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File #: 140074

May 9, 2013

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: Tracey Andrews v. PPL Electric Utilities Corporation
Docket No. C-2012-2304551**

**William Andrews v. PPL Electric Utilities Corporation
Docket No. C-2012-2300410**

Dear Secretary Chiavetta:

Enclosed for filing is the Motion of PPL Electric Utilities Corporation for Summary Judgment in the above-referenced proceedings. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Jessica R. Rogers

JRR/jl

Enclosures

cc: Honorable Susan D. Colwell
Herbert R. Nurick, Mediation Coordinator
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Motion** 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 E-MAIL & FIRST CLASS MAIL

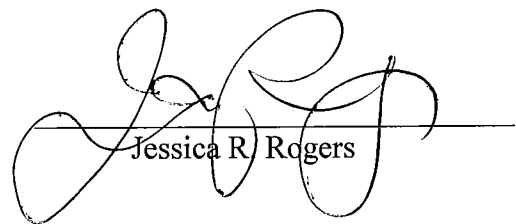
Jeffrey A. Levine, Esquire
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jlevine@herlandsandlevine.com

VIA FIRST CLASS MAIL

William Andrews
40 Gordon Avenue
Carbondale, PA 18407

Tracey Andrews
40 Gordon Avenue
Carbondale, PA 18407

Date: May 9, 2013



Jessica R. Rogers

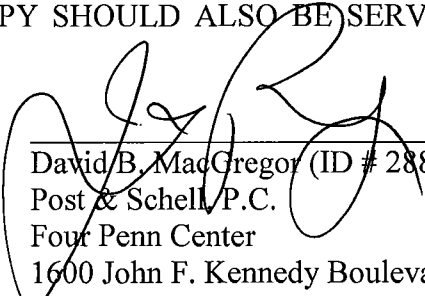
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tracey Andrews,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2012-2304551
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	
William Andrews,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2012-2300410
	:	
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. IF YOU FAIL TO RESPOND WITHIN TWENTY (20) DAYS, THE ADMINISTRATIVE LAW JUDGE MAY GRANT THE ENCLOSED MOTION WITHOUT FURTHER NOTICE. 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.

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Of Counsel:

Post & Schell, P.C.

Date: May 9, 2013

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Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tracey Andrews,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2012-2304551
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	
William Andrews,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2012-2300410
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**MOTION OF PPL ELECTRIC UTILITIES CORPORATION
FOR SUMMARY JUDGMENT**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW comes PPL Electric Utilities Corporation (“PPL Electric”) and files this Motion for Summary Judgment pursuant to Section 5.102 of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code § 5.102, and requests that the above-captioned Complaints be summarily dismissed for lack of subject matter jurisdiction and because the safety issues alleged in the Complaints have been resolved. In support thereof, PPL Electric states as follow:

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 necessary or proper for the accommodation, convenience, and safety of its customers.

4. Complainants William Andrews and Tracey Andrews, are residential customers of PPL Electric with a service address of 40 Gordon Avenue, Carbondale, Lackawanna County, Pennsylvania 18407 (“the Residence”).

5. On April 24, 2012, William Andrews filed a Formal Complaint with the Commission. On May 16, 2012, Tracey Andrews filed a Formal Complaint with the Commission. The Complaints were substantially similar, and individually neither Complaint could be resolved without impacting the outcome of the other Complaint.

6. The Complainants alleged safety concerns associated with the vegetation surrounding the distribution line on their property. In addition, the Complainants alleged that PPL Electric's facilities were inappropriately located on their property. (*See* Complaint p. 4).

7. The Complainants requested relief either that PPL Electric be required to remove the facilities from their property or to pay monetary compensation. (*See* Complaint p. 5).

8. On May 24, 2012, PPL Electric filed an Answer to the Complaint of William Andrews. On June 5, 2012, PPL Electric filed an Answer to the Complaint of Tracey Andrews. In both of its Answers, PPL Electric denied the factual basis of the Complainants' allegations.

