting requirements for the Project do not require further coordination with the PHMC;<sup>174</sup>
- no federal or state designated unique geological, scenic, or natural areas will be affected by the Project, because none are located within the Project Area;<sup>175</sup>
- while the Project is located near three Pennsylvania Natural Heritage Program identified natural areas, all of the areas are located outside the ROW and no impacts from the Project are anticipated;<sup>176</sup> and
- PPL Electric completed a Pennsylvania Natural Diversity Inventory (“PNDI”) for the Project and while certain endangered or threatened animal and plant species were identified, the applicable and federal agencies have confirmed that they either have no concerns regarding impacts on endangered or threatened species, or that they will work with PPL to ensure that the construction does not negatively impact such species.<sup>177</sup>

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<sup>170</sup> PPL Electric Exhibit 1, at p. 32 (Joint Application and Petition for Waiver ¶ 78).

<sup>171</sup> PPL Electric Exhibit 1, at p. 32 (Joint Application and Petition for Waiver ¶ 78).

<sup>172</sup> See generally PPL Electric St. 2.

<sup>173</sup> PPL Electric St. 2, at p. 6.

<sup>174</sup> PPL Electric St. 2, at p. 7.

<sup>175</sup> PPL Electric St. 2, at p. 8.

<sup>176</sup> PPL Electric St. 2, at p. 11.

<sup>177</sup> PPL Electric St. 2, at p. 12-13 (identifying plant species of concern that PPL Electric has coordinated with the Pennsylvania Department of Conservation of Natural Resources to implement measures to protect, and identifying animal species that PPL Electric has provided information to the United States Fish and Wildlife Service to demonstrate the Project will not impact).

Attachment 3 – Project Area Description further demonstrates that the Project will not impact various environmental resources, cultural resources and land uses, or that PPL Electric has coordinated (or will coordinate) with the appropriate state and/or federal agencies to obtain all necessary permits.<sup>178</sup>

While all transmission lines will have some impact to the natural and/or human environment, it is important to recognize that the Summit-Lackawanna Project is limited to rebuilding existing transmission lines located entirely within the ROW, which is currently dedicated to utility use and occupied by transmission lines. No portion of the Project will be located outside of the existing ROW, nor will the Project substantially alter the existing ROW. Furthermore, the Project will also decrease the maximum height and average height of towers,<sup>179</sup> and decrease the ground impacts of the structures comprising the Summit-Lackawanna #1 and #2 230 kV Transmission Lines.<sup>180</sup>

Moreover, the need for a siting study is obviated by the fact that any alternative route would require the location of transmission lines where none presently exist. In this regard, the existing ROW would have fewer environmental impacts and constitute the preferred ROW in comparison to other reasonable alternatives.

PPL Electric has also committed to obtain all required permits prior to construction of the Project, and will comply with any and all conditions placed on such permits by those agencies that have appropriate jurisdiction over environmental matters.<sup>181</sup> As a general matter, the Commission

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<sup>178</sup> See PPL Electric Exhibit 1, at pp. 7-86 (presenting Attachment 3 – Project Area Description).

<sup>179</sup> PPL Electric Exhibit 1, at p. 21 (Joint Application and Petition for Waiver ¶ 49). The existing COR-TEN® lattice tower structures range in height from between approximately 120-170 feet with an average structure height of approximately 144 feet. The proposed double-circuit monopole structures to replace the COR-TEN® lattice towers will range in height between approximately 110 and 165 feet with an average structure height of approximately 140 feet.

<sup>180</sup> PPL Electric Exhibit 1, at p. 21 (Joint Application and Petition for Waiver ¶ 49). The existing COR-TEN® lattice towers have a wider base than the proposed steel monopoles.

<sup>181</sup> PPL Electric St. 2, at p. 6; PPL Electric Exhibit 1, at pp. 70-86; *see also* Joint Stipulation ¶ 30.

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.<sup>182</sup>

Finally, the Joint Stipulation entered into by the Parties makes clear that the Bakers “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.”<sup>183</sup>

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

#### **F. THE SUMMIT-LACKAWANNA PROJECT WILL HAVE MINIMAL ADVERSE ENVIRONMENTAL IMPACTS**

The fourth requirement under Section 57.76 of the Commission’s regulations for approval of the siting and construction of transmission lines is that the project will have minimal adverse environmental impact, considering the electric power needs of the public, the state of the available technology and the available alternatives.<sup>184</sup> However, the Commission has also concluded that

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<sup>182</sup> 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 Feb. 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 (Opinion and Order entered Feb. 12, 2010).

<sup>183</sup> Joint Stipulation ¶ 31.

<sup>184</sup> 52 Pa. Code § 57.76(a)(4).

where a transmission line “will be constructed entirely on existing ROW and...the line is being rebuilt, consideration of an alternative route is unnecessary.”<sup>185</sup>

As a part of the *Breinigsville-Alburtis Order* discussed above, PPL Electric also sought a waiver of 52 Pa. Code § 57.72(c)(10) with respect to the proposed transmission line rebuild.<sup>186</sup> Materially, PPL Electric explained that the proposed rebuild of the subject transmission line involved “reconstructing an existing transmission line in place and does not require the acquisition of new right-of-way” and, therefore, “some of the information required by the Commission’s comprehensive siting regulations pertaining to route selection, environmental analysis, and affected landowners, will be inapplicable.”<sup>187</sup>

The Commission granted PPL Electric’s waivers, and specifically granted its waiver of the requirement of 52 Pa. Code § 57.72(c)(10) (requiring a description of reasonable alternative routes, a comparison of the routes, and a statement for selecting the proposed route).<sup>188</sup> The Commission granted this waiver because “the Proposed Project will be constructed entirely on existing ROW and that because the line is being rebuilt and is not a new line, the Proposed Project will not substantially alter the existing ROW.”<sup>189</sup> The Commission went on to hold that the application and waivers satisfied the requirements of Section 57.76(a).<sup>190</sup>

Here, PPL Electric has demonstrated that waiver of the requirement of 52 Pa. Code § 57.72(c)(10) is appropriate. The Summit-Lackawanna Project does not require a siting and route selection analysis because the Project involves rebuilding an existing transmission line located entirely within existing ROW. The need for a siting study is further obviated by the fact that any

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<sup>185</sup> *Breinigsville-Alburtis Order*, at p. 6 (emphasis added).

<sup>186</sup> *Id.*, at p. 3.

<sup>187</sup> *Id.*, at p. 4 (emphasis added).

<sup>188</sup> *Id.*, at p. 6.

<sup>189</sup> *Id.*, at p. 7.

<sup>190</sup> *Id.*, at p. 19.

alternative route would require the location of transmission lines where none presently exist; in this regard, the existing ROW would have fewer environmental impacts and constitute the preferred ROW in comparison to other reasonable alternatives.

For these reasons and pursuant to the *Breinigsville-Alburtis Order*, the ALJ and the Commission should find and determine PPL Electric has satisfied 52 Pa. Code § 57.76(a)(4) consistent with PPL Electric's requested waiver of 52 Pa. Code § 57.72(c)(10).

**G. THE SUMMIT-LACKAWANNA PROJECT WILL NOT IMPACT LOCAL ZONING ORDINANCES AND PLANS**

The Commission's Interim Siting Guidelines require that local zoning ordinances and comprehensive land use plans be reviewed to evaluate the impact of a proposed HV transmission line project.<sup>191</sup> PPL Electric is not seeking exemption from municipal zoning standards, and also demonstrated a waiver of the Commission's Interim Siting Guidelines regarding zoning and land use was appropriate.<sup>192</sup> No new property rights are required, and the existing transmission line will be rebuilt entirely within existing ROW. As such, PPL Electric submits that this Project will not adversely impact local comprehensive plans and zoning ordinances.<sup>193</sup>

**H. THE BAKER CONDEMNATION APPLICATION SHOULD BE APPROVED**

In this proceeding, PPL Electric is seeking a finding 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.<sup>194</sup> Pennsylvania Appellate Courts have interpreted Section 1511 as requiring a condemning utility to show that the proposed

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<sup>191</sup> 52 Pa. Code §§ 69.1101(2)-(3), 69.3104(1).

