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Jessica R. Rogers

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File #: 140074

August 23, 2012

BY E-FILE

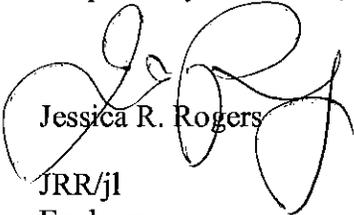
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Clinton and Caroline Hashagen v. PPL Electric Utilities Corporation
Docket No. C-2012-2317387

Dear Secretary Chiavetta:

Enclosed is the Preliminary Objection of PPL Electric Utilities Corporation in the above-referenced proceeding. Copies have been provided as indicated on the Certificate of Service.

Respectfully Submitted,


Jessica R. Rogers

JRR/jl

Enclosures

cc: Certificate of Service

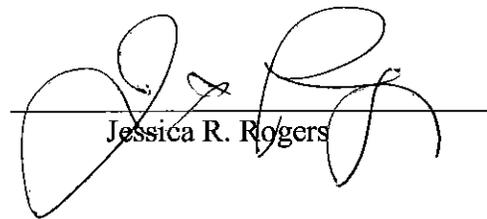
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Preliminary Objection** 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

Clinton & Caroline Hashagen
171 Everetts Lane
Berwick, PA 18603

Date: August 23, 2012


Jessica R. Rogers

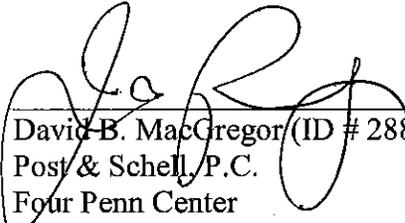
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Clinton and Caroline Hashagen,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. C-2012-2317387
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE §§ 5.102(b) AND 5.103(c), YOU MAY ANSWER THE ENCLOSED MOTION WITHIN TWENTY (20) DAYS AFTER THE DATE OF SERVICE. YOUR ANSWER SHOULD 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.

Paul E. Russell (ID # 21643)
Associate General Counsel
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18106
Phone: 610-774-4254
Fax: 215-587-1444
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Of Counsel:

Post & Schell, P.C.

John H. Isom (ID # 16569)
Jessica R. Rogers (ID # 309842)
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: jisom@postschell.com
jrogers@postschell.com

Date: August 23, 2012

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Clinton and Caroline Hashagen,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. C-2012-2317387
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

PRELIMINARY OBJECTION OF PPL ELECTRIC UTILITIES CORPORATION

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”), by and through its attorneys, hereby files this Preliminary Objection, pursuant to the Regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code § 5.101, and respectfully requests that the Commission dismiss, in its entirety, the above-captioned Complaint.

In support thereof, PPL Electric states as follows:

I. INTRODUCTION AND BACKGROUND

1. 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.

2. PPL Electric owns approximately 5,000 miles of transmission lines operating at 69 kV (kilovolts) or higher, approximately 375 substations with a capacity of 10 MVA (megavolt amperes) or more, and approximately 43,000 miles of distribution lines operating at less than 69 kV.

3. Pursuant to Chapters 15 and 28 of the Public Utility Code, PPL Electric has a statutory obligation to provide safe, efficient, and reasonable service and facilities and to make all repairs or improvements in or to such service or facilities as are reasonably necessary for the accommodation, convenience, and safety of its customers.

4. Complainants Clinton and Caroline Hashagen (“Complainants”) are the owners of property located at 171 Evertts Lane, Berwick, Luzerne County, Pennsylvania 18603.

5. On August 3, 2012, Complainants filed the above-captioned Complaint with the Commission.

6. The Complaint alleges property damage and other claims associated with the cutting of timber in the right-of-way held by PPL Electric which crosses the Complainants’ property. Specifically, the Complainants aver that the timber was not stacked properly pursuant to the right-of-way agreement, and that the Company cannot use herbicides on the property. (*See* Complaint ¶ 4).

7. The Complainants requested compensatory damages and what would effectively be an injunction. (*See* Complaint ¶ 5).

8. On August 23, 2012, PPL Electric filed an Answer and New Matter to the Complaint, admitting in part and denying in part the factual basis of the Complainants’ allegations.

9. For the reasons set forth below, the Commission is without subject matter jurisdiction over the property claims set forth in the Complaint. Therefore, PPL Electric requests that the Complaint be dismissed, because it is not within the Commission's jurisdiction.

II. PRELIMINARY OBJECTION

10. Complainants' claims are not within the jurisdiction of the Commission. Complainants' stated claims arise from the interpretation of a right-of-way agreement with PPL Electric, which is within the exclusive jurisdiction of the Courts of Common Pleas. Therefore, the Commission lacks jurisdiction over the issues identified by the Complainants in their Complaint, and the Complaint must be dismissed.

III. STANDARD OF REVIEW

11. Pursuant to the Commission's regulations, preliminary objections in response to a Complaint may be filed on several grounds, including:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.