9. Also on June 5, 2012, PPL Electric filed a Motion to Consolidate the two Complaints. The Complaints were consolidated on October 9, 2012.

10. Also on October 9, 2012, the consolidated Complaints were assigned to the Commission's mediation unit in order to facilitate resolution of the safety concerns presented in the consolidated Complaints. The parties held a resolution conference on September 4, 2012. Through subsequent discussions, PPL Electric and the Complainants were able to agree to allow PPL Electric to access the property to trim the trees and resolve the safety concerns. The events and activities associated with the vegetation management are described in the attached Affidavit of Stephen Lefchak, who is the Line Clearance Inspector for PPL Electric in the portion of its territory that includes the Andrews property.

11. For the reasons set forth below, PPL Electric's Motion for Summary Judgment should be granted. PPL Electric has resolved the safety issues raised in the Complaints, as discussed below and in the attached Affidavit of Stephen Lefchak. In addition, the Commission is without subject matter jurisdiction over the property claims and relief sought in the Complaints. Therefore, PPL Electric is herein requesting that the property claims and relief

sought for those claims in the Complaints be dismissed, as they are not within the Commission's subject matter jurisdiction.

II. STANDARD FOR MOTION FOR SUMMARY JUDGMENT

12. Section 5.102 of the Commission's regulations provides the Commission's standard of review for granting summary judgment:

(1) Standard for grant or denial on all counts. The presiding officer will grant or deny a motion for judgment on the pleadings or a motion for summary judgment, as appropriate. The judgment sought will be rendered if the applicable pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law.

(2) Standard for grant or denial in part. The presiding officer may grant a partial summary judgment if the pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law on one or more but not all outstanding issues.

52 Pa. Code § 5.102(d)(1), (2).

13. The Commission may decide any complaint without a hearing if, in its opinion, a hearing is not necessary. 66 Pa. C.S. § 703(b); 52 Pa. Code § 5.21(d). A hearing is necessary only to resolve disputed material questions of fact, and when the question presented is one of law, the Commission need not hold a hearing. *Lehigh Valley Power Comm. v. Pa. P.U.C.*, 563 A.2d 548 (Pa. Cmwlth. 1989); *Edan Transportation Corp. v. Pa. P.U.C.*, 623 A.2d 6 (Pa. Cmwlth. 1993).

14. The pending Complaints raise two issues. PPL Electric has resolved the issue of overgrown vegetation around the distribution line on the property through actions taken subsequent to the filing of the Complaints and described in the attached Affidavit of Stephen

Lefchak. PPL Electric's actions have satisfied the portions of the Complaints that addresses the issue of safety.

15. For the issue relating to the location of the poles on the property, and the monetary relief sought by the Complainants, it is a well-settled matter of law that these are beyond the Commission's subject matter jurisdiction. A hearing on such issues and claims for relief would be a fruitless exercise. Therefore, for these reasons, as more fully explained below, the above-captioned Complaints should be dismissed.

III. ARGUMENT

16. PPL Electric incorporates by reference Paragraphs 1 through 15, *supra*, as though set forth fully herein.

17. Attached to this Motion is the Affidavit of Stephen Lefchak. Mr. Lefchak is PPL Electric's Line Clearance Inspector in the Scranton and Carbondale Operating Areas. He has been employed in his current position with PPL Electric for 22 years. Mr. Lefchak has a Bachelor of Science degree in Forest Science from the Pennsylvania State University. Mr. Lefchak met with the Complainants to discuss tree removal, and personally oversaw the tree removal and trimming that was completed on the distribution circuit that serves the Complainants' Residence.

