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File #: 166407

July 8, 2019

***VIA ELECTRONIC FILING***

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

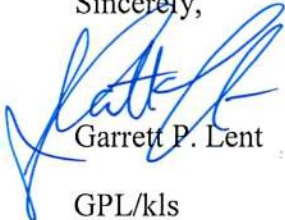
**Re: Application of Duquesne Light Company filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 138 kV Transmission Lines Associated with the Brunot Island-Crescent Project in the City of Pittsburgh, McKees Rocks Borough, Kennedy Township, Robinson Township, Moon Township, and Crescent Township, Allegheny County, Pennsylvania  
Docket No. A-2019-3008589; C-2019-3010963**

Dear Secretary Chiavetta:

Enclosed for filing is the Answer with New Matter of Duquesne Light Company to the Protest of Dennis J. and Jeanne M. Zona.

Copies are being provided per the attached Certificate of Service.

Sincerely,



Garrett P. Lent

GPL/kl  
Enclosures

cc: Certificate of Service

ALLENTOWN HARRISBURG LANCASTER PHILADELPHIA PITTSBURGH PRINCETON WASHINGTON, D.C.

A PENNSYLVANIA PROFESSIONAL CORPORATION

18942980v1

**CERTIFICATE OF SERVICE**  
**(A-2019-3008589 and A-2019-3008652)**

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

**VIA FIRST CLASS MAIL**

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Dated: July 8, 2019

  
\_\_\_\_\_  
Garrett P. Lent

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Duquesne Light Company :  
filed Pursuant to 52 Pa. Code Chapter 57, :  
Subchapter G, for Approval of the Siting and :                   Docket No. A-2019-3008589  
Construction of the 138 kV Transmission :                   Docket No. C-2019-3010963  
Lines Associated with the **Brunot Island** – :  
**Crescent Project** in the City of Pittsburgh, :  
McKees Rocks Borough, Kennedy :  
Township, Robinson Township, Moon :  
Township, and Crescent Township, :  
Allegheny County, Pennsylvania :  
:  
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:  
Protest of Dennis J. & Jeanne M. Zona :

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**NOTICE TO PLEAD**

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YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.101, YOU MAY ANSWER THE ENCLOSED NEW MATTER WITHIN TWENTY (20) DAYS OF THE DATE OF SERVICE HEREOF. YOUR ANSWER TO THE NEW MATTER MUST BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL FOR DUQUESNE LIGHT COMPANY.

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Date: July 8, 2019

Attorneys for Duquesne Light Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Duquesne Light Company :  
filed Pursuant to 52 Pa. Code Chapter 57, :  
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Township, and Crescent Township, :  
Allegheny County, Pennsylvania :  
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:  
Protest of Dennis J. & Jeanne M. Zona :

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**ANSWER AND NEW MATTER OF DUQUESNE LIGHT COMPANY  
TO THE PROTEST OF DENNIS J. AND JEANNE M. ZONA**

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**TO THE HONORABLE ADMINISTRATIVE LAW JUDGE MARY D. LONG:**

Duquesne Light Company (“Duquesne Light” or the “Company”) files this Answer to the Protest of Dennis J. & Jeanne M. Zona (“Protestants”)<sup>1</sup> pursuant to Section 5.61 of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code § 5.61. Although the Commission’s regulations do not require an answer to a Protest, Duquesne Light responds to each of the separately-numbered paragraphs of the Zona Protest as follows:

**ANSWER**

1. Admitted.

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<sup>1</sup> The Protestants filed the above-captioned pleading as a Formal Complaint on June 18, 2019, and the pleading was docketed at Docket No. C-2019-3010963. The Commission re-docketed the complaint as a Protest at Docket No. A-2019-3008589 by Secretarial Letter dated June 28, 2019.