52 Pa. Code § 52.101(a).

12. In ruling on preliminary objections, all well-pled allegations of material facts as well as all inferences reasonably deducible therefrom must be accepted. *Stilp v. Cmwlth.*, 910 A.2d 775, 781 (Pa. Cmwlth. 2006) ("*Stilp*"), (citing *Dep't of Gen. Serv. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwlth. 2005); accord *Complaint of Nat'l Fuel Gas Distrib. Corp. and Petition for*

an Order to Show Cause Why New Mountain Vantage GP, LLC And Others Acting in Concert with It Should Not Be Required to Apply for a Certificate of Public Convenience Approving the Acquisition of Control of Nat'l Fuel Gas Dist. Corp., Docket No. P-00072343 (Dec. 26, 2007). Conclusions of law, unwarranted factual inferences, argumentative allegations and expressions of opinion, however, need not be accepted as true. *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlth. 2007). Preliminary objections should be sustained unless it appears with certainty that the law would permit the relief requested under the facts asserted. *Stilp*, at 781.

IV. PRELIMINARY OBJECTION

13. PPL Electric incorporates by reference Paragraphs 1 through 12 as if fully set forth herein.

14. The specific allegations in the Complaint do not relate to questions of the safety of the facilities used by PPL Electric to provide electric service or a dispute over the provision of utility service. The specific allegations are focused exclusively on averments that PPL Electric failed to act on certain duties as required by its right-of-way agreement and that the Complainants' property rights have been violated as a result of PPL Electric's actions.

15. The Commission only has those duties, powers, and responsibilities as expressly, or by necessary implication, given to it by the General Assembly. *Jennifer Tomb v. Pennsylvania Electric Co.*, Docket No. C-2008-2036378, 2008 Pa. PUC LEXIS 994 (Dec. 8, 2008) (citing *Rogoff v. The Buncher Co.*, 395 Pa. 477, 151 A.2d 83 (1959)). The Commission must act within, and cannot exceed, its jurisdiction. The mere fact that a party to an action is a regulated utility does not automatically confer subject matter jurisdiction upon the Commission. *DeFrancesco v. Western Pennsylvania Water Co.*, 499 Pa. 374, 453 A.2d 595 (1982).

16. The Commission has determined that it is not the proper forum for resolving property rights controversies. *Henry and Julie Dengler v. Metropolitan Edison Co.*, Docket No. C-2009-2112197 (Oct. 16, 2009); *Guy and Virginia Mauro v. Pennsylvania Electric Co.*, Docket No. C-2009-2114087 (July 15, 2010). Rather, such controversies are a matter for a court of general jurisdiction. *Anne E. Perrige v. Metropolitan Edison Co.*, Docket No. C-00004110 (July 3, 2003); *Fiorillo v. PECO Energy Co.*, Docket No. C-00971088 (Sept. 15, 1999). In *Boczar v. PPL Electric Utilities Corp.*, Docket No. C-20016332 (Order entered February 10, 2003), the Complainant alleged that the utility was not authorized to place electric facilities on his property. The Commission noted that the utility produced right-of-way agreements for the facilities in question and concluded that it was without jurisdiction to determine property rights concerning the agreements.

17. The only allegations contained in the Complaint relate to property rights and the interpretation of a valid right-of-way agreement, a copy of which has been produced for the Commission's review as Attachment A hereto. These matters, particularly the interpretation of the right-of-way agreement, are exclusively within the jurisdiction of the Courts of Common Pleas. Consequently, Complainants' claim must be dismissed for lack of Commission jurisdiction.

18. Further, the Complainants have already filed a civil suit in the Court of Common Pleas that is based on the same underlying facts as the Complaint filed before the Commission, and which seeks the same requested relief as the Complaint before the Commission. A copy of the civil suit is attached hereto as Attachment B. This is a tacit admission by the Complainants that this matter is appropriately before the Court of Common Pleas.

19. In addition, the Complainants request compensatory damages. However, the Commission does not have the authority to order a public utility to pay compensatory damages. *See Diane M. Hamilton and Eva J. Hamilton v. Verizon Pa., Inc.*, Docket No. C-2009-2135715, 2010 Pa. PUC LEXIS 234 at *8 (July 28, 2010) (Finalized Initial Decision) (citing *DeFrancesco v. Western Pennsylvania Water Co.*, 499 Pa. 374, 453 A.2d 595 (1982); *Elkin v. Bell of Pa.*, 491 Pa. 123, 420 A.2d 371 (1980); *Minisi, on behalf of Woodgate Homeowners Association, Inc. v. Verizon Pennsylvania Inc.*, Docket No. C-2008-2043302 (Sept. 3, 2008); *Feingold v. Bell of Pa.*, 477 Pa. 1, 383 A.2d 791 (1977)). Consequently, Complainants' claim for compensatory damages must be dismissed, as the Commission is without jurisdiction to grant the relief which the Complainants seek.

20. As the Complainants' case is already appropriately before a court which has the authority to both hear the case and to grant the relief requested, Complainants' claim before the Commission should be dismissed for lack of Commission jurisdiction.

V. CONCLUSION

21. PPL Electric incorporates by reference Paragraphs 1 through 20, *supra*, as though set forth fully herein.

22. The scope of the Commission's jurisdiction over matters raised in the Complaint is well-settled. The Commission lacks subject matter jurisdiction over questions involving claims associated with private property rights and the interpretation of a right-of-way agreement, and is without the authority to grant compensatory damages.

23. Accordingly, the Commission should enter an order, pursuant to 52 Pa. Code § 5.101(a), dismissing the above-captioned Complaint for lack of subject matter jurisdiction.

