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September 18, 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

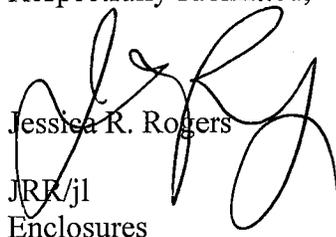
Re: Clinton Hashagen v. PPL Electric Utilities Corporation
Docket No. C-2012-2317387

Dear Secretary Chiavetta:

Enclosed, for filing, is the Motion to Compel Answers to Interrogatories and Requests for Production of Documents and to Permit Entry On To Complainants' Land for Collecting Water Samples or in the Alternative for Sanctions in the above-referenced proceeding.

Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,


Jessica R. Rogers
JRR/jl
Enclosures

cc: Certificate of Service
Honorable Joel H. Cheskis

CERTIFICATE OF SERVICE

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

VIA E-MAIL AND FIRST CLASS MAIL

John McDanel, Esquire
107 Rear E. Second Street
Berwick, PA 18603

Date: September 18, 2013



Jessica R. Rogers

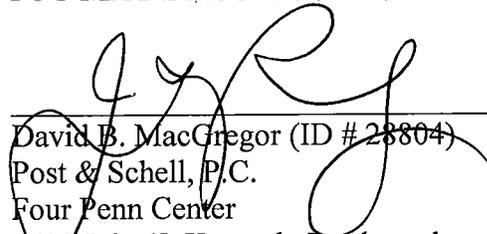
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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 § 5.342(g)(1), YOU ARE REQUIRED TO ANSWER THE ENCLOSED MOTION TO COMPEL WITHIN FIVE (5) 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 AND THE ADMINISTRATIVE LAW JUDGE. IF YOU FAIL TO ANSWER THE ENCLOSED MOTION, YOU MAY BE SUBJECT TO SANCTIONS UNDER 52 PA. CODE § 5.372.

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Of Counsel:

Post & Schell, P.C.

Date: September 18, 2013

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.	:	

**MOTION TO COMPEL ANSWERS TO INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS AND TO PERMIT ENTRY ON TO
COMPLAINANTS' LAND FOR COLLECTING WATER SAMPLES OR IN THE
ALTERNATIVE FOR SANCTIONS**

TO ADMINISTRATIVE LAW JUDGE JOEL H. CHESKIS:

AND NOW comes PPL Electric Utilities Corporation (“PPL Electric”) and files, pursuant to 52 Pa. Code § 5.342, this Motion to Compel Answers to its Interrogatories and Requests for Production of Documents on Clinton and Caroline Hashagen – Sets II and III (hereinafter “PPL Electric Interrogatories”). In support, PPL Electric states as follows:

I. BACKGROUND

1. Complainants Clinton and Caroline Hashagen (“Complainants”) are the owners of property located at 171 Everett’s Lane, Berwick, Luzerne County, Pennsylvania 18603.
2. On August 3, 2012, Complainants filed the above-captioned Complaint with the Commission.

3. The Complaint alleged 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. (*See* Complaint ¶ 4).

4. The Complainants requested compensatory damages and other relief that would effectively be an injunction. (*See* Complaint ¶ 5).

5. 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.

6. Also on August 23, 2012, PPL Electric filed Preliminary Objections, requesting that the Complaint be dismissed because the allegations in the Complaint were not within the Commission's jurisdiction.

7. On October 3, 2012, Administrative Law Judge Joel H. Cheskis ("ALJ") issued an Order granting in part and denying in part PPL Electric's Preliminary Objections. In the Order, the ALJ granted PPL Electric's Preliminary Objection "with regard to any averments pertaining to the scope and validity of the easement." Order at 6. The Order limited the scope of the proceeding to issues related to PPL Electric's vegetation management at the Hashagens' property. A copy of the Order is provided as Attachment A hereto. Complainants have not sought review of or relief from the ALJ's Order.

8. On March 5, 2013, PPL Electric filed a Motion for Summary Judgment. The Hashagens' Answer to PPL Electric's Motion was postponed by agreement of the parties to allow further settlement discussions. The Hashagens filed their Answer on July 19, 2013.

9. On August 8, 2013, the ALJ denied the Motion for Summary Judgment, but ordered the Complainants to update their responses to PPL Electric's first set of interrogatories.

