

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Harrisburg, Pennsylvania 17105-3265**

**Megan Mohn**

**v.**

**PPL Electric Utilities Corporation**

**Public Meeting held September 13, 2012**

**2301470-ALJ**

**Docket No. C-2012-2301470**

**MOTION OF COMMISSIONER WAYNE E. GARDNER**

In her Formal Complaint, the Complainant states that, in 2010, PPL Electric Utilities Corporation (PPL) harvested trees under a power line that runs through her property. The Complaint described the trees as being “fully grown (roughly 80 feet long with 3 ft. wide trunks) and numerous (roughly 40 trees). . . .” The Complaint alleges that the trees are stacked in two huge piles under the power line that is very near to the Complainant’s front door. It is further alleged that the two stacks of trees have rendered the land unusable for hiking, planting and deer migration and that the piles are an attractive nuisance for local children and a possible source of liability. The Complainant asserts that PPL has promised to remove the piles of timber ever since the trees were harvested in 2010. As relief, the Complainant requests that the piles of timber be removed.

In its Answer, PPL admits that it harvested the timber in question in 2010, as part of its vegetation management program, and that a “small portion of the timber” is on the Complainant’s property. PPL asserts that, “because the majority of the timber was stacked on property owned in fee by PPL Electric, it therefore denies that the timber poses any unreasonable threat of injury, loss of enjoyment of the property, or impacts the Complainant’s use and enjoyment of her neighboring property.” (Answer at 2). PPL promises that it will remove the portion of timber located on Complainant’s property as soon as possible.

PPL also filed Preliminary Objections asking for dismissal of this Complaint because the Pennsylvania Public Utility Commission (Commission) is without subject matter jurisdiction over the property-related claims set forth in this matter. In the Initial Decision, the Administrative Law Judge (ALJ) agreed with PPL that jurisdiction over property disputes are within the exclusive jurisdiction of the Court of Common Pleas and dismissed the Complaint.

I agree with the ALJ that claims that arise from real property disputes are within the jurisdiction of the Court of Common Pleas and that it was appropriate to dismiss that portion of the Complaint. *Anne E. Perrige v. Metropolitan Edison Co.*, Docket No. C-00004110 (Order entered July 3, 2003). However, I believe that this Complaint also presents service issues over which the Commission cannot abdicate its responsibility.

Vegetation management is an integral part of electric distribution service. Section 1501 of the Public Utility Code provides, in pertinent part, that public utilities “shall furnish and maintain adequate, efficient, safe, and reasonable **service** and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and

facilities, as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.” 66 Pa. C.S. § 1501. (Emphasis added). Electric utility service is not confined to distribution of electrical energy, but rather, includes any and all acts relating to that function, including vegetation maintenance. *West Penn Power Co. v. Pa. PUC*, 578 A.2d 75 (Pa. Cmwlth. 1990), *appeal denied*, 593 A.2d 429, 527 Pa. 660. Moreover, an electric distribution company must submit its vegetation management plan to the Commission pursuant to Section 57.198(m)(1) of the Commission’s Regulations, 52 Pa. Code § 57.198(m)(1). As such, the manner in which vegetation management is conducted is within this Commission’s jurisdiction.

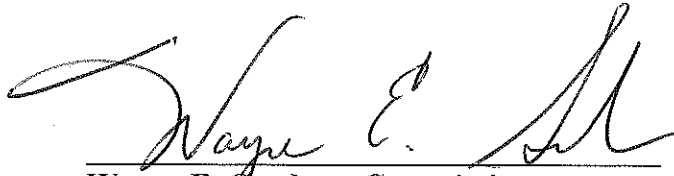
In its Answer, PPL admits that it has been storing a “small portion of the timber” on the Complainant’s property. (Answer at 2). PPL further admits that it has failed to abide by the Complainant’s request to remove the timber for more than two years. According to the Complainant, the timbers in these piles are approximately eighty-feet long and there are twenty of these three-foot wide timbers in each pile. It seems to me that the storage of even a “small portion” of such a pile of timber for a period of two years on a customer’s property, as well as a failure to respond to the Complainant’s request and concerns for two years, could potentially implicate Section 1501 of the Code. I believe that fact finding is warranted regarding whether PPL’s actions here comply with its vegetation management plan as well as Section 1501 of the Public Utility Code.

**THEREFORE, I MOVE THAT:**

1. This matter be remanded to the Office of Administrative Law Judge for further action consistent with this Motion.
2. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

September 13, 2012

Date

  
Wayne E. Gardner, Commissioner