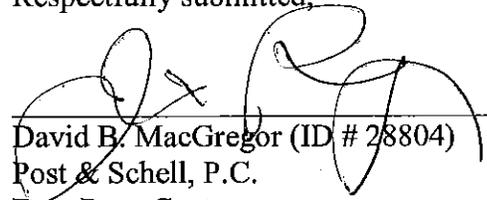
WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the above-captioned Complaint be dismissed in its entirety.

Paul E. Russell (ID # 21643)
Associate General Counsel
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18106
Phone: 610-774-4254
Fax: 215-587-1444
E-mail: perussell@pplweb.com

Of Counsel:
Post & Schell, P.C.

Date: August 23, 2012

Respectfully submitted,


David B. MacGregor (ID # 28804)
Post & Schell, P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808
Phone: 215-587-1197
Fax: 610-774-6726
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Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: jisom@postschell.com
jrogers@postschell.com

Attorneys for PPL Electric Utilities Corporation

ATTACHMENT “A”

Know all Men by these Presents, That I, Bertha J. Everett, a widow,

R.D. 1,
Berwick, Pennsylvania 18603

In consideration of the sum of One Dollar (\$1.00) to me, paid at the date hereof by PENNSYLVANIA POWER & LIGHT COMPANY, the receipt whereof is hereby acknowledged, and in consideration of the further sum of Six Thousand and No (6,000.00) Dollars to be paid to me when the rights hereby granted are exercised by the said Company, do hereby, for

myself and my heirs, executors, administrators and assigns, irrevocably grant and convey unto the said PENNSYLVANIA POWER & LIGHT COMPANY, its successors and assigns, the right to construct, operate and maintain, and from time to time to reconstruct, its electric lines, including such poles, towers, cables and wires above and under the surface of the ground, fixtures and apparatus as may be from time to time necessary for the convenient transaction of the business of the said Company, its successors and assigns, upon, across, over, under and along a strip of land 200 feet in width, said strip being a part of the property which I own, or in which I have any interest in the Township of Salem County of Juniata

Commonwealth of Pennsylvania, and upon, across, over, under and along the roads, streets and highways adjoining the said property, as shown on the plan hereto attached and made a part hereof, including the right of ingress and egress to and from the said lines at all times for any of the purposes aforesaid, together with the right to set and maintain the necessary guy and brace poles or towers and anchors, and to attach thereto the necessary guy wires, also the right to cut down, trim, remove and to keep cut down and trimmed by mechanical means or otherwise, any and all trees, brush or other undergrowth on said strip of land or adjoining the same which in the judgment of the said Company, its successors and assigns, may at any time interfere with the construction, reconstruction, maintenance or operation of the said electric lines, poles, towers, wires, cables or other fixtures and apparatus, or menace the same, and in connection therewith, the right to remove, if necessary, the root systems of said trees, brush or other undergrowth, and to spray said brush and undergrowth with chemicals for their removal and control; and in consideration of the said payments do hereby release and quitclaim the said PENNSYLVANIA POWER & LIGHT COMPANY, its successors and assigns, of and from any and all damages, loss or injury that may be at any time caused by or result from the construction, reconstruction, operation and maintenance of the said electric lines, or the cutting down, trimming or removal of any and all trees, brush or other undergrowth on said premises.

And, further, in consideration of said payments, I do hereby covenant and agree for myself and my heirs, executors, administrators and assigns, to and with the said PENNSYLVANIA POWER & LIGHT COMPANY, its successors and assigns, that no house, barn or other structure, or inflammable or explosive materials of any kind, shall be built or stored on said strip of land, and that the said Company, its successors and assigns, shall not be limited in its or their enjoyment of the rights hereby granted to such electric lines, poles, towers, wires, cables, fixtures and apparatus as may be first constructed on said strip of land, but that the said Company, its successors and assigns, shall have, at all times in the future, the right to construct, operate and maintain, and from time to time to reconstruct additional electric lines, poles, towers, wires, cables, fixtures and apparatus upon, across, over, under or along the said strip of land.

All merchantable timber shall be cut, topped, limbed and the logs laid along the edge of the right-of-way for Grangers further handling.

Witness my hand and seal this 10th day of September, 1969.

Signed, sealed and delivered in the presence of:
James J. Dunbar (SEAL)
James J. Dunbar (SEAL)
MUNICIPALITY: Franklin Twp. (SEAL)
TRANSFER TAX PAID: 0.00 (SEAL)
AGENT: FRANK CASTELLINO (SEAL)

Received July 15th 1970, of PENNSYLVANIA POWER & LIGHT COMPANY the sum of Six Thousand and no/100 (6,000.00) Dollars, in full payment of the further consideration above mentioned.
Bertha J. Everett
Bertha J. Everett

COMMONWEALTH OF PENNSYLVANIA } ss:
COUNTY OF Luzerne

On this ... day of September 19 69, before me, a Justice of Peace, Notary Public for the Commonwealth aforesaid, commissioned for and residing in the ... Township ... of ... Salem ... County of Luzerne, came the above named Bertha J. Everett, a widow and acknowledged the foregoing instrument to be her act and deed, and desired the same to be recorded as such.

Witness my hand and notarial seal the day and year aforesaid.