18. In addition, attached to this Motion is the Affidavit of Margaret Alvarez. Ms. Alvarez is a Right of Way agent with PPL Electric. She has been employed with PPL Electric since January of 2011. She has a Bachelor of Arts degree from East Stroudsburg University, and has taken additional training courses with the International Right of Way Association. Ms. Alvarez was responsible for investigating the property rights held by PPL Electric that are associated with the Complainants' property.

19. The distribution line in question has been located in its present location near the Andrews property for more than 70 years, and provides service to the Residence.¹ PPL Electric has three poles near the Complainants' property, which were constructed in 1928, 1935, and 1940, when the property was owned by the Delaware and Hudson Railroad Company. The Complainants purchased the property in 1976. At the time the Complainants purchased the property, all three poles were already in place. One of the poles had been located in its present location for almost 50 years at the time of the purchase by the Complainants.

20. Since the mid 1990s, PPL Electric has regularly requested that the Complainants allow the Company to access the property with the equipment necessary to perform vegetation maintenance around the distribution facilities. Complainants consistently refused to allow the Company to enter the property. As a result of discussions in the fall of 2012, after the Complaints were filed, Complainants agreed to allow the Company to conduct the necessary vegetation management to resolve the safety hazard identified by the Complainants resulting from overgrown vegetation. Mr. Andrews and Mr. Lefchak, together, identified trees located

¹ PPL Electric notes that in addition to its defense asserted in this Motion for Summary Judgment, that the Commission lacks jurisdiction over the pole location and requested monetary relief, PPL Electric can additionally defend its pole location based on its Commission-approved tariff. PPL Electric is authorized to have poles located on Complainants' property pursuant to Rule 2 of its Tariff - Electric Pa. P.U.C. No. 210, which provides in pertinent part as follows:

E. RIGHT-OF-WAY

The customer (or property owner) shall provide, without charge to the Company, right-of-way across property owned or controlled by customer (or property owner) and locations and housings which are suitable in the opinion of Company for the installation of Company's facilities. Suitable right-of-way includes, but is not limited to, providing ground line clearing of trees, brush and other obstructions, rough grading, and access by mechanical construction equipment.

PPL Electric provides service to the Complainants' Residence through the distribution facilities at issue in this complaint. Removal of the facilities would result in PPL Electric being unable to provide electric service to the Complainants. Although this issue is within the Commission's jurisdiction, it is unnecessary to resolve it if a court of Common Pleas finds that PPL Electric has the right to have facilities in their present locations.

along the distribution circuit that needed to be removed or trimmed in order to provide sufficient clearance to allow for the safe operation of the line for a minimum of four years.

21. PPL Electric completed all trimming and tree removal, as well as clean-up activities, on November 19, 2012. The Company did additional repair work on the property on December 28, 2012. Since December 28, 2012, the Complainants have not indicated any dissatisfaction or continued safety concerns stemming from the vegetation near the distribution facilities.² The distribution facilities on the Complainants' property will be evaluated for maintenance trimming in 2015, consistent with PPL Electric's standard vegetation management practices.

22. A case is moot "if in ruling upon the issue the court cannot enter an order that has any legal force or effect." *Commonwealth v. Nava*, 2009 PA Super 28, P7 (Pa. Super. Ct. 2009). "A case is moot when it no longer presents a justiciable controversy because the issues involved have become academic or dead. When the matter in dispute in a case has already been resolved so that the entitlement to judicial intervention is no longer present, a case is moot." *Susan K. Pickford v. Pennsylvania-American Water Company*, 2009 Pa. PUC LEXIS 822, 56 (Pa. PUC 2009) (internal citations omitted). *See also, Jude C. Pohl v. Bell Atlantic-Pennsylvania, Inc.*, Docket No. C-00992308 (Recommended Decision entered on October 29, 1999) (Where Company addressed Complainant's service issue so that Complainant was satisfied with the service, the issue in the Complaints became moot).