<sup>192</sup> PPL Electric Exhibit 1, Application ¶ 86.

<sup>193</sup> See 52 Pa. Code § 69.1101.

<sup>194</sup> 15 Pa.C.S. § 1511.

transmission line is necessary and that it has not acted wantonly, capriciously, or arbitrarily in selecting the proposed right-of-way.<sup>195</sup> Further, the selection of the right-of-way is a matter for the public utility in the first instance and, while the route selection must be reasonable, it need not be the “best alternative” in terms of reducing or eliminating inconvenience to particular landowners.<sup>196</sup>

As a threshold matter, it is important to recognize that the Baker Condemnation Application addresses:

[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.<sup>197</sup>

While PPL Electric maintains that it does not require any additional ROW for the construction of the Project,<sup>198</sup> it is currently involved in a dispute with the Bakers with respect to the existing easement that PPL Electric possesses regarding the existing transmission line ROW that traverses their property.<sup>199</sup>

This dispute is the subject of “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.”<sup>200</sup> The matter before the Court of Common Pleas of Lackawanna County will involve, *inter alia*, a determination of the validity and scope of PPL

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<sup>195</sup> *Department of Environmental Resources v. Pa. PUC*, 335 A.2d 860 (Pa. Cmwlth. 1975), *aff’d.*, 473 Pa. 378, 374 A.2d 693 (Pa. 1977); *Dickson v. Pennsylvania Service Commission*, 89 Pa. Super. 126 (Pa. Super. 1926).

<sup>196</sup> *Stone v. Pa. PUC*, 162 A.2d 18 (Pa. Super. 1960).

<sup>197</sup> Joint Stipulation ¶ 33.

<sup>198</sup> PPL Electric Exhibit 1, at p. 21 (Joint Application and Petition for Waiver ¶ 51); PPL Electric St. 2 (Baker), at pp. 4-7; PPL Electric St. 2-R (Baker), at pp. 2, 4-5.

<sup>199</sup> PPL Electric Exhibit 1 at p. 21 (Joint Application and Petition for Waiver ¶ 52); *see also* Joint Stipulation ¶¶ 33-35.

<sup>200</sup> Joint Stipulation ¶ 36.

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.<sup>201</sup>

Importantly, the Commission lacks jurisdiction to determine the validity and scope of an easement or the claims raised by the Bakers in the ongoing litigation.<sup>202</sup> On the other hand, 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.<sup>203</sup>

Based upon the nature of the ongoing litigation between the Parties, the Parties have stipulated and agreed that:

[n]either 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.<sup>204</sup>

Moreover, the Parties have:

...stipulate[d] and agree[d] 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[.]...

[and] stipulate[d] and agree[d] that the electric service to continue to be furnished by PPL Electric through the exercise of the power of

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<sup>201</sup> Joint Stipulation ¶ 39.

<sup>202</sup> *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)).

<sup>203</sup> Joint Stipulation ¶ 41.

<sup>204</sup> Joint Stipulation ¶ 42.

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.<sup>205</sup>

Based upon the Parties' Joint Stipulation, PPL Electric's evidence 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 is undisputed.

Indeed, the Summit-Lackawanna Project is necessary to asset health needs associated with the prevalence of pack-out rust in existing COR-TEN® lattice towers, as well as improve overall reliability, safety, and system resiliency. *See* Section V.C. *supra*. Importantly, this issue is not contested.<sup>206</sup> Therefore, PPL Electric's evidence regarding the need for the project is undisputed.

As explained above, the Summit-Lackawanna Project 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. The Summit-Lackawanna Project did not include a comprehensive siting analysis, because it specifically involves rebuilding existing transmission facilities within existing transmission ROW where existing transmission facilities are currently located. Any alternative route would require the location of transmission lines where none presently exist; in this regard, the existing ROW would have fewer environmental impacts and constitute the preferred ROW in comparison to any other reasonable alternatives.<sup>207</sup>

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<sup>205</sup> Joint Stipulation ¶¶ 43-44 (emphasis added).

<sup>206</sup> Joint Stipulation ¶ 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.”); *see also* Joint Stipulation ¶¶ 19-22 (citing PPL Electric Exhibit 1 and PPL Electric St. 1).

<sup>207</sup> *See* Section V.F. *supra*.

PPL Electric further explained the ROW and easements over the property identified in the Baker Condemnation Application does not interfere or require the condemnation of any place of public worship, burying ground, dwelling or its reasonable cartilage, consistent with 15 Pa.C.S. § 1511(b).<sup>208</sup>

PPL Electric must be able rebuild a portion the Summit-Lackawanna Project over and across the above-mentioned property, where existing high-voltage transmission lines are currently maintained today. The service to be provided by PPL Electric through the rebuilt transmission lines and related facilities is necessary or proper for the service, accommodation, convenience or safety of the public for the reasons set forth above. *See* Section V.B. *supra*. Accordingly, PPL Electric's proposed exercise of the power of eminent domain associated with the Summit-Lackawanna Project, to the extent such exercise is required to acquire a ROW and easement over a certain portion of the lands claimed by the Bakers in Dickson City Borough and Scott Township, Lackawanna County, Pennsylvania, is necessary or proper for the service, accommodation, convenience, or safety of the public. Therefore, the Baker Condemnation Application should be approved.

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<sup>208</sup> PPL Electric St. 2 (Baker), at p. 3.

## VI. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that Administrative Law Mary D. Long and the Pennsylvania Public Utility Commission:

- (1) approve 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”;
- (2) grant the waivers of 52 Pa. Code §§ 57.72(c) (7), (8), (10) and (11), 57.74(c), and 69.3101-69.3107 sought and explained in “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”;
- (3) approve the one (1) application under 15 Pa.C.S. §1511(c) seeking findings and determination that the service to be furnished by the Company through its proposed exercise of the power of eminent domain to the extent such exercise is required to acquire a right-of-way and easement over a certain portion of the lands of 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; and
- (4) grant such other approvals and/or waivers as are necessary or appropriate under all of the circumstances.

Respectfully submitted,



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Date: August 19, 2022

Attorneys for PPL Electric Utilities Corporation

# **APPENDIX A**

## **Proposed Findings of Fact**

**APPENDIX A**  
**PROPOSED FINDINGS OF FACT**

**I. PROPOSED FINDINGS OF FACT REGARDING STIPULATED FACTS AND ISSUES**

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) restates the following findings of fact set forth in the Joint Stipulation dated July 15, 2022, which establishes that the following facts and issues are not in dispute:

1. 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.<sup>1</sup>

2. 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”).<sup>2</sup>

3. PPL Electric is also a Pennsylvania public utility and has the power of eminent domain pursuant to the Pennsylvania BCL.<sup>3</sup>

4. 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.<sup>4</sup>

5. 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

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<sup>1</sup> Joint Stipulation ¶ 16.

<sup>2</sup> Joint Stipulation ¶ 17.

<sup>3</sup> Joint Stipulation ¶ 18.

<sup>4</sup> Joint Stipulation ¶ 19.

condition of the COR-TEN® lattice towers on the existing Summit-Lackawanna #1 and #2 230 kV Transmission Lines.<sup>5</sup>

6. 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).<sup>6</sup>

7. 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.<sup>7</sup>

8. The Protestants do not dispute that there is a need for the Summit-Lackawanna Project.<sup>8</sup>

9. 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).<sup>9</sup>

10. 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.<sup>10</sup>

11. 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.<sup>11</sup>

12. 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.<sup>12</sup>

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<sup>5</sup> Joint Stipulation ¶ 20 (citing Joint Application and Petition for Waiver, Attachment 1 at 4-12; PPL Electric St. 1 at 5-12).

<sup>6</sup> Joint Stipulation ¶ 21 (citing Joint Application and Petition for Waiver, Attachment 1 at 11; PPL Electric St. 1 at 10).