John R. Callahan
Notary Public
Justice of Peace

My commission expires 1-3-72



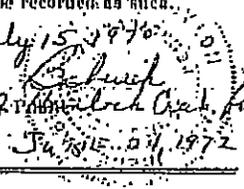
COMMONWEALTH OF PENNSYLVANIA } ss:
COUNTY OF Luzerne

On this 15th day of July 19 70, before me, a Notary Public for the Commonwealth aforesaid, commissioned for and residing in the Township ... of Hawlock ... County of Luzerne, came the above named Bertha E. Everett, a widow and acknowledged the foregoing instrument to be her act and deed, and desired the same to be recorded as such.

Witness my hand and notarial seal the day and year aforesaid.

Mrs. Irene ...
Notary Public
Justice of Peace

My commission expires July 15, 1972



COMMONWEALTH OF PENNSYLVANIA } ss:
COUNTY OF ...

On this ... before me, a Notary Public for the Commonwealth aforesaid, ... County of ... came the above named ... and acknowledged the foregoing ... desired the same to be recorded as such.

Witness my hand and notarial seal the day and year aforesaid.

Notary Public

My commission expires

Recorded in the Office for Recording of Deeds in and for ... County,

in ... Book ... Page ... , etc.

WITNESS my hand and seal of Office this ... day of ... 19 ...

Recorder

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF Luzerne

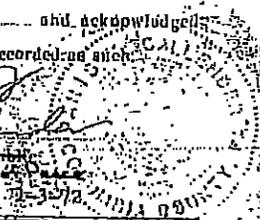
On this ... day of September, 19 69, before me, Justice of Peace
Notary Public for the Common-
wealth aforesaid, commissioned for and residing in the Township ... of Salem,
County of Luzerne, came the above named Bertha J. Everett, a widow.

and acknowledged
the foregoing instrument to be her act and deed, and desired the same to be recorded as such.

Witness my hand and notarial seal the day and year aforesaid.

John H. Callahan
Notary Public
Justice of Peace

My commission expires



COMMONWEALTH OF PENNSYLVANIA
COUNTY OF Luzerne

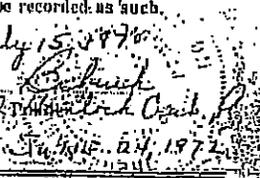
On this 15th day of July, 19 70, before me, a Notary Public for the Common-
wealth aforesaid, commissioned for and residing in the Township ... of Hawlock,
County of Luzerne, came the above named Bertha E. Everett,
a widow.

and acknowledged
the foregoing instrument to be her act and deed, and desired the same to be recorded as such.

Witness my hand and notarial seal the day and year aforesaid.

Mrs. Irene B. Burch
Notary Public
Justice of Peace

My commission expires



COMMONWEALTH OF PENNSYLVANIA
COUNTY OF

On this ... day of ... 19 ... , before me, a Notary Public for the Common-
wealth aforesaid, commissioned for and residing in the Township ... of ...
County of ... came the above named ...

and acknowledged
the foregoing ... desired the same to be recorded as such.

Witness my hand and notarial seal the day and year aforesaid.