2. Denied as stated. The Company's name is Duquesne Light Company.
3. Admitted.
4. Admitted in part and denied in part. It is admitted Duquesne Light recently filed:  
(1) "Application of Duquesne Light Company filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 138 kV Transmission Lines Associated with the Brunot Island – Crescent Project in the City of Pittsburgh, McKees Rocks Borough, Kennedy Township, Robinson Township, Moon Township, and Crescent Township, Allegheny County, Pennsylvania," at Docket No. A-2019-3008589 ("BI-Crescent Full Siting Application"); and (2) "Application of Duquesne Light Company Under 15 Pa.C.S. § 1511(c) For A Finding and Determination That the Service to be Furnished by the Applicant Through Its Proposed Exercise of the Power of Eminent Domain to Acquire a Certain Portion of the Lands of George N. Schaefer of Moon Township, Allegheny County, Pennsylvania for the Siting and Construction of Transmission Lines Associated with the Proposed Brunot Island – Crescent Project is Necessary or Proper for the Service, Accommodation, Convenience, or Safety of the Public," at Docket No. A-2019-3008652 ("Schaefer Condemnation Application").<sup>2</sup>

It is also admitted that Duquesne Light possesses a valid easement through the property now known as 108 Wynview Drive, Moon Township, PA 15108. Any characterization of the language of the right-of-way or Duquesne Light's rights thereunder is denied. By way of further response, the Commission is without authority to interpret the language of easements and lacks jurisdiction over property disputes, including disputes related to proper use of easements.

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<sup>2</sup> While the Protest references the Schaefer Condemnation Application and/or its docket number, Duquesne Light denies that the Protestant is a property owner of record for the subject property.



*Fairview Water Company. v. Pa. Pub. Util. Comm'n*, 502 A.2d 162 (Pa. 1985) (“...the PUC does not have jurisdiction to determine the scope and validity of an easement. Once there has been a determination by the PUC that the proposed service is necessary and proper, the issues of scope and validity and damages must be determined by a Court of Common Pleas exercising equity jurisdiction.”); *see also See 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)). It is further denied that Duquesne Light has failed in its obligation to acquire land to support its infrastructure or that the Company has used or is using insufficient right-of-way to support its transmission line projects.

It is denied that Duquesne Light’s existing right-of-way at or near the Protestants’ address is insufficient or that Duquesne Light has abused its use of existing right-of-way at or near the Protestants’ address. By way of further response, it is denied that the Commission has the authority to interpret the relevant easement or determine whether Duquesne Light has acted inconsistent with its rights under the easement. It is denied that the current or intended future operation of Duquesne Light’s facilities within the existing right-of-way are unreasonable or unsafe. As set forth in the New Matter, below, Duquesne Light designs, installs and operates its

transmission facilities in compliance with all applicable National Electric Safety Code (“NESC”) standards. By way of further response, Duquesne Light incorporates by reference Attachment 11 – Design Criteria and Safety Practices and Duquesne Light St. No. 3, the direct testimony of Meenah Shyu, both of which were attached to the BI-Crescent Full Siting Application.

It is admitted that Duquesne Light filed the BI-Crescent Full Siting Application with the Commission on March 15, 2019. It is denied the Duquesne Light has requested the Commission to approve a misuse of the existing right-of-way. It is denied that the Company intends to replace a seventy-eight (78) foot high light tower, twin circuit, 138 kV structure with a one hundred and eight-five (185) foot high monopole structure. By way of further response, the existing structure is ninety (90) feet tall and the Company intends to replace it with a one hundred and ninety (190) feet tall structure. It is denied that the existing right-of-way is in any way insufficient.

It is denied that Duquesne Light’s intent to, at some point in the future, raise the voltage of electricity transmitted over these structures from 138 kV to 345 kV constitutes a misuse of the right-of-way. By way of further response, Duquesne Light detailed its plans regarding the need to design one of the circuits to 345 kV standards in Attachment 2 – Necessity Statement and Duquesne Light Statement No. 1, the direct testimony of Jason Harchik, both of which were attached to the BI-Crescent Full Siting Application, and incorporates by reference the information contained therein.

It is admitted that the Protestants' property will be traversed by right-of-way associated with the BI-Crescent Project. Any characterization of the Company's motives for the Project is denied.

It is denied that it is "industry standard practice" [or other such averment] to site 345 kV transmission circuits on one hundred and fifty (150) foot wide right-of-ways. It is also denied that Duquesne Light's BI-Crescent Project is not designed to mitigate or avoid risks to health or safety.

It is denied that the BI-Crescent Project presents a health or safety risk due to electromagnetic fields ("EMFs") or "Gauss fields." By way of further response, Duquesne Light Company has described its EMF practices and policies in Attachment 11 – Design Criteria and Safety Practices to the BI-Crescent Full Siting Application and incorporates the information contained therein into this Answer.