<sup>7</sup> Joint Stipulation ¶ 22 (citing Joint Application and Petition for Waiver, Attachment 1 at 11; PPL Electric St. 1 at 10).

<sup>8</sup> Joint Stipulation ¶ 23.

<sup>9</sup> Joint Stipulation ¶ 24.

<sup>10</sup> Joint Stipulation ¶ 25 (citing Joint Application and Petition for Waiver, Attachment 4).

<sup>11</sup> Joint Stipulation ¶ 26 (citing Joint Application and Petition for Waiver, Attachment 4).

13. PPL Electric provided a detailed description of the Project Area and the route of each individual component of the Project.<sup>13</sup>

14. The rebuild is merely replaced aged infrastructure that has been in place since the 1970s.<sup>14</sup>

15. 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.<sup>15</sup>

16. 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.<sup>16</sup>

17. The Protestants do not assert that the Summit-Lackawanna Project will have adverse environmental impacts.<sup>17</sup>

18. 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, situated in Dickson City Borough and Scott Township, Lackawanna County, Pennsylvania. <sup>18</sup>

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<sup>12</sup> Joint Stipulation ¶ 27.

<sup>13</sup> Joint Stipulation ¶ 28 (citing Joint Application and Petition for Waiver, Attachment 1 at 4-12; PPL Electric St. 2 at 4-13).

<sup>14</sup> Joint Stipulation ¶ 29 (citing PPL Electric St. 2 at 6.)

<sup>15</sup> Joint Stipulation ¶ 30 (citing PPL Electric St. 2 at 6, and Joint Application and Petition for Waiver, Attachment 5).

<sup>16</sup> Joint Stipulation ¶ 31.

<sup>17</sup> Joint Stipulation ¶ 32.

<sup>18</sup> Joint Stipulation ¶ 33.

19. This tract of land is located at parcel number 102030010005, Lackawanna County, Pennsylvania.<sup>19</sup>

20. 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).<sup>20</sup>

21. 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.<sup>21</sup>

22. 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.<sup>22</sup>

23. Failing successful resolution, trial is scheduled to occur for August 25, 2022 through August 29, 2022.<sup>23</sup>

24. 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.<sup>24</sup>

25. 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

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<sup>19</sup> Joint Stipulation ¶ 34.

<sup>20</sup> Joint Stipulation ¶ 35.

<sup>21</sup> Joint Stipulation ¶ 36.

<sup>22</sup> Joint Stipulation ¶ 37.

<sup>23</sup> Joint Stipulation ¶ 38.

<sup>24</sup> Joint Stipulation ¶ 39.

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)).<sup>25</sup>

26. 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.<sup>26</sup>

27. 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.<sup>27</sup>

28. 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.<sup>28</sup>

29. 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

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<sup>25</sup> Joint Stipulation ¶ 40.

<sup>26</sup> Joint Stipulation ¶ 41.

<sup>27</sup> Joint Stipulation ¶ 42.

<sup>28</sup> Joint Stipulation ¶ 43.

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).<sup>29</sup>

30. 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.<sup>30</sup>

31. 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.<sup>31</sup>

## **II. PROPOSED FINDINGS OF FACT**

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) proposes the following additional findings of fact, not addressed in the Joint Stipulation dated July 15, 2022:

### **A. BACKGROUND**

32. PPL Electric furnishes electric service to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of twenty-nine counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

33. PPL Electric is also a “public utility” as defined by the Federal Power Act, 16 U.S.C. § 824(e), a transmission owner, and a member of PJM Interconnection, L.L.C. (“PJM”).

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<sup>29</sup> Joint Stipulation ¶ 44.

<sup>30</sup> Joint Stipulation ¶ 45.

<sup>31</sup> Joint Stipulation ¶ 46.

**B. PPL ELECTRIC'S REQUESTED WAIVERS OF THE COMMISSION'S SITING REGULATIONS AND INTERIM SITING GUIDELINE'S SHOULD BE GRANTED**

34. Unlike many siting applications before the Commission, the Summit-Lackawanna Project involves rebuilding an existing line in place and does not require the acquisition of any new ROW or the siting and construction of transmission line facilities where such facilities do not currently exist.

35. In recognition of the facts and circumstances surrounding the Summit-Lackawanna Project, PPL Electric requested waivers of 52 Pa. Code §§ 57.72(c)(7), (8), (10) and (11), 57.74(c), and 69.3101-69.3107.<sup>32</sup>

36. PPL Electric fully explained the bases for the waivers sought in the Joint Application and Petition for Waiver.<sup>33</sup>

37. PPL Electric seeks waiver of 52 Pa. Code §§ 57.72(c)(7), (8), (10) and (11), 57.74(c), and 69.3101-69.3107 because the Summit-Lackawanna Project involves the rebuilding of an existing transmission line, located entirely within an existing transmission line ROW, which will not substantially alter the existing ROW.

38. PPL Electric has complied with the requirements of 52 Pa. Code §§ 52.91, 69.3102 and 69.3103 with respect to the Baker Condemnation Application;<sup>34</sup> otherwise, the remaining provisions of 52 Pa. Code §§ 69.3101-69.3107 do not pertain to the Project because it does not require acquisition of new ROW.<sup>35</sup>

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<sup>32</sup> PPL Electric Exhibit 1, at pp. 3-4, 23-33 (Joint Application and Petition for Waiver ¶¶ 7, 72-87).

<sup>33</sup> PPL Electric Exhibit 1, at pp. 23-33 (Joint Application and Petition for Waiver ¶¶ 72-87).

<sup>34</sup> PPL Electric Exhibit 1, at p. 36 (Joint Application and Petition for Waiver ¶ 85).

<sup>35</sup> PPL Electric Exhibit 1, at p. 36 (Joint Application and Petition for Waiver ¶ 86).

**C. THERE IS A NEED FOR THE SUMMIT-LACKAWANNA PROJECT**

39. PPL Electric has a responsibility to provide transmission assets and maintain them in an adequate, efficient, safe, reliable, and reasonable manner to meet the needs of the electric system and the expectations of its customers.<sup>36</sup>

40. PPL Electric applies its Transmission Asset Management Procedure as part of its system performance and condition assessment process.<sup>37</sup>

41. These performance and condition assessments identify system needs and prioritize projects based on several variables such as equipment age, condition, maintenance schedule, and impact on system reliability and asset performance to ensure a reliable electric grid and service to its customers.<sup>38</sup>

42. PPL Electric engages in proactive planning and action to ensure that its system operates safely and reliably.<sup>39</sup>

43. System needs are identified using the Company's Transmission Asset Management Procedure based on the overarching goals of reducing outage frequency and duration, improving system reliability, decreasing system maintenance cost, and maintaining operational flexibility to ensure safe and reliable electric service of the transmission system and to PPL Electric's customers.<sup>40</sup>

44. This allows PPL Electric to identify future reliability problems and correct them before they occur.<sup>41</sup>

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<sup>36</sup> PPL Electric St. 1, at p. 3.

<sup>37</sup> PPL Electric St. 1, at p. 3.

<sup>38</sup> PPL Electric St. 1, at p. 3.

<sup>39</sup> PPL Electric Exhibit 1, at pp. 10-11 (Joint Application and Petition for Waiver ¶ 9).

<sup>40</sup> PPL Electric St. 1, at p. 5.

<sup>41</sup> PPL Electric Exhibit 1, at pp. 10-11 (Joint Application and Petition for Waiver ¶ 9).