Notary Public

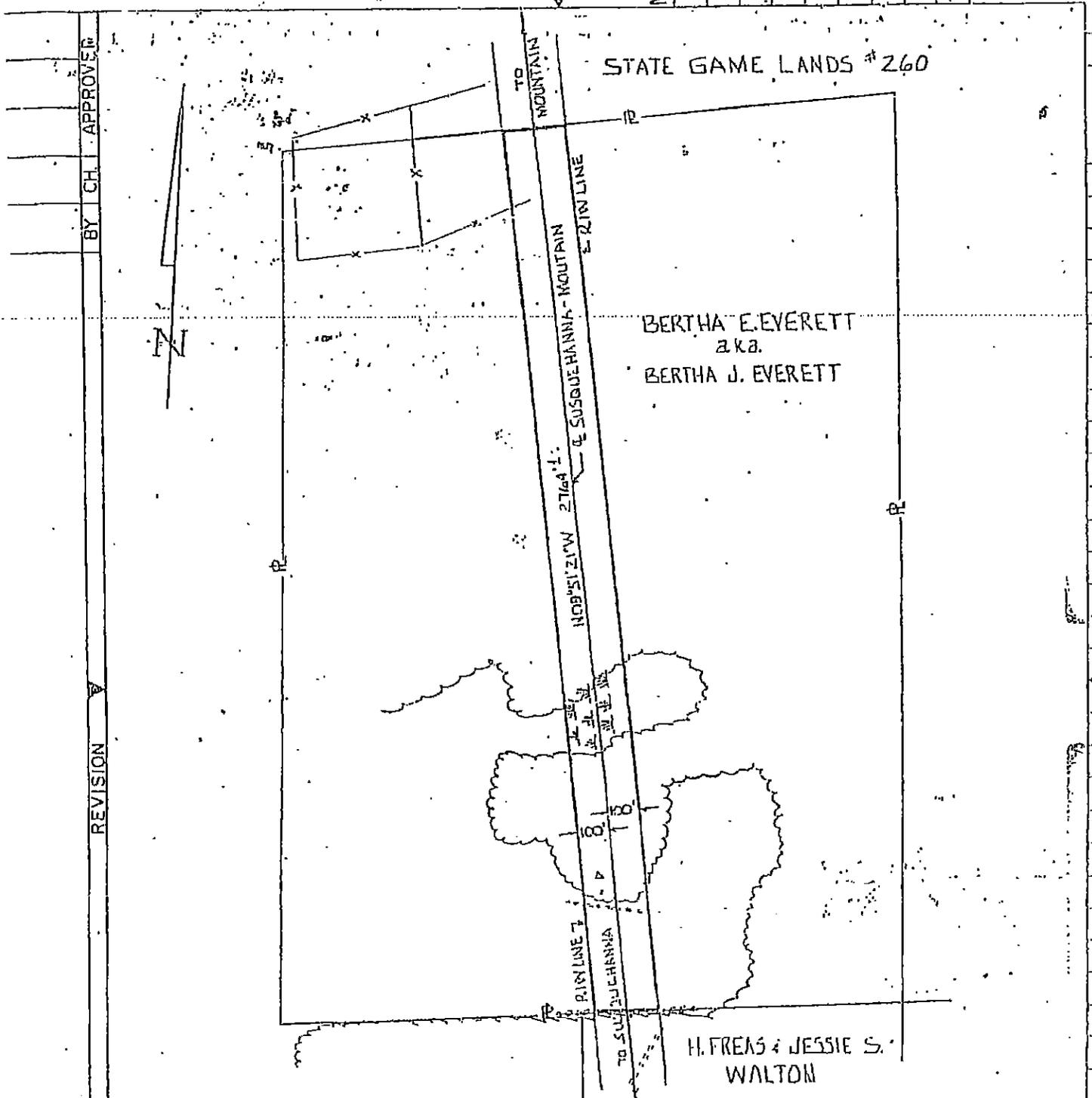
My commission expires

Recorded in the Office for Recording of Deeds in and for County,

in Book Page, etc.

WITNESS my hand and seal of Office this day of 19

Recorder



BY CH. APPROVER

REVISION

NO. DATE ER.

ER-139007-50	SUSQUEHANNA - MOUNTAIN	
ER-	PLAN SHOWING ELECTRIC LINE RIGHT OF WAY OVER	
ER-	PROPERTY OF	
Scale: 1"=400'	BERTHA E EVERETT a.k.a. BERTHA J. EVERETT	
Date: 7-9-70	SALEM TWP., LUZERNE CO., PA.	
DRAWN-	PENNSYLVANIA POWER & LIGHT COMPANY	
CHECKED-	ALLENTOWN, PA.	
LEADER-	APPROVED <i>J W Kress</i>	LA-89409-0
APPROVED-	TRANSMISSION LINE ENGINEER	

39

Luzerne Co.

*Salem Twp
60.91*

RIGHT OF WAY GRANT

Bertha J. Everett

ENTERED FOR RECORD

at *11:19 A.M.*

SEP-1-1970

Tax and Fees \$ *8.90*

Frank C. Castellino

RECORDER

to

PENNSYLVANIA POWER & LIGHT CO.

Recorded in the office of the Recorder of Deeds
 Luzerne County, Pennsylvania, on
 Book No. *1701*
 Witness my hand and seal of office on
 Day of *Sept* 1970
Frank C. Castellino Recorder

ATTACHMENT “B”

CLINT AND CAROLINE HASHAGEN :
Plaintiffs :
VS. :
PPL ELECTRIC UTILITIES :
CORPORATION :
Defendant :

IN THE COURT OF COMMON PLEAS
OF THE 11TH JUDICIAL DISTRICT
LUZERNE COUNTY BRANCH, PA
CIVIL ACTION
NO. 11843 of 2011

AND NOW, come the Plaintiffs, Clint and Caroline Hashagen, by and through their Attorney, John W. McDanel, Esquire and set forth a Complaint as follows:

1. The Plaintiffs, Clint and Caroline Hashagen, are adult individuals currently resident at 171 Everetts Lane, Berwick, Pennsylvania, 18603.
2. The Defendant, PPL Electric Utilities Corporation, is a Pennsylvania Corporation whose principal place of business is Two North Ninth Street, Allentown, Pennsylvania, 18101-1179.
3. The Defendant is engaged in the business of providing electric utility service to customers throughout Lehigh Valley and Northeastern Pennsylvania.
4. On or about July 15th, 1970 the Defendant entered into a contract with Bertha J. Everetts, the owner of 171 Everetts Lane, allowing the Defendant a right-of-way to access the property to construct, operated and maintain its electric lines running through that property. Said Agreement is attached hereto and incorporated herein as Exhibit "A."

FILED
PROTHONOTARY
LUZERNE COUNTY
NOV 10 2011 12:54

5. Said right of ingress and egress together with all obligations of the Defendant, pursuant to the right-of-way Agreement, are part of the property located at 171 Everetts Lane, Berwick, Pennsylvania and said Agreement is subject to any subsequent purchase by any land owner.

6. Pursuant to the right-of-way Agreement, the Defendant is also allowed ingress and egress to maintain their power line running through 171 Everetts Lane. The Defendant is also required to process all merchantable timber it cuts down and the said logs shall be laid upon the edge of the right-of-way for further handling by the Land owners.

7. On or about December 29th, 1988, the Plaintiffs, Clint and Caroline Hashagen, purchased the property located at 171 Everetts Lane, Berwick, Pennsylvania.