23. PPL Electric's vegetation work, which has been completed, has resolved completely the safety concerns identified in the Complaints. PPL Electric's trimming has

² Counsel for the Company contacted counsel for the Complainants on several occasions to determine whether Complainants were satisfied with the vegetation removal on their property. The most recent of these efforts occurred in a series of emails exchanged in early February. In that correspondence no specific objection was made regarding the vegetation work that was performed, no additional vegetation work was requested, and no ongoing safety concerns were expressed.

ensured that the distribution facilities will continue to operate safely under normal operating conditions for the next four years, at a minimum. The vegetation and safety issues raised by the Complainants have been fully resolved. Therefore, the portion of the Complaints dealing with safety concerns should be dismissed as moot.

24. The remaining specific allegations in the Complaints do not relate to questions of the safety of PPL Electric's facilities or a dispute over the provision of utility service. The specific allegations are focused exclusively on averments that PPL Electric's facilities are not located properly, as well as the Complainants' request for compensatory damages.

25. 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 Company*, 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).

26. The Commission does not have jurisdiction to adjudicate real property rights. *Leonard Karpel v. Peoples Natural Gas Company, LL C.*, 2011 Pa. PUC LEXIS 1289 (August 12, 2011). It is well settled that the Courts of Common Pleas rather than the Commission have subject matter jurisdiction over issues dealing with the proper use of real property. *Id.* See also *Lou Amati/Amati's Service Station v. West Penn Power Company and Bell Atlantic - Pennsylvania, Inc.*, Docket No. C-00945842 (Oct. 25, 1995) (questions involving whether utility facilities are located pursuant to an existing right-of-way are exclusively within the jurisdiction of the Courts of Common Pleas).

27. The Complainants' property abuts a county road. As described in the affidavit of Margaret Alvarez, PPL Electric contacted Lackawanna County in order to discern the width of the right-of-way. County road rights-of-way in Lackawanna County are generally 50 feet wide, or 25 feet on both sides of the centerline of the road.

28. PPL Electric's poles are located 11'7", 13'8", and 17'2" from the centerline of the road. PPL Electric believes that the three poles at issue in this proceeding are located within the County road right-of-way. PPL Electric has the statutory right to have facilities occupying rights-of-way for public roads. Section 1511(e) of the Business Corporation Law of 1988, 15 Pa.C.S. § 1511(e). Any dispute about whether the poles are properly located within the County road right-of-way is a question of fact as to the scope of the right-of-way. The Commission does not have jurisdiction to determine the scope and validity of an existing right-of-way. *Fairview Water Company v. Pa. P.U.C.*, 157 Pa. 384, 502 A.2d 162 (1985).

29. Further, the poles identified in the Complaints have been located on the property for more than 70 years, and up to 85 years for the pole that was installed in 1928. If a court with proper jurisdiction determined that any of these three poles was not properly located in the public right-of-way, then an inquiry into whether PPL Electric has a prescriptive easement would be appropriate.

30. The Commission has concluded that it is without jurisdiction to determine the scope and validity of a prescriptive easement. *Lowry v. Duquesne Light Company*, C-20066074 (Initial Decision entered Jan. 10, 2007) (Made final without further Commission action on March 6, 2007). In *Lowry v. Duquesne Light Company*, Administrative Law Judge Nemecek concluded that "should either Mr. Lowry or Duquesne wish to prove, or disprove, the existence of an easement by prescription, it must do so in the...Court of Common Pleas." *Id.* at 16.

31. The allegations in the Complaints related to the location of the poles on the property within the county road right-of-way are exclusively within the jurisdiction of the Courts of Common Pleas. Consequently, Complainants' claim must be dismissed for lack of Commission jurisdiction.

32. The Complainants also request compensatory damages as their sole remedy. 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.