45. The system planning process is not designed to wait until a violation actually occurs before taking measures to resolve it.<sup>42</sup> Rather, the system planning process is designed to prevent violations from occurring in the first place.<sup>43</sup>

46. PPL Electric witness Mr. Joseph B. Lookup further explained PPL Electric's role as a member of PJM.<sup>44</sup>

47. The Summit-Lackawanna Project is a Supplemental Project.<sup>45</sup>

48. Mr. Lookup explained that PPL Electric presented its plan to address COR-TEN® needs on the 230 kV system at the October 2020 PJM TEAC meeting.<sup>46</sup>

49. As a part of this presentation, the Company shared the need with PJM stakeholders to address COR-TEN® towers on the Summit-Lackawanna #1 and #2 230 kV Transmission Lines (need # PPL-2020-0001).<sup>47</sup>

50. The Summit-Lackawanna Project was developed consistent with the PPL Electric's comprehensive transmission planning process and was reviewed by PJM stakeholders and included in PJM's RTEP as project s2363.<sup>48</sup>

51. The Summit-Lackawanna Project is required to address the substantial prevalence of pack-out rust in the existing COR-TEN® lattice towers that comprise the existing Summit-Lackawanna #1 and #2 230 kV Transmission Lines.<sup>49</sup>

52. The Summit-Lackawanna Project will rebuild the existing double-circuit Summit-Lackawanna #1 and #2 230 kV Transmission Lines.<sup>50</sup>

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<sup>42</sup> PPL Electric Exhibit 1, at pp. 10-11 (Joint Application and Petition for Waiver ¶ 9).

<sup>43</sup> PPL Electric Exhibit 1, at pp. 10-11 (Joint Application and Petition for Waiver ¶ 9).

<sup>44</sup> PPL Electric St. 1, at pp.4-5.

<sup>45</sup> PPL Electric St. 1, at p. 14.

<sup>46</sup> PPL Electric St. 1, at p. 14.

<sup>47</sup> PPL Electric St. 1, at p. 14.

<sup>48</sup> PPL Electric St. 1, at p. 14.

<sup>49</sup> PPL Electric Exhibit 1, at pp. 47-54.

<sup>50</sup> PPL Electric St. 1, at p. 12; PPL Electric Exhibit 1, at p. 58.

53. The existing transmission lines are approximately 5.5 miles long and connect the Summit Substation and Lackawanna Substation.<sup>51</sup>

54. All the COR-TEN® lattice structures as well as the conductor at the 30 locations will be replaced.<sup>52</sup>

55. The weathering-steel lattice towers that comprise the Summit-Lackawanna 1 and #2 230 kV Transmission Lines were originally constructed in the early 1970s.<sup>53</sup>

56. COR-TEN® lattice towers were commonly installed by the industry during this time because it was believed that the corrosion-resistant properties of weathering-steel would reduce future maintenance needs/costs.<sup>54</sup>

57. These towers had an expected service life of approximately 75 years at the time they were installed.<sup>55</sup>

58. In 2013, PPL Electric utilized a third-party contractor to perform an assessment of the COR-TEN® lattice structures on its 230 kV transmission lines under a steel structure capital maintenance program.<sup>56</sup>

59. The assessment identified that 126 of 131 COR-TEN® structures (96%) inspected as a part of this assessment had one or more structure legs rated Condition C (poor) or Condition D (very poor); relatedly, twenty-five structures had one or more legs that were identified as “priority” and required immediate attention, and protective coating was applied to the 101 other non-priority structures.<sup>57</sup>

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<sup>51</sup> PPL Electric St. 1, at p. 5.

<sup>52</sup> PPL Electric St. 1, at p. 12; PPL Electric Exhibit 1, at p. 58.

<sup>53</sup> PPL Electric Exhibit 1, at p. 47.

<sup>54</sup> PPL Electric Exhibit 1, at p. 48.

<sup>55</sup> PPL Electric Exhibit 1, at p. 47.

<sup>56</sup> PPL Electric Statement 1, at p. 6. PPL Electric explain the evaluation performed by the contractor in greater detail in Attachment 1 – Necessity Statement. *See* PPL Electric Exhibit 1, at p. 48

<sup>57</sup> PPL Electric Statement 1, at p. 6.

60. The asset health concerns revealed by the 2013 inspection were further heightened by the discovery of pack-out rust in the section joints of the COR-TEN® lattice towers.<sup>58</sup>

61. The negative impacts of pack-out rust on COR-TEN® structures have diminished the expected service life the existing COR-TEN® lattice towers that comprise the Summit-Lackawanna #1 and #2 230 kV Transmission Lines from 75 to 50 years.<sup>59</sup>

62. These structures have effectively reached end-of-life.<sup>60</sup>

63. PPL Electric subsequently contracted three additional independent, non-affiliated inspection companies to conduct evaluations of COR-TEN® lattice towers and determine the overall condition of these towers on the PPL Electric Transmission System in 2019.<sup>61</sup>

64. The contractors' reports revealed that "over 90% of the joints at each structure exhibited visible pack-out in the connections."<sup>62</sup>

65. In addition, the reports showed that pack-out rust and section-loss was most prominent on the lower portions of the towers where there was higher likelihood of moisture build up.<sup>63</sup>

66. Another evaluation of COR-TEN® lattice towers was initiated in early 2020 to determine the full extent of the deterioration on the transmission system.<sup>64</sup>

67. PPL Electric's Data Analytics Team used a statistical analysis and model to comprehensively determine the overall condition of the COR-TEN® lattice towers in a cost-efficient manner.<sup>65</sup>

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<sup>58</sup> PPL Electric Exhibit 1, at p. 49 (emphasis added).

<sup>59</sup> PPL Electric Exhibit 1, at p. 49.

<sup>60</sup> PPL Electric Exhibit 1, at p. 49.

<sup>61</sup> PPL Electric St. 1, at p. 7. The details of how these inspections were performed are explained in Attachment 1 – Necessity Statement. PPL Electric Exhibit 1, at p. 50.

<sup>62</sup> PPL Electric St. 1, at p. 7 (emphasis added).

<sup>63</sup> PPL Electric St. 1, at p. 7.

<sup>64</sup> PPL Electric St. 1, at p. 8.

68. The results of the 2020 inspection program confirmed the severity of deterioration noted during the 2019 inspection.<sup>66</sup>

69. PPL Electric retained RTR Energy Solutions, Inc. (“RTR”) to prepare a condition assessment of the Summit-Lackawanna #1 and #2 230 kV Transmission Lines in October 2021.<sup>67</sup>

70. RTR’s assessment analyzed each joints of all 30 structures that comprise this transmission line.<sup>68</sup>

71. Each structure was then assessed with a condition rating of “Mild” (less than 25% of total joints contain pack rust), “Moderate” (more than 25% but less than 50% of total joints contain pack rust), or “Severe” (more than 50% of total joints contain pack rust).<sup>69</sup>

72. The majority of the pack-out rust was observed in the lower sections of the post legs where horizontal and diagonal members are bolted to the post leg.<sup>70</sup>

73. No structures were in “Mild” condition and “[b]ased on the inspection results, the average structure...rated as ‘Moderate’ having over 40% of their total joints containing pack rust, indicating that those structures are on the more critical end of the spectrum for that condition rating.”<sup>71</sup>

74. At roughly 50 years of age, the COR-TEN® lattice towers that comprise the Summit-Lackawanna #1 and #2 230 kV Transmission Lines have exceeded their useful life and can no longer be relied upon to safely operate as designed.<sup>72</sup>

75. 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.<sup>73</sup>

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<sup>65</sup> PPL Electric St. 1, at p. 8.

<sup>66</sup> PPL Electric Exhibit 1, at p. 51 (Table 1-1).

<sup>67</sup> PPL Electric St. 1, at pp. 8-9.

<sup>68</sup> PPL Electric St. 1, at p. 9.

<sup>69</sup> PPL Electric St. 1, at p. 9; PPL Electric Exhibit 1, at p. 52.

<sup>70</sup> PPL Electric Exhibit 1, at p. 52.

<sup>71</sup> PPL Electric Exhibit 1, at p. 52.

<sup>72</sup> PPL Electric Exhibit 1, at p. 53.