8. In the Spring of 2010, the Defendants entered onto the Plaintiffs' property and cut, chopped and otherwise timbered trees along its power line which runs through the Plaintiffs' property.

9. The Defendant failed to move the logs, which were taken down through the maintenance of their power line, along the edge of the right-of-way to allow the Plaintiffs to further handle them.

10. Due to the Defendant's failure to lay the fallen logs along the edge of the right-of-way for Plaintiffs to handle, the Plaintiffs were unable to use the wood for whatever purpose they saw fit.

11. The Defendant has failed to fulfill their obligation under the right-of-way Agreement which requires them to lay the logs along the edge of the right-of-way for the Grantors, in this case the Plaintiffs, further handling.

12. The Defendant failed to lay any such logs along the edge of the right-of-way for the Plaintiffs to use.

13. The Defendant failed to remove the timber which was taken down by the Defendant to the edge of the right-of-way as is required by the Agreement.

14. The Defendant has also sprayed the wood which currently lies among the power line of the Defendant which runs through the Plaintiffs' land, thereby making the wood unusable and unable to be merchantable if it had been moved to the right-of-way as per the right-of-way Agreement.

15. The wood laying among the power line that was sprayed and not moved to edge of the right-of-way has been valued at Nineteen Thousand Seven Hundred Twenty Three Dollars (\$19, 723.00).

16. The Defendant has breached the terms and conditions of the right-of-way Agreement.

17. As a direct result of the breach of the right-of-way Agreement by the Defendant, the Plaintiffs are denied the free and unhampered access and use of their property.

18. As a direct result of the breach of the right-of-way Agreement by the Defendant, the Plaintiffs have been denied use, access and revenue from such trees which were taken down on their property.

19. As a direct result of the breach of the right-of-way Agreement by the Defendant, the Plaintiffs have been damaged in the amount of Nineteen Thousand Seven Hundred Twenty Three Dollars (\$19, 723.00) in lost value of the wood that was not moved to the edge of the right-of-way.

WHEREFORE, the Plaintiffs, Clint and Caroline Hashagen, claim against the Defendant in the amount not in excess of Twenty Five Thousand Dollars (\$25,000.00).

Respectfully submitted,



JOHN W. MCDANEL, ESQUIRE
Attorney for Plaintiffs
107 Rear E. Second St.
P.O. Box 381
Berwick, PA 18603
(570) 752-3687
I.D. #50867

SUSQUEHANNA-MOUNTAIN LINE

5-9

Know all Men by these Presents, That I, Bertha J. Everett a widow,

R.D. 1,
Berwick, Pennsylvania 18603

in consideration of the sum of One Dollar (\$1.00) to me paid at the date hereof by PENNSYLVANIA POWER & LIGHT COMPANY, the receipt whereof is hereby acknowledged, and in consideration of the further sum of Six Thousand and no/100 (\$6,000.00) Dollars to be paid to me when the rights hereby granted are exercised by the said Company, do hereby, for

myself and my heirs, executors, administrators and assigns, irrevocably grant and convey unto the said PENNSYLVANIA POWER & LIGHT COMPANY, its successors and assigns, the right to construct, operate and maintain, and from time to time to reconstruct its electric lines, including such poles, towers, cables and wires above and under the surface of the ground, fixtures and apparatus as may be from time to time necessary for the convenient transaction of the business of the said Company, its successors and assigns, upon, across, over, under and along a strip of land 200 feet in width, said strip being a part of the property which I own, or in which

I have any interest in the Township of Salem County of Luzerne

Commonwealth of Pennsylvania, and upon, across, over, under and along the roads, streets and highways adjoining the said property, as shown on the plan hereto attached and made a part hereof, including the right of ingress and egress to and from the said lines at all times for any of the purposes aforesaid, together with the right to set and maintain the necessary guy and brace poles or towers and anchors, and to attach thereto the necessary guy wires; also the right to cut down, trim, remove, and to keep cut down and trimmed by mechanical means or otherwise, any and all trees, brush or other undergrowth on said strip of land or adjoining the same which in the judgment of the said Company, its successors and assigns, may at any time interfere with the construction, reconstruction, maintenance or operation of the said electric lines, poles, towers, wires, cables or other fixtures and apparatus, or menace the same, and in connection therewith, the right to remove, if necessary, the root systems of said trees, brush or other undergrowth, and to spray said brush and undergrowth with chemicals for their removal and control; and in consideration of the said payments do hereby release and quitclaim the said PENNSYLVANIA POWER & LIGHT COMPANY, its successors and assigns, of and from any and all damages, loss or injury that may be at any time caused by or result from the construction, reconstruction, operation and maintenance of the said electric lines, or the cutting down, trimming or removal of any and all trees, brush or other undergrowth on said premises.

GRID # 4366 5
PP&L CO. - CORPORATE FILES
95341

And, further, in consideration of said payments, I do hereby covenant and agree for myself and my heirs, executors, administrators and assigns, to and with the said PENNSYLVANIA POWER & LIGHT COMPANY, its successors and assigns, that no house, barn or other structure, or inflammable or explosive materials of any kind, shall be built or stored on said strip of land, and that the said Company, its successors and assigns, shall not be limited in its or their enjoyment of the rights hereby granted to such electric lines, poles, towers, wires, cables, fixtures and apparatus as may be first constructed on said strip of land, but that the said Company, its successors and assigns, shall have, at all times in the future, the right to construct, operate and maintain, and from time to time to reconstruct additional electric lines, poles, towers, wires, cables, fixtures and apparatus upon, across, over, under or along the said strip of land.