It is also denied that the BI-Crescent Project will result in more "nuisance audible noise". After a reasonable investigation, the Company lacks sufficient information to form a reasonable belief as to whether the Protestants' residence presently experiences audible noise from existing Duquesne Light facilities, and therefore denies the same. By way of further response, the Commission lacks jurisdiction over nuisance claims.

It is denied that any high-voltage nuisance static discharges on passenger vehicles or school buses have occurred or can reasonably be expected to occur as a result of the BI-Crescent Project. By way of further response, the Commission lacks jurisdiction over nuisance claims.



It is admitted that existing steel lattice towers located within the existing right-of-way will be replaced with steel monopoles. It is denied that the BI-Crescent Project will have an unreasonable, adverse impact on the visual aesthetics of the surrounding area. By way of further response, Duquesne Light thoroughly evaluated the potential impacts of the BI-Crescent Project as detailed in Attachment 3 – Environmental Assessment and Line Route Study and Duquesne Light Statement No. 2, the direct testimony of Aimee Kay, both of which were attached to the BI-Crescent Full Siting Application and are incorporated by reference herein.

It is denied that the BI-Crescent Project will have an unreasonable adverse impact on property resale values.

It is finally denied that the BI-Crescent Project will have an unreasonable adverse impact on the quality of life in the Protestants' neighborhood.

5. Denied. The averments contained in Paragraph 5 (referencing the requests for relief on page 3 of 3 of the attachment to the Protest) of the Protest are requests for relief to which no responsive pleading is required. To the extent a response is deemed necessary, Duquesne Light denies that the Protestants are entitled to the relief requested.

By way of further response, Duquesne Light incorporates Paragraphs 2 through 4, *supra*, as though fully set forth herein.

6. Paragraph 6 of the Protest relates to Protection from Abuse orders, to which no responsive pleading is required.

7. Admitted. By way of further response, Duquesne Light has attempted to be responsive to all contacts and communications from the Protestants and has treated the Protestants in the same respectful and fair manner that it treats all other customers.

8. Paragraph 8 of the Protest pertains to the Protestants' legal representation, to which no responsive pleading is required.

9. Paragraph 9 sets forth the verification and signature, to which no responsive pleading is required.

10. Paragraph 10 sets forth the instructions for filing the Protest, to which no responsive pleading is required.

#### **NEW MATTER**

1. The National Electrical Safety Code ("NESC") is a set of rules designed to safeguard people during the installation, operation, and maintenance of electric power lines.

2. The NESC contains the basic provisions considered necessary for the safety of employees and the public.

3. Although it is not intended as a design specification, its provisions establish minimum design requirements.

4. The BI-Crescent Project will comply with the NESC.

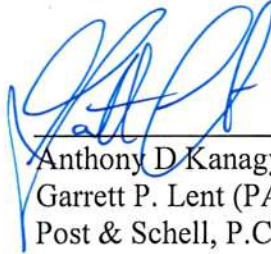
5. In addition to the safety features incorporated by designing the line in accordance with the NESC, DLC's design loading conditions for structures, wires, and clearances exceed NESC standards.

6. The Brunot Island – Crescent 138 kV Transmission Line will be designed for a minimum vertical ground clearance of 30 feet where feasible, which is greater than the clearance required by the NESC, 2017 edition.

7. The Brunot Island – Crescent 138 kV Transmission Line will be designed as a double-circuit 138 kV/345 kV transmission line, but initially will be operated as a double-circuit 138 kV transmission line until load growth makes it necessary to increase the voltage of the second circuit and necessary approvals are acquired.

WHEREFORE, Duquesne Light Company respectfully requests that the Protest of Dennis J. & Jeanne M. Zona, be denied and with prejudice as against Duquesne Light.

Respectfully submitted,



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Date: July 8, 2019

Attorneys for Duquesne Light Company

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McKees Rocks Borough, Kennedy Township, :	
Robinson Township, Moon Township, and :	
Crescent Township, Allegheny County, :	
Pennsylvania :	
:	
:	
:	
:	
Protest of Dennis J. & Jeanne M. Zona :	

**VERIFICATION**

I, MEENAH SHYU, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

  
\_\_\_\_\_

Dated: 7/8/2019