76. Mr. Lookup explained that “if these transmission lines fail, it is expected that the service of approximately 31,875 customers would be impacted for the next contingency.”<sup>74</sup>

77. Customers impacted would include “customers such as Williams Pipeline Compressor Station 605, Metropolitan Insurance, Clark Summit Sewer, Clark Summit State Hospital, and PA American Water.”<sup>75</sup>

78. The risks of structure failure increase where a wind event impacts a structurally compromised COR-TEN® lattice tower.<sup>76</sup>

79. The Project will immediately and fully resolve the deteriorated condition of the existing structures on a long-term basis by removing the existing COR-TEN® lattice towers and replacing them with steel monopoles.<sup>77</sup>

80. By rebuilding these structures, PPL Electric will resolve the existing COR-TEN® issue and avoid the possibility of the issue worsening and/or recurring with respect to these structures and developing into both a reliability and public safety issue.<sup>78</sup>

81. PPL Electric evaluated three potential solutions to address the degrading health of the Summit-Lackawanna #1 and #2 230 kV Transmission Lines.<sup>79</sup>

82. The first alternative PPL Electric consider was to replace each of the existing COR-TEN® lattice towers with new standard lattice tower structures.<sup>80</sup>

83. The second alternative considered by PPL Electric was to remediate the entire lattice tower line, which would include replacing badly damaged members with galvanized steel members, installing new hardware and spacers, and cleaning pack-out from affected joints.<sup>81</sup>

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<sup>73</sup> PPL Electric Exhibit 1, at p. 53.

<sup>74</sup> PPL Electric St. 1, at pp. 10-11; *see also* PPL Electric Exhibit 1, at p. 53.

<sup>75</sup> PPL Electric St. 1, at pp. 10-11; *see also* PPL Electric Exhibit 1, at p. 53.

<sup>76</sup> PPL Electric Exhibit 1, at p. 54.

<sup>77</sup> PPL Electric Exhibit 1, at pp. 16-17 (Joint Application and Petition for Waiver ¶ 33).

<sup>78</sup> PPL Electric Exhibit 1, at pp. 16-17 (Joint Application and Petition for Waiver ¶ 33).

<sup>79</sup> PPL Electric Exhibit 1, at pp. 54-58.

<sup>80</sup> PPL Electric Exhibit 1, at p. 54.

84. The proposed rebuild is more cost-effective and much less risky than the remediation alternative.<sup>82</sup>

85. Concerns regarding (1) the lack of full-remediation experience with COR-TEN® lattice towers, (2) the lack of evidence of the long-term remediation effectiveness for COR-TEN® lattice towers, and (3) the possible return of pack-out rust in the joints of remediated COR-TEN® lattice tower structures, are fully avoided by the proposed rebuild contemplated by the Project.<sup>83</sup>

86. The proposed rebuild option avoids the ongoing O&M expense and additional, eventual reconductoring costs associated with the replacement alternative.<sup>84</sup>

87. The Project has the additional benefit of improving performance by increasing clearances and improving lightning performance by replacing the existing lattice towers with monopoles.<sup>85</sup>

**D. THE SUMMIT-LACKAWANNA PROJECT WILL NOT CREATE AN UNREASONABLE RISK OF DANGER TO THE HEALTH AND SAFETY OF THE PUBLIC**

88. The rebuilt Summit-Lackawanna #1 and #2 230 kV Transmission Lines associated with the Summit-Lackawanna Project will be designed, constructed, operated, and maintained in a manner that meets or surpasses all applicable NESC minimum standards and all applicable legal requirements.<sup>86</sup>

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<sup>81</sup> PPL Electric Exhibit 1, at p. 54.

<sup>82</sup> PPL Electric Exhibit 1, at p. 57.

<sup>83</sup> PPL Electric Exhibit 1, at p. 57.

<sup>84</sup> PPL Electric Exhibit 1, at p. 57.

<sup>85</sup> PPL Electric Exhibit 1, at p. 57.

<sup>86</sup> PPL Electric Exhibit 1, at p. 20 (Joint Application and Petition for Waiver ¶ 45); PPL Electric Exhibit 1, at pp. 87-93.

89. PPL Electric designs and constructs projects with high regard to both public and employee safety and follows or exceeds all codes and requirements.<sup>87</sup>

90. PPL Electric's safety rules include: procedures to allow work to be performed on energized facilities in a safe manner, including specific tagging procedures; the use of temporary safety grounds on de-energized facilities for employee lineman safety during maintenance, construction, or reconstruction work; pre-grounding voltage tests to confirm a line is de-energized; pre-climbing inspection of pole and/or structure integrity; and the required use of appropriate safety gear.<sup>88</sup>

91. PPL Electric has taken EMF mitigation into account.<sup>89</sup>

92. Ground clearances for the proposed Project will be increased between approximately 3.0 and 7.0 feet higher than those required by the NESC standard, in order to reduce the magnetic field exposure.<sup>90</sup>

93. The proposed rebuild of the Summit-Lackawanna #1 and #2 230 kV Transmission Lines will continue to allow for double-circuit operation, which will allow for reverse phasing.<sup>91</sup>

94. A reduction in magnetic field exposure is anticipated due to the higher ground clearances and reverse phasing.<sup>92</sup>

**E. THE SUMMIT-LACKAWANNA PROJECT IS IN COMPLIANCE WITH STATUTES AND REGULATIONS PROVIDING FOR THE PROTECTION OF NATURAL RESOURCES**

95. The Summit-Lackawanna Project will be constructed entirely within the existing ROW currently occupied by the existing Summit-Lackawanna #1 and #2 230 kV Transmission Lines or on the same PPL Electric fee-owned properties as the existing transmission lines.<sup>93</sup>

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<sup>87</sup> PPL Electric Exhibit 1, at p. 92.

<sup>88</sup> PPL Electric Exhibit 1, at p. 92.

<sup>89</sup> PPL Electric St. 1 at 17; *see also* PPL Electric Exhibit 1, at p. 93.

<sup>90</sup> PPL Electric St. 1 at 17; *see also* PPL Electric Exhibit 1, at p. 93.

<sup>91</sup> PPL Electric St. 1 at 17; *see also* PPL Electric Exhibit 1, at p. 93.

<sup>92</sup> PPL Electric St. 1 at 17; *see also* PPL Electric Exhibit 1, at p. 93.

96. In addition, the Project facilities will be rebuilt upon the same structure alignment as the existing facilities.<sup>94</sup>

97. PPL Electric has provided information on the regulatory permit requirements and agency coordination regarding cultural and environmental resources.<sup>95</sup>

98. PPL Electric has also conducted environmental studies within the existing corridor to support construction permitting.<sup>96</sup>

99. No national parks, state parks, local parks, recreational areas, or natural landmarks will be affected by the Project, because none are located in the Project Area.<sup>97</sup>

100. While two State Historic Preservation Office (“SHPO”) eligible properties were identified with respect to the Project (one located within the Project Area and one in close proximity to the Project Area), neither property is anticipated to be impacted by the project and permitting requirements for the Project do not require further coordination with the PHMC.<sup>98</sup>

101. No federal or state designated unique geological, scenic, or natural areas will be affected by the Project, because none are located within the Project Area.<sup>99</sup>

102. While the Project is located near three Pennsylvania Natural Heritage Program identified natural areas, all of the areas are located outside the ROW and no impacts from the Project are anticipated.<sup>100</sup>

103. PPL Electric completed a Pennsylvania Natural Diversity Inventory (“PNDI”) for the Project and, while certain endangered or threatened animal and plant species were identified, the applicable and federal agencies have confirmed that they either have no concerns regarding

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<sup>93</sup> PPL Electric Exhibit 1, at p. 21 (Joint Application and Petition for Waiver ¶ 51).

<sup>94</sup> PPL Electric Exhibit 1, at p. 21 (Joint Application and Petition for Waiver ¶ 51).

<sup>95</sup> PPL Electric Exhibit 1, at pp. 70-86; *see also* PPL Electric St. 2.

<sup>96</sup> PPL Electric Exhibit 1, at p. 32 (Joint Application and Petition for Waiver ¶ 78).

