

**pennsylvania**

DEPARTMENT OF TRANSPORTATION

www.dot.state.pa.us

October 28, 2011

Dona Ritchey, Distribution Specialist
Pennsylvania Electric Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612

Reference: Agreement No.: 125715
MPMS: 31587
County: Westmoreland
SR-Sec: 0056-N00
Federal Project No.: T125272 L1C0

Dear Ms. Ritchey:

Enclosed is one (1) copy of an executed agreement, numbered 125715, dated October 20, 2011, for reimbursement of costs in connection with the subject highway construction project.

Written authorization to proceed with the physical relocation of your facilities will be forwarded through our District Office.

When submitting invoices, Utility Companies that are using the Utility Relocation Document Management System (UR-EDMS) can submit invoices electronically through UR-EDMS. Utility Companies that are not using UR-EDMS will need to send their invoices to the address listed below:

**PA Dept. of Transportation
78DIST12
PO BOX 69181
Harrisburg, PA 17106**

If you have any questions, please contact Chris Magness, Utility Relocation Administrator, at 717-787-5305.

Sincerely,

A handwritten signature in blue ink that reads "Larry W. Ditty, Jr." with a stylized flourish at the end.

Larry W. Ditty, Jr.
Chief
Utility Relocation Administrator

Enclosure

4350/LWD/cm

BCC: Dale Scott, Contracts Division, 9th Floor, Forum Place (w/enclosure)
Willis Hackenberg, Treasury Department, Room G-11, Finance Bldg.
(w/enclosure)

LSEA-1 (10-00)
Contract No.
FID No. 25-0718085
SAP Vendor ID 142390-001

THIS AGREEMENT, numbered U125715 in COMMONWEALTH files, made and entered into this 20th day of October, 2011, by and between the COMMONWEALTH of Pennsylvania, acting through the Department of Transportation, hereinafter called the COMMONWEALTH,

a
n
d

PENNSYLVANIA ELECTRIC COMPANY with its principal place of business located at, 2800 Pottsville Pike, P.O. Box 16001, Reading, Pennsylvania, hereinafter called UTILITY.

W I T N E S S E T H

WHEREAS, the Secretary of Transportation, in pursuance of authority vested in the Secretary by law, is about to undertake a highway construction project on State Route 0056, Section N00, in Westmoreland County, Pennsylvania; and,

WHEREAS, this highway project will, in the opinion of the Secretary of Transportation, require the adjustment of certain of the UTILITY's facilities, portions of which are presently located outside the existing public right of way; and,

WHEREAS, in conformance with the terms and conditions of Master Utility Relocation Agreement number 435011, dated September 19, 2002, between the Parties, UTILITY herein below estimates the cost of adjusting or relocating its facilities; and,

WHEREAS, UTILITY certifies that it has the right of occupancy in its existing location because it holds the fee, easement, or other real property interest and that UTILITY herewith furnishes evidence of such rights.

NOW, THEREFORE:

In consideration of the foregoing premises and the mutual covenants hereinafter contained and with the intent to be legally bound hereby, the Parties agree as follows:

FIRST - That the UTILITY will make the adjustments to its facilities, consisting of electrical facilities, together with fittings and appurtenances thereto between Station 102+ 5 ft. and Station 109+ 90 ft. on State Route 0056, Section N00, in the County of Westmoreland, Township of St. Clair and Borough of Seward, in the manner and at the location approved by the Department of Transportation at a reimbursable cost estimated as follows:

Labor	\$9,505.54
Materials & Supplies	\$1,845.51
Equipment	\$ - 0 -
Transportation	\$ 724.00
Total Reimbursable Relocation Cost	<u>\$12,075.05</u>

Detailed plans showing the adjustments or relocation of UTILITY's facilities, along with real property documentation are attached hereto as exhibit (A).

SECOND - The Parties agree that a lump sum of Twelve Thousand, Seventy-Five and 05/100 (\$12,075.05) dollars attributable to the relocation of those facilities of UTILITY located outside of the public right of way, shall be paid by the COMMONWEALTH to the UTILITY, which UTILITY agrees to accept as settlement for UTILITY's expenses to adjust, transfer and/or reconstruct its facilities in/or from private right of way.

THIRD - That the UTILITY will within 180 calendar days of the COMMONWEALTH's authorization to proceed with such work, complete the adjustments contemplated by this agreement in a manner satisfactory to the COMMONWEALTH, and upon certification in writing by the UTILITY of such completion and upon UTILITY furnishing an invoice in the agreed to lump sum amount, the COMMONWEALTH shall pay to the UTILITY the COMMONWEALTH's share, exclusive of any betterments and charges for interest on construction money, which amount is of Twelve Thousand, Seventy-Five and 05/100 (\$12,075.05) dollars.

