

STOP THE LINES!

Opposition to PSE&G Susquehanna Roseland Powerline Project
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April 1, 2009

Kristi Izzo
Office of the Secretary
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

RE: Escrow for Intervenor Expert Expenses
PSE&G Susquehanna-Roseland Transmission Project
BPU Docket No: EM09010035

Dear Secretary Izzo:

Please accept this letter brief as our Motion for Escrow for Intervenor Expert Expenses.

Stop the Lines is a non-profit organization incorporated under the laws of the State of New Jersey. Stop the Lines members live, work and recreate along the PSE&G Susquehanna-Roseland Transmission Project proposed Route B and will be substantially, specifically and directly affected by the outcome of this contested case.

Stop the Lines interests are as many and varied as its members. However, none of the members of Stop the Lines are experts in transmission, we do not have training or education in the many issues presented by PSE&G's proposal for this transmission line. In its Motion to Intervene, Stop the Lines requested that the BPU require PSE&G to be assessed and pay into escrow for intervenors to retain experts to inform the record. Stop the Lines believes this is equitable because if PSE&G had brought this matter to the many local governments along the line, rather than to the BPU, under N.J.S.A. 40:55D-19, PSE&G would have significant escrow expense to fund experts for the 15 individual land use, planning or zoning boards in communities along the route in New Jersey.

This is a matter of equity. PSE&G is in the business of transmitting electricity, and has vast knowledge and experience in this area. Stop the Lines and the other intervenors do not. N.J.S.A. 40:55D-19 escrow provisions are a means to "level the playing-field", to fund Intervenor experts to independently review the application and testimony. Intervenor experts can vet the proposed project and the assumptions of the applicants to inform the record with a variety of perspectives

and emphasis. We need experts to help us do this work. Utilizing the Intervenors and their experts is the best way for the BPU to develop the solid record it requires as a basis for any decision.

Other states routinely fund Intervenor efforts in public utilities dockets. In Minnesota, rate case Intervenors may apply for Intervenor funding. Minn. Stat. §216B.16, Subd. 10¹. California, New York, Idaho, and Wisconsin also provide for Intervenor Compensation. California Pub. Util. Code §1801-1812; [citation omitted]; Idaho Code §61-617A; Wisc.PSC Code Ch. 3. Intervenor Compensation was a factor taken into account by the National Association of Regulatory Utility Commissioners (NARUC) in its Western Planning Initiatives.²

Awards to Intervenors acknowledges their intense effort in assisting regulatory agencies. It is not awarded casually – Intervenors earn it. In ordering Intervenor Compensation, the Minnesota Public Utilities Commission considers several criteria from the Commission and Intervenor viewpoints:

(c) In determining whether an intervenor has materially assisted the commission's deliberation, the commission must consider, among other factors, whether:

- (1) the intervenor represented an interest that would not otherwise have been adequately represented;*
- (2) the evidence or arguments presented or the positions taken by the intervenor were an important factor in producing a fair decision;*
- (3) the intervenor's position promoted a public purpose or policy;*
- (4) the evidence presented, arguments made, issues raised, or positions taken by the intervenor would not have been a part of the record without the intervenor's participation; and*
- (5) the administrative law judge or the commission adopted, in whole or in part, a position advocated by the intervenor.*

(d) In determining whether the absence of compensation would present financial hardship to the intervenor, the commission must consider.

- (1) whether the costs presented in the intervenor's claim reflect reasonable fees for attorneys and expert witnesses and other reasonable costs; and*
- (2) the ratio between the costs of intervention and the intervenor's unrestricted funds.*

Minn. Stat. §216B.16, Subd. 10(c). Similarly, Wisconsin offers Intervenor Compensation in utility dockets under narrow conditions. Wisconsin Administrative Code, PSC 3. To qualify for Intervenor Compensation, several requirements must be met:

To be eligible for compensation under this chapter, a person who seeks compensation in order to intervene in a commission proceeding shall be all of the following:

¹ Available online at: <https://www.revisor.leg.state.mn.us/statutes/?id=216B.16>

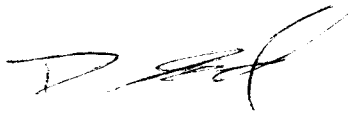
² See NARUC Powerpoint: http://www.narucmeetings.org/Presentations/elec_wrp_olsen_s06.pdf

- (a) A customer of the utility which is the subject of the proceeding; or someone who may be materially affected by the outcome of the proceeding.*
- (b) Someone for whom intervention in the proceeding would cause significant financial hardship without compensation from the commission.*
- (c) Someone who represents an interest material to the proceeding which but for an award of compensation would not be adequately represented.*
- (d) Someone whose interest must be represented for a fair determination in the proceeding.*
- (e) Someone who has been granted party status and who will participate in the proceeding as a party.*

Wisc.PSC Code 3.02,

Stop the Lines urges the Board to establish an escrow of at least \$200,000.00 for judicious award to Intervenors in this transmission proceeding so that they may properly and independently review this transmission project proposed by retaining experts. Without it, Intervenors will have a difficult time making their case.

Respectfully,



David Slaperud
for
Stop the Lines

cc: Applicant & Intervening Parties