IV. CONCLUSION

33. PPL Electric incorporates by reference Paragraphs 1 through 32, *supra*, as though set forth fully herein.

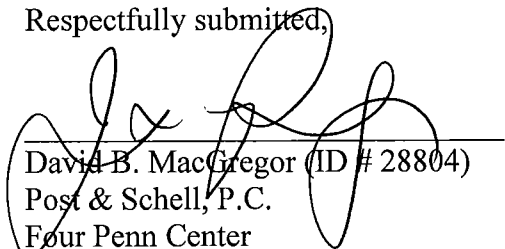
34. The vegetation and safety issues raised by the Complainants have been fully resolved, and the portion of the Complaints dealing with safety concerns has been satisfied. The scope of the Commission's jurisdiction over the remaining matters raised in the Complaints is well-settled. The Commission lacks subject matter jurisdiction over questions involving compensation for property damage and matters relating to the use of real property. A hearing on the Complainants' property claims and request for monetary damages would be a fruitless exercise.

35. For these reasons, the Complaints should be dismissed.

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the Honorable Administrative Law Judge Susan D. Colwell enter an order granting judgment in favor of PPL Electric Utilities Corporation and dismissing the above-captioned Complaints in their entirety.

Respectfully submitted,

Paul E. Russell (ID # 21643)
Associate General Counsel
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Phone: 610-774-4254
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Of Counsel:
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Date: May 9, 2013

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tracey Andrews,	:	
	:	
Complainant,	:	
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v.	:	Docket No. C-2012-2304551
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PPL Electric Utilities Corporation,	:	
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Respondent.	:	
	:	
William Andrews,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2012-2300410
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**AFFIDAVIT OF
STEPHEN M. LEFCHAK**

I, Stephen M. Lefchak, hereby depose and say as follows:

1. I, Stephen M. Lefchak, being duly sworn according to law, depose and say that I am authorized to make this Affidavit on behalf of PPL Electric Utilities Corporation (“PPL Electric” or the “Company”).

2. I am employed by PPL Electric. My position with PPL Electric is Line Clearance Inspector. In this position, I am responsible for overseeing PPL Electric’s vegetation maintenance program, which includes scheduling and overseeing trimming on PPL Electric’s

transmission and distribution lines in the Scranton and Carbondale Operating Areas. I have been responsible for vegetation management on the property owned by Mr. and Mrs. Andrews since May 14, 1990. I have been employed by PPL Electric for 22 years, and have been in my current position since May, 14, 1990. Prior to this position I was employed as an Arborist and Line Clearance Specialist for a private tree company.

3. I have a Bachelor of Science degree in Forest Science from the Pennsylvania State University.

4. PPL Electric has distribution poles supporting a distribution circuit that serves the property of Mr. and Mrs. Andrews.

5. Since the mid 1990's, PPL Electric has been requesting permission from Mr. and Mrs. Andrews to access the property to complete vegetation maintenance on the distribution circuit that supplies power to Mr. and Mrs. Andrews' residence. Mr. and Mrs. Andrews have consistently refused to allow PPL Electric onto the property.

6. PPL Electric, through the mediation unit at the Commission, worked with Mr. and Mrs. Andrews to allow the Company to resolve the immediate safety concern presented by the overgrown vegetation. I personally met with Mr. Andrews at his property, and together we picked and marked trees that would be cut down as part of the vegetation maintenance process.

7. On November 19, 2012, I oversaw the removal of the marked trees, and the trimming of remaining trees to ensure sufficient clearance around the line to resolve the safety concerns expressed by Mr. and Mrs. Andrews. In addition, the Company chipped the wood and removed debris from the property. This work was completed by November 19, 2012. We also ground down the stumps from tree removal on December 28, 2012. No additional work is scheduled or required on the property at this time.

8. This circuit will be evaluated for maintenance trimming again in 2015, which is consistent with PPL Electric's normal vegetation maintenance schedule.

9. Since December 28, 2012, Mr. and Mrs. Andrews have not expressed any dissatisfaction with the vegetation related work that PPL Electric performed on the property. They have not expressed any additional concerns related to the safety of the facilities on their property.