All merchantable timber shall be cut, topped, limbed and the logs laid along the edge of the right-of-way for Grangers further hauling.

Witness my hand and seal this 10th day of September, 1969.

Signed, sealed and delivered in the presence of:
Bertha J. Everett (SEAL)
James J. Gaylor (SEAL)
Municipality: Salem Twp (SEAL)
Transfer Tax Paid: 7.60 (SEAL)
AGENT: FRANK CASTELLINO (SEAL)

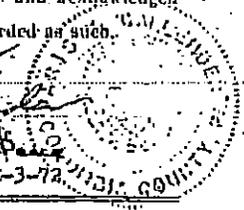
Received July 15th 1970, of PENNSYLVANIA POWER & LIGHT COMPANY the sum of Six Thousand and no/100 (\$6,000.00) Dollars, in full payment of the further consideration above mentioned.
Bertha J. Everett
Bertha J. Everett

COMMONWEALTH OF PENNSYLVANIA } ss:
COUNTY OF Luzerne

On this ... day of September 19 69, before me, a ^{Justice of Peace} Notary Public for the Commonwealth aforesaid, commissioned for and residing in the ... Township ... of ... Salem ... County of Luzerne, came the above named Bertha J. Everett, a widow and acknowledged the foregoing instrument to be her act and deed, and desired the same to be recorded as such.

Witness my hand and notarial seal the day and year aforesaid.

John H. ...
Notary Public
Justice of Peace
My commission expires 3-3-72

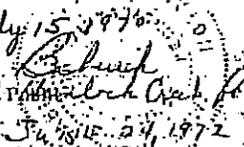


COMMONWEALTH OF PENNSYLVANIA } ss:
COUNTY OF Luzerne

On this 15th day of July 1970, before me, a Notary Public for the Commonwealth aforesaid, commissioned for and residing in the Township ... of Hawlack, County of Luzerne, came the above named Bertha E. Everett, a widow and acknowledged the foregoing instrument to be her act and deed, and desired the same to be recorded as such.

Witness my hand and notarial seal the day and year aforesaid.

Mrs. Bertha E. Everett
My commission expires July 15, 1972



COMMONWEALTH OF PENNSYLVANIA } ss:
COUNTY OF ...

On this ... before me, a Notary Public for the Commonwealth aforesaid, ... of ... County of ... ve named ... and acknowledged the foregoing ... desired the same to be recorded as such.

Witness my hand and notarial seal the day and year aforesaid.

Notary Public

My commission expires

Recorded in the Office for Recording of Deeds in and for ... County, ... in ... Book ... Page ... , etc. WITNESS my hand and seal of Office this ... day of ... 19 ...

Recorder

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF Luzerne ss:

On this 15th day of September 19 69, before me, a Justice of Peace ~~Notary Public~~ for the Commonwealth aforesaid, commissioned for and residing in the Township of Salem County of Luzerne, came the above named Bartha J. Everett, a widow

and acknowledged the foregoing instrument to be her act and deed, and desired the same to be recorded as such.

Witness my hand and notarial seal the day and year aforesaid.

John H. Callahan
Notary Public
Justice of Peace
My commission expires 7-3-72

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF Luzerne ss:

On this 15th day of July 19 70, before me, a Notary Public for the Commonwealth aforesaid, commissioned for and residing in the Township of Hawlock County of Luzerne, came the above named Bartha E. Everett, a widow

and acknowledged the foregoing instrument to be her act and deed, and desired the same to be recorded as such.

Witness my hand and notarial seal the day and year aforesaid.

July 15, 1970
Mrs. Bartha E. Everett
Notary Public
Justice of Peace
My commission expires July 24, 1972

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF _____ ss:

On this _____ day of _____, before me, a Notary Public for the Commonwealth aforesaid, commissioned for and residing in the _____ Township of _____ County of _____, came the above named _____

and acknowledged the foregoing _____ desired the same to be recorded as such.