FOURTH - That, upon receipt of the payment stipulated in Paragraph Third and subject to all other terms of this agreement, the UTILITY for itself, its successors and assigns, shall and does hereby quitclaim, release and forever discharge the COMMONWEALTH, its agents, officers and employees, from any and all claims and damages incurred by virtue of the relocation of the aforesaid UTILITY facilities.

FIFTH - The Commonwealth will make payments to the recipient of the funding through the Automated Clearing House ("ACH"). Within 10 days of the contract execution date, the recipient of the funding must submit or must have already submitted its ACH and electronic addenda information, if desired, to the Commonwealth's Payable Service Center, Vendor Data Management Unit at 717-214-0140 (FAX) or by mail to the Office of Comptroller Operations, Bureau of Payable Service Center, Payable Service Center, Vendor Data Management Unit, 555 Walnut Street- 9th Floor, Harrisburg, PA 17101 A copy of the ACH enrollment form can be obtained online at:

SIXTH - The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101—3104, applies to this Agreement. Therefore, this Agreement is subject to, and the UTILITY shall comply with, the clause entitled Contract Provisions – Right to Know Law 8-K-1532, attached as Exhibit "B" and made a part of this Agreement. As used in this Agreement, the term "Contractor" refers to the UTILITY.

IN WITNESS WHEREOF, the parties have executed with Agreement the date first above written.

ATTEST

Pennsylvania Electric Company

BY Scott Wy 8-29-11
Title: Director-Operations Services Date:

BY David [Signature] 8-29-11
Title: Manager-Engineering Services Date:

If a Corporation, the President or Vice-president must sign and the Secretary, Treasurer, Assistant Secretary or Assistant Treasurer must attest; if a sole proprietorship, only the owner must sign; if a partnership, only one partner need sign; if a limited partnership, only the general partner must sign. If a Municipality, Authority or other entity, please attach a resolution.

----DO NOT WRITE BELOW THIS LINE - FOR COMMONWEALTH USE ONLY----

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

BY Lang w. [Signature], Jr. 10/7/11
Central Office Utility Administrator Date

APPROVED AS TO LEGALITY
AND FORM

PRELIMINARILY APPROVED

BY Michael [Signature] 10/17/11
Chief Counsel Date

BY [Signature] 11/17/11
Assistant Counsel Date

DOC. NO. 4125715000
FUND NO. 2618511352
GL ACCOUNT 6413010
COST CENTER 784125000
AMOUNT \$12,075.05

BY Dale Scott 10-20-11
Comptroller Date

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF WESTMORELAND :

NOW COMES, Keith A. Gardner, who deposes and says that he is an employee for PENELEC; that he is duly authorized to make this Affidavit on behalf of PENELEC; that the facilities of PENELEC have been in existence on the ground or underground since 1942, at the location described as follows:

Location: Westmoreland County, Seward Borough:

<u>Facility No(s).</u>	<u>Current Property Owner</u>	<u>Year of Original Installation</u>
SCP-37	Warren R. Capenos	1942

Right of Way Statement: A due and diligent search has proven unsuccessful in locating the original right of way. That the said facilities have always been visible for all to see and that the property owners have been aware of the existence of the said facilities; that no one has ever challenged the said Company's right to have its facilities on the ground at the aforesaid location, and that the said Company asserts a property interest in the nature of an easement for its facilities at the aforesaid location.

PENELEC, A First Energy Company

By Keith A. Gardner
ADV. DIST. SPECIALIST
(Title)

Sworn and subscribed before me

this 14th day of September, 20 11

Michele L. Hershberger
Notary

(Notary Ink Seal)

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Michele L. Hershberger, Notary Public
Richland Twp., Cambria County
My Commission Expires Dec. 16, 2014
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

Exhibit "A"

Contract Provisions – Right to Know Law 8-K-1532

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:
1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth’s determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor’s failure, including any statutory damages assessed against the Commonwealth.
- g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

EXHIBIT C

CERTIFICATE OF AUTHORITY

I, Harvey L. Wagner, Vice President and Controller, of FirstEnergy Corp. do hereby certify that the Manager, Regional Engineering and the Director, Operations Services possess the authority to prepare, sign and certify any and all documents associated with the Lump Sum Estimate Agreements pursuant to Pennsylvania Electric Company's agreement with the Commonwealth of Pennsylvania under Contract No. 435011, FID No. 25-0718085.



Harvey L. Wagner
Vice President and Controller

Sworn to and subscribed before me, a Notary Public, this 28th day of May, 2002.


(Notary)

SEAL