10. In my opinion, the tree removal and trimming are sufficient to resolve all safety issues at the Andrews property related to vegetation growth for at least four years.

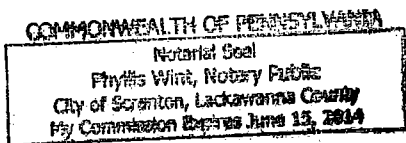
11. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Stephen M. Lefchak
Stephen M. Lefchak
Line Clearance Inspector
PPL Electric Utilities Corporation

Date: 4-30-13

Subscribed and sworn to
before me this 30 day
of April, 2013

Phyllis Wint
Notary Public



**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Tracey Andrews,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2012-2304551
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	
	:	
William Andrews,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2012-2300410
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**AFFIDAVIT OF
MARGARET R. ALVAREZ**

I, Margaret R. Alvarez, hereby depose and say as follows:

1. I, Margaret R. Alvarez, being duly sworn according to law, depose and say that I am authorized to make this Affidavit on behalf of PPL Electric Utilities Corporation (“PPL Electric” or the “Company”).

2. I am employed by PPL Electric. My position with PPL Electric is Right of Way Agent. In this position, I am responsible for overseeing PPL Electric’s acquisition of legally acceptable right of way for the construction, reconstruction, relocation or improvement of electrical distribution and communications facilities; reviewing, verifying and managing the

Company's easement rights; addressing inquiries regarding existing or proposed facilities; and assisting other customers, internal as well as external, regarding any other issues related to the Company's right of way program. I have been employed by PPL Electric in my current position since January 24, 2011. Prior to this position, I was employed by Bell Atlantic—Pennsylvania, Inc., as a Senior Clerk in the Outside Plant Engineering Department from October of 1988 through September 1997. I was promoted to Outside Plant Engineer Specializing in Right of Way in October of 1997. Bell Atlantic—Pennsylvania was subsequently renamed Verizon—Pennsylvania in May of 2000 after a merger. I was employed by Verizon—Pennsylvania, Inc., as an Outside Plant Engineer specializing in Right of Way through January of 2011, at which time I took my current position with PPL Electric.

3. I have a Bachelor of Arts from East Stroudsburg University. In addition, I have taken training courses with the International Right of Way Association on the subjects of rights of way, title searches, and easements.

4. The above-captioned proceeding stems from PPL Electric equipment that serves the property of William and Tracey Andrews. PPL Electric has distribution poles supporting a distribution circuit that provides service to their home. The three poles were placed in their current locations in 1928, 1935, and 1940, respectively, when the property was owned by the Delaware and Hudson Railroad Company. The Delaware and Hudson Railroad Company sold the property to John and Enid Baumann in 1968. The Baumanns sold the property to Mr. and Mrs. Andrews in 1976.

5. When Mr. and Mrs. Andrews purchased the property, all three poles were already in place. One of the poles had been located on the property for almost 50 years at the time of

purchase. All of the poles have been located on the property for more than 70 years, and up to 85 years for the pole that was installed in 1928.

6. The property owned by Mr. and Mrs. Andrews abuts a county road. In the normal course of my duties as Right of Way Agent for PPL Electric, I contacted officials for Lackawanna County in order to determine the width of the public right-of-way. County road rights-of-way in Lackawanna County are generally 50 feet, or 25 feet from the centerline of the road.

7. PPL Electric's poles are located 11'7", 13'8", and 17'2" from the centerline of the road. Based on the customary Lackawanna County road right-of-way of 50 feet, the three poles that serve the property of Mr. and Mrs. Andrews are located within the County road right-of-way.

8. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Margaret R. Alvarez

Margaret R. Alvarez
Right of Way Agent
PPL Electric Utilities Corporation

Date: 5-2-13

Subscribed and sworn to
before me this 2ND day
of MAY, 2013

Linda Koshelishan
Notary Public