<sup>97</sup> PPL Electric St. 2, at p. 6.

<sup>98</sup> PPL Electric St. 2, at p. 7.

<sup>99</sup> PPL Electric St. 2, at p. 8.

<sup>100</sup> PPL Electric St. 2, at p. 11.

impacts on endangered or threatened species, or that they will work with PPL to ensure that the construction does not negatively impact such species.<sup>101</sup>

104. The Project will also decrease the maximum height and average height of towers,<sup>102</sup> and decrease the ground impacts of the structures comprising the Summit-Lackawanna #1 and #2 230 kV Transmission Lines.<sup>103</sup>

105. PPL Electric will obtain all required permits prior to construction of the Project and will comply with any and all conditions placed on such permits by those agencies that have appropriate jurisdiction over environmental matters.<sup>104</sup>

**F. THE SUMMIT-LACKAWANNA PROJECT WILL HAVE MINIMAL ADVERSE ENVIRONMENTAL IMPACTS**

106. The Summit-Lackawanna Project does not require a siting and route selection analysis because the Project involves rebuilding an existing transmission line located entirely within existing ROW.

107. The need for a siting study is further obviated by the fact that any alternative route would require the location of transmission lines where none presently exist.

108. The existing ROW would have fewer environmental impacts and constitute the preferred ROW in comparison to other reasonable alternatives.

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<sup>101</sup> PPL Electric St. 2, at p. 12-13 (identifying plant species of concern that PPL Electric has coordinated with the Pennsylvania Department of Conservation of Natural Resources to implement measures to protect and identifying animal species that PPL Electric has provided information to the United States Fish and Wildlife Service to demonstrate the Project will not impact).

<sup>102</sup> PPL Electric Exhibit 1, at p. 21 (Joint Application and Petition for Waiver ¶ 49). The existing COR-TEN® lattice tower structures range in height from between approximately 120-170 feet with an average structure height of approximately 144 feet. The proposed double-circuit monopole structures to replace the COR-TEN® lattice towers will range in height between approximately 110 and 165 feet with an average structure height of approximately 140 feet.

<sup>103</sup> PPL Electric Exhibit 1, at p. 21 (Joint Application and Petition for Waiver ¶ 49). The existing COR-TEN® lattice towers have a wider base than the proposed steel monopoles.

<sup>104</sup> PPL Electric St. 2, at p. 6; PPL Electric Exhibit 1, at pp. 70-86; *see also* Joint Stipulation ¶ 30.

**G. THE SUMMIT-LACKAWANNA PROJECT WILL NOT IMPACT LOCAL ZONING ORDINANCES AND PLANS**

109. PPL Electric is not seeking exemption from municipal zoning standards, and also demonstrated a waiver of the Commission's Interim Siting Guidelines regarding zoning and land use was appropriate.<sup>105</sup>

110. No new property rights are required, and the existing transmission line will be rebuilt entirely within existing ROW.

111. These will not adversely impact local comprehensive plans and zoning ordinances.<sup>106</sup>

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<sup>105</sup> PPL Electric Exhibit 1, Application ¶ 86.

<sup>106</sup> See 52 Pa. Code § 69.1101.

**APPENDIX B**  
**PROPOSED CONCLUSIONS**  
**OF LAW**

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**PROPOSED CONCLUSIONS OF LAW**

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) proposes the following conclusions of law:

1. PPL Electric is seeking Commission approval of the rebuild of an existing overhead high voltage transmission line. Section 332(a) of the Public Utility Code (“Code”)<sup>1</sup> provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding.

2. It is axiomatic that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.”<sup>2</sup>

3. The preponderance of evidence standard requires proof by a greater weight of the evidence.<sup>3</sup> This standard is satisfied by presenting evidence more convincing, by even the smallest amount, than that presented by another party.<sup>4</sup>

4. Additionally, any finding of fact necessary to support an adjudication of the Commission must be based upon substantial evidence.<sup>5</sup>

5. Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.<sup>6</sup> Although substantial evidence must be “more than a scintilla and must do more than create a suspicion of the existence of the fact to be established,”<sup>7</sup>

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<sup>1</sup> 66 Pa.C.S. § 332(a).

<sup>2</sup> *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

<sup>3</sup> *Commonwealth of Pennsylvania v. Williams*, 557 Pa. 207, 732 A.2d 1167 (Pa. 1999).

<sup>4</sup> *Brown v. Commonwealth of Pennsylvania*, 940 A.2d 610, 614 n.14 (Pa. Cmwlth. 2008).

<sup>5</sup> *Met-Ed Indus. Users Group v. Pa. PUC*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704).

<sup>6</sup> *Borough of E. McKeesport v. Special/Temporary Civil Service Commission*, 942 A.2d 274, 281 (Pa. Cmwlth. 2008).

<sup>7</sup> *Kyu Son Yi v. State Board of Veterinarian Medicine*, 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted).

the “presence of conflicting evidence in the record does not mean that substantial evidence is lacking.”<sup>8</sup>

6. If the applicant sets forth a *prima facie* case, then the burden shifts to the opponent.<sup>9</sup> Establishing a *prima facie* case requires either evidence sufficient to make a finding of fact permissible or evidence to create a presumption against an opponent which, if not met, results in an obligatory decision for the proponent.

7. Once a *prima facie* case on a point has been established, if contrary evidence is not presented, there is no requirement that the applicant produce additional evidence in order to sustain its burden of proof.<sup>10</sup>

8. Section 5.43 of the Commission’s regulations allows a party to petition for waiver of the Commission’s regulations.<sup>11</sup> Pursuant to Section 57.72(e) of the Commission’s regulations, one or more of the Commission’s siting requirements may be waived.<sup>12</sup> Section 57.72(e) provides as follows:

The Commission or the presiding officer may -- upon the petition of any party, upon the Commission’s own motion, or upon the presiding officer’s own motion -- waive one or more or all of the requirements in this subchapter. The petition shall clearly state the requirement sought to be waived and the reasons therefor.<sup>13</sup>

9. Additionally, Section 35.8 of the General Rules of Administrative Practice and Procedure allows a concerned party to petition an agency for waiver of a regulation.<sup>14</sup>

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<sup>8</sup> *Allied Mechanical and Elec., Inc. v. Pennsylvania Prevailing Wage Appeals Board*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

<sup>9</sup> *McDonald v. Pennsylvania Railroad Co.*, 348 Pa. 558, 36 A.2d 492 (Pa. 1940).

<sup>10</sup> *District of Columbia’s Appeal*, 343 Pa. 65, 21 A.2d 883 (Pa. 1941). *See, e.g., Application of Pennsylvania Power & Light Co.*, Docket Nos. A-110500F0196, *et al.*; 1994 Pa. PUC LEXIS 65 (Oct. 21 1994) (holding that the company met its burden to prove that there was an immediate need for the reinforcement of the power supply where the need for the project was uncontested and no party presented any evidence challenging the need for the project).

<sup>11</sup> 52 Pa. Code § 5.43.

<sup>12</sup> 52 Pa. Code § 57.72(e).

<sup>13</sup> *Id.*

<sup>14</sup> 1 Pa. Code § 35.18.