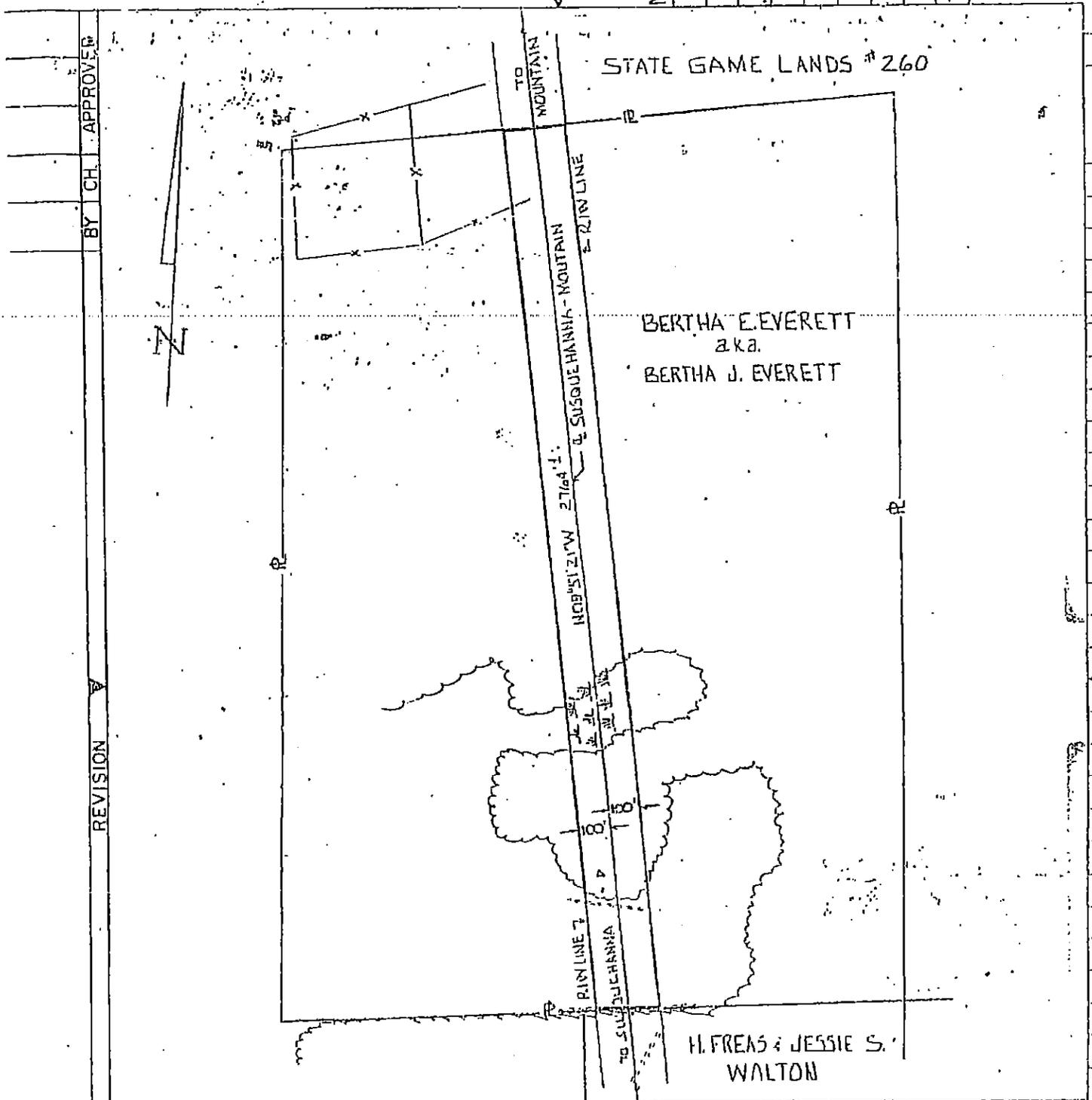
Witness my hand and notarial seal the day and year aforesaid.



Notary Public
My commission expires _____

Recorded in the Office for Recording of Deeds in and for _____ County,
in _____ Book _____ Page _____, etc.
WITNESS my hand and seal of Office this _____ day of _____ 19 _____

Recorder



ER-139007-50	SUSQUEHANNA - MOUNTAIN
ER-	PLAN SHOWING ELECTRIC LINE RIGHT OF WAY OVER
ER-	PROPERTY OF
Scale: 1"=400'	BERTHA E EVERETT a.k.a. BERTHA J. EVERETT
Date: 7-9-70	SALEM TWP., LUZERNE CO., PA.
DRAWN-	PENNSYLVANIA POWER & LIGHT COMPANY ALLENTOWN, PA. APPROVED <i>J. W. Krasop</i> TRANSMISSION LINE ENGINEER
CHECKED-	
LEADER-	
APPROVED-	
APPROVED-	LA-89409-0

39

Luzerne Co.

Salmon Trout
60.01

RIGHT OF WAY GRANT

Bertha J. Everett

ENTERED FOR RECORD

at *11:07 A.M.*

SEP-1-1970

Tax and Fees \$ *8.50*

Frank C. Castellino

RECORDER

LD

PENNSYLVANIA POWER & LIGHT CO.

Recorded in the office of the Recorder
 Luzerne County, Pennsylvania
 Book No. *1701*
 Witness my hand and seal of office this *1st* day of *Sept* 1970
Frank C. Castellino Recorder

VERIFICATION

I, Clint M. Hashagen, have read the foregoing document and to the extent that the document is based upon information which has been provided to counsel, it is true and correct to the best of my knowledge, information and belief. To the extent that the contents of the Complaint are that of counsel, I have relied upon counsel in making this Verification. I understand this Verification is made subject to the penalties of P.A.C.S.A. §4904 relating to unsworn falsifications to authorities.

11/9/11
DATE

Clint M Hashagen Esq.
CLINT M. HASHAGEN

VERIFICATION

I, Caroline Hashagen, have read the foregoing document and to the extent that the document is based upon information which has been provided to counsel, it is true and correct to the best of my knowledge, information and belief. To the extent that the contents of the Complaint are that of counsel, I have relied upon counsel in making this Verification. I understand this Verification is made subject to the penalties of P.A.C.S.A. §4904 relating to unsworn falsifications to authorities.

1/12/11
DATE

Caroline Hashagen
CAROLINE HASHAGEN