A copy of the updated response from Complainants is included as Attachment B hereto. Prior to receiving the updated responses to PPL Electric's interrogatories, the Company served Interrogatory Set II on Complainants on August 13, 2013. Subsequent to receiving the updated responses, PPL Electric served Interrogatory Set III on Complainants on August 22, 2013. A copy of Interrogatory Set II is provided as Attachment C hereto. A copy of Interrogatory Set III is provided as Attachment D hereto.

10. Both Set II and Set III were mailed to counsel for the Complainants, as well as being served electronically. As no agreement has been made with regard to electronic service in this proceeding, responses to Set II were due on September 5, 2013, and responses to Set III were due on September 16, 2013. The Company has not received responses to either set of interrogatories.

11. In addition, counsel for PPL Electric contacted counsel for Complainants via e-mail on September 10, 2013, requesting a copy of Set II responses. Counsel for Complainants responded via e-mail on September 10, 2013 that he would get the responses to the Company as soon as possible. A copy of this correspondence is provided as Attachment E hereto.

12. Counsel for PPL Electric contacted counsel for Complainants via e-mail again on September 17, 2013, requesting a copy of both Set II and Set III responses, as well as to notify counsel for the Complainant that the Company would file this Motion to Compel if it did not receive responses. No response has been received to the e-mail dated September 17. A copy of the referenced correspondence is provided as Attachment F hereto.

13. In addition to the formal discovery requests, PPL Electric had requested that it be allowed to enter the Complainants' property to take water samples, which became necessary based on the Complainants' revised responses provided pursuant to the ALJ's Order of August 8.

PPL Electric was informed by ALS Life Sciences Division, the company PPL Electric selected to conduct the water testing, that there is a seven day period from the time a water sample is collected and submitted to the laboratory before test results can be made available. In order for PPL Electric to have adequate time to obtain a water sample, conduct the tests, and provide the results of the test to its expert for review, the sample needed to be collected on or before September 20, 2013.

14. Counsel for the Complainants indicated that a technician for the Company could enter the property, escorted by counsel for the Complainants. The water sample collection was scheduled for September 18, 2013, as indicated in the e-mail identified as Attachment F.

15. On the morning of September 18, 2013, counsel for the Complainants contacted counsel for PPL Electric to inform the Company that the Complainants refused to allow either their own counsel or the technician to enter the property.

II. ARGUMENT

16. Pursuant to 52 Pa. Code § 5.321(b), a party is entitled to obtain discovery of any matter, not privileged, that is relevant to a pending proceeding, or any matter that is reasonably calculated to lead to discovery of admissible evidence.

17. A party may serve written interrogatories, which may include requests for production of documents, to be answered by the party served. 52 Pa. Code § 5.341.

18. Unless modified by the presiding officer or by agreement of the parties, answers to interrogatories in a formal complaint case must be served not more than twenty (20) days after service of the interrogatories. 52 Pa. Code § 5.342(d).

19. Unless modified by the presiding officer or by agreement of the parties, objections to interrogatories must be served within ten (10) days of service of the interrogatories.

52 Pa. Code § 5.342(g).

20. On August 13, 2013, PPL Electric served Interrogatory Set II.

21. On August 22, 2013, PPL Electric served Interrogatory Set III.

22. The Complainants have not objected to PPL Electric's Interrogatories. The time for objections has lapsed and no objection could now be lodged.

23. Answers to PPL Electric Interrogatory Set II were due on or before September 5, 2013.

24. Answers to PPL Electric Interrogatory Set III were due on or before September 16, 2013.

25. Counsel for PPL Electric has contacted counsel for the Complainants. PPL Electric advised that it would file a motion to compel in the above-captioned matter if the outstanding answers to the Columbia Interrogatories were not received on or before September 17, 2013.

26. To date, Complainants have not served answers to the Company's Interrogatories.

27. PPL Electric is entitled to receive answers to its Interrogatories under 52 Pa. Code § 5.342.

28. Answers to PPL Electric's interrogatories are critical to PPL Electric's ability to prepare its defense. The failure to respond to PPL Electric's interrogatories leaves the Company with little knowledge about what information and exhibits the Complainants intend to present at hearing.