10. The Commission has granted requests for waivers of its siting regulations in similar circumstances where the project being proposed would be located within the existing ROW.<sup>15</sup>

11. The Commission has also waived the provisions of 52 Pa. Code § 57.75 (requiring hearing and notice) for an application that was simply a rebuild of an existing line.<sup>16</sup>

12. But for a dispute with a property owner with respect to the existing easement that PPL Electric possesses regarding the existing transmission line ROW that traverses their

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<sup>15</sup> *Application of PPL Electric Utilities Corporation, for Approval to Rebuild Approximately Six Miles of the Breinigsville-Alburtis 500 kV Transmission Line in Lower Macungie and Upper Macungie Townships, Lehigh County, Pennsylvania; Petition for Waiver of Certain Provisions of the Commission's Regulations for Commission Review of Siting and Construction of Electric Transmission Lines set forth at 52 Pa. Code § 57.71 et seq.*, Docket No. A-2019-3007945, at pp. 3-9 (Order entered Aug. 14, 2019) (“*Breinigsville-Alburtis Order*”) (granting PPL Electric’s requested waivers of 52 Pa. Code § 57.72(c) (4), (7), (8), (10), and (11) and 69.3102 through 69.3106 because, *inter alia*, the proposed project involved the rebuilding of an existing transmission line entirely within existing ROW); *see also Re Pennsylvania Power and Light Company*, Docket No. E-81768002, 1981 Pa. PUC LEXIS 39 (August 21, 1981) (granting waiver of the Commission’s siting regulations for construction of transmission line that would be located within existing ROW and on property of customer to be served where there would be minimal environmental impact and no substantial risk to public health or safety); *Re Metropolitan Edison Company*, Docket No. P-80070232, 1981 Pa. PUC LEXIS 56 (June 19, 1981) (granting waiver of the Commission’s siting regulations for construction of a second transmission line that would be located within an existing ROW where transmission line was already present and construction of the new line would not substantially alter the ROW); *Petition of Philadelphia Electric Company for waiver of siting application requirements under 52 Pa. Code § 57.71 for the proposed Middletown-Morton 230 kV line*, Docket No. P-880293, 1988 Pa. PUC LEXIS 383 (April 20, 1988) (granting waiver of the siting regulations where use of established railroad ROW eliminated the need to acquire and clear new ROW and, thus, eliminated potential adverse environmental impacts and significantly reduced costs); *Letter of Notification of Pennsylvania Electric Company pursuant to 52 Pa. Code § 57.72(d) to install the East-Towanda Mansfield 115 kV Transmission Line Tap to the Tennessee Gas Pipeline Substation located in Troy Township, Bradford County, Pennsylvania*, Docket No. A-110400F0045 (February 6, 2006) (granting request for waiver of Commission’s siting regulations because the proposed project was 2.6 miles long and was located along the ROW of an existing line and across the property of the sole customer to be served by the line); *cf. Petition for Waiver of Certain Provisions of the Pennsylvania Public Utility Commission's Regulations for Commission Review of Siting and Construction of Electric Transmission Lines Set Forth at 52 Pa. code § 57.71 et seq.*, Docket No. P-2012-228393, 2012 Pa. PUC LEXIS 566 (April 12, 2012) (denying request for waiver of the Commission’s siting regulations where proposed transmission line would parallel existing ROW but would require an additional 100 feet of width thereby altering the existing ROW).

<sup>16</sup> *Petition of West Penn for Waiver in connection with its Moshannon-Milesburg 230 kV transmission line*, Docket No. A-00103909 (April 30, 1982); *Re Pennsylvania Electric Company*, Docket No. A-00104088, 1982 Pa. PUC LEXIS 90 (June 10, 1982) (waiving hearing requirement for proposed line that would be located within the existing ROW and would not substantially alter the ROW thereby limiting impact of line on the environment).

property, the proposed Summit-Lackawanna Project would qualify for filing as a Letter of Notification pursuant to 52 Pa. Code § 57.72(d)(1)(i) and (v).<sup>17</sup>

13. PPL Electric has met its burden of proof to demonstrate that the waivers of 52 Pa. Code §§ 57.72(c)(7), (8), (10) and (11), 57.74(c), and 69.3101-69.3107 sought in the Joint Application and Petition for Waiver are appropriate.

14. Pursuant to Section 1501 of the Public Utility Code, an electric utility has a statutory obligation to provide safe, adequate, and reliable service to its customers.<sup>18</sup>

15. The Commission's regulations provide that an electric utility may not construct HV transmission lines, *i.e.*, electrical lines with a voltage of 100 kV or higher, without prior Commission approval.<sup>19</sup> As explained by the Commonwealth Court, the Commission's transmission line siting regulations set forth the following:

(1) the procedures for applying for approval of an HV line -- 52 Pa. Code § 57.72; (2) the procedures for hearings on HV line applications -- 52 Pa. Code § 57.75; and (3) what the [Commission] will consider when deciding whether to approve or deny an HV line application -- 52 Pa. Code § 57.76(a). These regulations, and 52 Pa. Code § 57.76 in particular, represent a codification of the review required by article I, section 27 of the Pennsylvania Constitution. *Re Proposed Electric Regulation*, 1976 Pa. PUC LEXIS 114, 49 Pa. P.U.C. 709, 712 (March 2, 1976) (stating that the "review required by article I, section 27 is being incorporated into our siting regulations").<sup>20</sup>

16. 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:

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<sup>17</sup> 52 Pa. Code § 57.72(d)(1)(i) authorizes the filing of a letter of notification where "[a]n HV line which is proposed to be located entirely on an existing transmission line right-of-way, so long as the size, character design or configuration of the proposed HV line does not substantially alter the right-of-way. 52 Pa. Code § 57.72(d)(1)(v) authorizes the filing of a letter of notification where "[a]n HV line which is to be reconducted or reconstructed so long as the size, character, design or configuration of the proposed HV line does not substantially alter the right-of-way."

<sup>18</sup> 66 Pa.C.S. § 1501.

<sup>19</sup> 52 Pa. Code § 57.71.

<sup>20</sup> *Energy Conservation Council of Pennsylvania v. Pa. PUC*, 995 A.2d 465, 477-78 (Pa. Cmwlt. 2010) (hereinafter "*Trailco*").

- (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.<sup>21</sup>

17. 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.<sup>22</sup>

18. The General Assembly has recognized the importance of ensuring the reliability of electric transmission systems, and the provision of sufficient electrical power at affordable rates. Section 2802(12) of the Code states that “[r]eliable electric service is of the utmost importance to the health, safety and welfare of the citizens of the Commonwealth. Electric industry restructuring should ensure the reliability of the interconnected electric system by maintaining the efficiency of the transmission . . . system.”<sup>23</sup> Section 2802(20) of the Code provides, *inter alia*, that ensuring the reliability of electric service depends on conscientious maintenance of transmission systems, and that electric system operators shall establish inspection, maintenance, repair and replacement standards.<sup>24</sup>

19. Section 2803 of the Code defines “reliability” as:

Includes adequacy and security. As used in this definition, “adequacy” means the provision of sufficient generation, transmission and distribution capacity so as to supply the aggregate

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<sup>21</sup> 52 Pa. Code § 57.76(a).

<sup>22</sup> *Stone v. Pa. PUC*, 162 A.2d 18, 19-221 (Pa. Super. 1960); *Dunk v. Pa. PUC*, 232 A.2d 231, 234-35 (Pa. Super. 1967).

<sup>23</sup> 66 Pa.C.S. § 2802(12).

<sup>24</sup> 66 Pa.C.S. § 2802(20).

electric power and energy requirements of consumers, taking into account scheduled and unscheduled outages of system facilities; and “security” means designing, maintaining and operating a system so that it can handle emergencies safely while continuing to operate.<sup>25</sup>

20. The Commonwealth Court of Pennsylvania has explained that nowhere in any of the foregoing statutory or regulatory provisions is there a requirement that a public utility demonstrate a “need” for the installation of the transmission line from an “engineering” perspective.<sup>26</sup>

21. 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.<sup>27</sup>

22. PPL Electric has met its burden of proof to demonstrate that the proposed Summit-Lackawanna Project is needed.

23. With respect to health and safety, the Commission has held that transmission lines that meet or exceed the National Electric Safety Code (“NESC”) requirements do not create an unreasonable risk of danger to the health and safety of the public.<sup>28</sup>

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<sup>25</sup> 66 Pa.C.S. § 2803.

<sup>26</sup> *Pennsylvania Power & Light Co. v. Pa. PUC*, 696 A.2d 248, 250 (Pa. Cmwlth. 1997).

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

<sup>28</sup> *See Application of PPL Electric Utilities Corporation Filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the Pennsylvania Portion of The Proposed Susquehanna-Roseland 500 kV Transmission Line*, Docket Nos. A-2009-2082652, et al., 2010 Pa. PUC LEXIS 434, at \*166 (February 12, 2010); *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).

24. PPL Electric has met its burden of proof to demonstrate that the proposed Summit-Lackawanna Project will not create an unreasonable risk of danger to the health and safety of the public.

25. With respect to natural resources and the environment, recent Pennsylvania Supreme Court case law has concluded that Article I, Section 27 of the Pennsylvania Constitution, *i.e.*, the Environmental Rights Amendment,<sup>29</sup> 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.<sup>30</sup> In carrying out these obligations, the Commonwealth, and its agencies, may subject the individual rights of citizens to clean air, pure water, and to the preservation of natural, scenic, historic, and esthetic values to reasonable regulation.<sup>31</sup>

26. The Commission has determined that its existing rules and policy satisfy its obligations under the Environmental Rights Amendment as described in *PEDF*.<sup>32</sup> The Commission further explained in *Penelec* that:

The Commission's regulatory scheme for high-voltage line transmission siting cases, therefore, provides for a robust, evidence-based deliberative process that provides due process for all interested parties. The Commission, consistent with our role as a fiduciary responsible for the preservation of the Commonwealth's natural resources, and consistent with PEDF, acts with prudence, loyalty and impartiality when adhering to these regulations. In this manner, we fulfill our responsibility to protect the public's natural resources from depletion or degradation, while also allowing legitimate development that improves the lot of

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<sup>29</sup> PA. CONST. art. I, § 27.

<sup>30</sup> *Pa. Environmental Defense Foundation v. Com. Of Pa.*, 161 A.3d 911 (Pa. 2017) ("*PEDF*").

<sup>31</sup> *PEDF*, 161 A.3d at 931; *see also Application of Pennsylvania Electric Company Seeking Approval to Locate Construct, Operate and Maintain a High-Voltage Transmission Line Referred to as the Bedford North-Central City West 115 kV HV Transmission Line Project*, Docket Nos. A-2016-2565296 et al., at pp. 12-14 (Order entered March 8, 2018) ("*Penelec*").

<sup>32</sup> *Penelec*, at pp. 13-14 ("Our siting Regulations are in accord with the Environmental Rights Amendment by requiring that the environmental impact of the proposed transmission siting route be minimized."); *see also* 52 Pa. Code §§ 69.3105, 69.3106.

Pennsylvania's citizenry, as the Pennsylvania Supreme Court recognized in *Robinson Township v. Com. of Pa.*, 623 Pa. 564, 658, 83 A.3d 901, 958 (2013).<sup>33</sup>

27. Generally, the Commission has found compliance with the applicable environmental statutes and regulations where the applicant agrees to obtain any and all necessary environmental permits prior to construction and to comply with any conditions on those permits during construction.<sup>34</sup> The applicant is not required to receive all necessary permits before the Commission may approve the transmission line, or before construction of the proposed line begins.<sup>35</sup>

28. The Commission has concluded an applicant can satisfy 52 Pa. Code § 57.76(a)(3) by seeking a waiver of certain of its siting regulations, and demonstrating that a rebuilt transmission line will be located entirely within existing ROW and “state and federal agencies have confirmed that they either have no concerns regarding impacts on endangered or threatened species, or that they will work with [the applicant] to ensure that the construction does not negatively impact such species.”<sup>36</sup>

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<sup>33</sup> *Penelec*, p. 14.

<sup>34</sup> 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 (Opinion and Order entered February 12, 2010).

<sup>35</sup> *Energy Conservation Council of Pennsylvania v. Pa. PUC*, 25 A.3d 440, 452 (Pa. Cmwlth. 2011) (hereinafter “*Susquehanna-Roseland*”).

<sup>36</sup> *Breinigsville-Alburtis Order*, at p. 19.

29. PPL Electric has met its burden of proof to demonstrate that the proposed Summit-Lackawanna Project is in compliance with applicable statutes and regulations, providing for the protection of the natural resources of this Commonwealth.

30. With respect to the selection of a proposed route for a high-voltage transmission line under 52 Pa. Code § 57.76(a)(4), the Commonwealth Court of Pennsylvania has held that a utility's route for a proposed HV transmission line should be approved where the record evidence shows that the utility's route-selection process was reasonable, and that the utility properly considered the factors relevant to siting a transmission line.<sup>37</sup>

31. The Commission has concluded that where a transmission "will be constructed entirely on existing ROW and...the line is being rebuilt, consideration of an alternative route is unnecessary."<sup>38</sup>

32. PPL Electric has met its burden of proof to demonstrate to satisfy 52 Pa. Code § 57.76(a)(4) consistent with PPL Electric's requested waiver of 52 Pa. Code § 57.72(c)(10).

33. Section 1511 of the Business Corporation Law of 1988 statutorily grants a public utility, such as PPL Electric, the power or authority to take and condemn property for the purpose of providing electricity to the public.<sup>39</sup>

34. Before a public utility may seek to exercise the authority to condemn property for an aerial transmission line, it must obtain approval from the Commission pursuant to Section 1511(c), which provides, in pertinent part, as follows:

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

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<sup>37</sup> *Susquehanna-Roseland*, at 449-50 (quoting *Trailco*, 995 A.2d 465, 479-80).

<sup>38</sup> *Breinigsville-Alburtis Order*, at p. 6 (emphasis added).

<sup>39</sup> See 15 Pa.C.S. § 1511(a)(3).

through the exercise of those powers is necessary or proper for the service, accommodation, convenience or safety of the public.<sup>40</sup>

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

35. 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.<sup>41</sup>

36. 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.<sup>42</sup>

37. The Commission lacks jurisdiction to determine the validity and scope of an easement.<sup>43</sup>

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<sup>40</sup> *Id.* at § 1511(c).

<sup>41</sup> *Department of Environmental Resources v. Pa. PUC*, 335 A.2d 860 (Pa. Cmwlth. 1975), *aff'd.*, 473 Pa. 378, 374 A.2d 693 (1977); *Dickson v. Pennsylvania Service Commission*, 89 Pa. Super. 126 (1926).

<sup>42</sup> *Stone v. Pa. PUC*, 162 A.2d 18 (Pa. Super. 1960). As a further example, in *Paxtowne v. Pa. PUC*, 398 A.2d 254, 256 (Pa. Cmwlth. 1979), the route selected by the public utility was affirmed. In order to establish that the selected route was reasonable in comparison with two alternative routes, the public utility established the following:

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

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

38. 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.<sup>44</sup>

39. PPL Electric's has met its burden of proof to demonstrate that the proposed exercise of the power of eminent domain associated with the Summit-Lackawanna Project, to the extent such exercise is required to acquire a ROW and easement over a certain portion of the lands claimed by the Bakers in Dickson City Borough and Scott Township, Lackawanna County, Pennsylvania, is necessary or proper for the service, accommodation, convenience, or safety of the public.

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<sup>43</sup> *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)); *see also* Joint Stipulation ¶ 40.

<sup>44</sup> Joint Stipulation ¶ 41.

**APPENDIX C**  
**PROPOSED ORDERING**  
**PARAGRAPHS**

**APPENDIX C**  
**PROPOSED ORDERING PARAGRAPHS**

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) proposes the following ordering paragraphs:

1. The 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, filed at Docket No. A-2022-3030969, is approved consistent with the Joint Stipulation dated July 15, 2020.

2. PPL Electric’s petition for waivers of 52 Pa. Code §§ 57.72(c)(7), (8), (10) and (11), 57.74(c), and 69.3101-69.3107 sought and explained in 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, filed at Docket No. A-2022-3030969, is granted.

3. The 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, filed at Docket No. A-2022-3031013, is approved consistent with the Joint Stipulation dated July 15, 2020.

4. All other such approvals and/or waivers that are necessary or appropriate to approve the above-captioned applications are granted.

5. The proceedings at Docket Nos. A-2022-3030969 and A-2022-3031013 be marked closed.