29. As indicated in the responses provided as Attachment B, Complainants have alleged that PPL Electric's use of herbicides has contaminated the water at Complainants' property, and that they have test results supporting such allegations. Despite PPL Electric's request for a copy of any such test results, Complainants' have failed to produce the document. The failure to respond to discovery relating to the alleged test purportedly conducted on Complainants' water supply at their property, and the refusal to allow PPL Electric to collect water samples so that it can conduct its own testing, leaves the Company unable to prepare a full defense to claims regarding water contamination. Unless PPL Electric's expert has a fair opportunity to review the results of the Complainants' tests prior to the hearing, the Company will be seriously prejudiced if Complainants attempt to introduce those results into evidence or rely upon them in any way.

30. The Complainants' refusal to allow PPL Electric to take waters samples on September 18, so that the Company may conduct its own testing, has effectively ensured that PPL Electric will be unable to present a full and complete defense at the October 2 hearing to any allegations relating to water contamination. However, should the Complainants be allowed to produce evidence at the October 2 hearing regarding water contamination, Complainants should be compelled to allow PPL Electric to enter upon their land in order to take water samples, and the Company should be given an opportunity to present the evidence in a supplemental hearing.

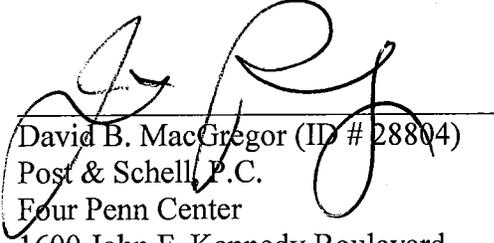
III. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that Administrative Law Judge Joel H. Cheskis grant this Motion to Compel and order Clinton and

Caroline Hashagen to serve answers to PPL Electric Interrogatory Sets II and III no later than September 27, 2013, so that PPL Electric may have time to review the materials before hearing. In addition, PPL Electric requests that if Complainants are allowed to present evidence regarding water contamination, that Complainants be ordered to allow the Company onto the property to collect water samples sufficient for testing. In the alternative, PPL Electric requests sanctions precluding the Complainants from using any materials that should have been produced in response to PPL Electric's discovery requests at the hearing, precluding evidence on any topics that were the subjects of the unanswered discovery requests, and granting such other relief under 52 Pa. Code § 5.372 as may be appropriate under the circumstances.

Respectfully submitted,

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Date: September 18, 2013

Attorneys for PPL Electric Utilities Corporation

Attachment “A”

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Clinton Hashagen

v.

PPL Electric Utilities Corporation

:
:
:
:
:

C-2012-2317387

ORDER
GRANTING IN PART AND DENYING IN PART
PRELIMINARY OBJECTIONS

On July 17, 2012, Clinton Hashagen filed with the Pennsylvania Public Utility Commission (Commission) a formal Complaint against PPL Electric Utilities Corp. (PPL or “the Company”), Docket Number C-2012-2317387. In his Complaint, Mr. Hashagen averred, among other things, that “PPL refused to honor an agreement dated September 10, 1969 to remove timber off of the right of way and refused to repair damage done by the contractor on our land.” Mr. Hashagen also averred that PPL “then came back with spray trucks and sprayed everything including the logs.” For relief, Mr. Hashagen noted on the Complaint that he would like PPL to “pay for the damage they done and say off our land until they do!” Mr. Hashagen attached to his formal Complaint copies of various correspondences amongst lawyers, PPL and others, as well as pictures of his property, newspaper articles and a copy of the easement.

On August 23, 2012, PPL filed an Answer with New Matter to Mr. Hashagen’s formal Complaint. In its Answer, PPL admitted that it is the holder of a valid right of way and easement agreement with Mr. Hashagen’s predecessor’s in interest but denied that it refused to honor its right of way agreement with Mr. Hashagen. PPL admitted that, as part of its vegetation management plan, which is necessary for the continued provision of reliable transmission service, it cut down mature trees on the Mr. Hashagen’s property and believes that it went “above and beyond its obligation under the agreement in moving the timber it could access.” PPL denied that the herbicides that it used on Mr. Hashagen’s property pose a health risk, as Mr.

Hashagen complained, and believes that it has followed the herbicide manufacturer's instructions for applying the herbicide. In its New Matter, PPL noted that it has filed a Preliminary Objection simultaneously with its Answer contending that the Complaint should be dismissed for lack of subject matter jurisdiction. PPL concluded its Answer by requesting that the Complaint be denied in its entirety and attached several supporting documents.

Also on August 23, 2012, PPL filed a Preliminary Objection. The Preliminary Objection was accompanied by a Notice to Plead. In its Preliminary Objection, PPL claimed that Mr. Hashagen's claims are not within the jurisdiction of the Commission because they arise out of a right of way agreement which is in the exclusive jurisdiction of the Courts of Common Pleas. PPL argues that the Commission therefore lacks jurisdiction over the issues identified by Mr. Hashagen and his Complaint must be dismissed. PPL further argues that because Mr. Hashagen has already filed a civil suit in the Court of Common Pleas that is based on the same underlying facts as those in his Complaint filed with the Commission, that Mr. Hashagen tacitly admits that the matter is appropriately before the Court of Common Pleas. PPL provides several attachments to its Preliminary Objection in support of its position.

Mr. Hashagen's answer to the Preliminary Objection was due not later than September 5, 2012. 52 Pa. Code §§ 5.101(f)(1), 1.12(a), 1.56(a)(1) and (b). Mr. Hashagen's answer to the New Matter was due not later than September 17, 2012. 52 Pa. Code §§ 5.63(a), 1.12(a), 1.56(a)(1) and (b). Mr. Hashagen filed neither an answer to the Preliminary Objection nor an answer to the New Matter.

By Motion Judge Assignment Notice dated September 11, 2012, the parties were informed that I was assigned as the Presiding Officer in this matter and responsible for resolving any issues which may arise during the preliminary phase of this proceeding.

PPL's Preliminary Objections are procedurally ready to be ruled upon. For the reasons discussed further below, PPL's Preliminary Objections will be granted in part and denied in part.

The Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Chapters 1, 3 and 5, provide for the filing of Preliminary Objections. 52 Pa. Code § 5.101. Commission Preliminary Objection practice is comparable to Pennsylvania civil practice respecting the filing of preliminary objections. Equitable Small Transportation Intervenors v. Equitable Gas Company, 1994 Pa PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994) (Equitable). PPL filed Preliminary Objections arguing that the Commission does not have jurisdiction over matters involving rights of ways and that the Commission does not have the authority to award damages. The Commission's Rules provide, in relevant part:

(a) *Grounds*. Preliminary objections are available to parties and may be filed in response to a pleading except motions and prior preliminary objections. Preliminary objections must be accompanied by a notice to plead, must state specifically the legal and factual grounds relied upon and be limited to the following:

- (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.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.

52 Pa. Code § 5.101(a)(1)-(6).

For purposes of disposing of the Preliminary Objections, the Commission must accept as true all well pleaded, material facts of the nonmoving party, as well as every reasonable inference from those facts. County of Allegheny v. Commonwealth of Pennsylvania, 490 A. 2d 402 (Pa. 1985); Commonwealth of Pennsylvania v. Bell Telephone Co. of Pa., 551 A.2d 602 (Pa. Cmwlth. 1988). The Commission must view the complaint in this case in the light most

favorable to the Complainant and should dismiss the complaint only if it appears that the Complainant would not be entitled to relief under any circumstances as a matter of law. Equitable, supra; see also, Interstate Traveler Services, Inc. v. Commonwealth, Department of Environmental Resources, 486 Pa. 536, 406 A.2d 1020 (1979).

With regard to PPL's first Preliminary Objection, that the Commission does not have jurisdiction over claims that arise from the interpretation of a right of way agreement, this argument will be rejected.

PPL argued that "the specific allegations [in the Complaint] 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." Preliminary Objection at para 14. PPL is correct that the Commission only has those duties, powers and responsibilities as expressly, or by necessary implication, given to it by the General Assembly and that the Commission must act within, and cannot exceed, its jurisdiction. PPL further argues that the allegations relating to property rights and the interpretation of a valid right of way agreement are exclusively within the jurisdiction of the Courts of Common Pleas. There is substantial precedent that supports PPL's argument. *See e.g., Fairview Water Co. v. Pennsylvania Pub. Util. Comm'n.*, 502 A.2d 162 (Pa. 1985) (the Pennsylvania Supreme Court held that the Commission does not have jurisdiction to determine the scope and validity of an easement).

Mr. Hashagen's Complaint, however, does not raise issues solely related to "the scope and validity of an easement." Mr. Hashagen's Complaint also raises issues involving vegetation management and PPL's use of herbicides. There is precedent that supports the exercise of jurisdiction over matters involving vegetation management within a right of way that warrants denying PPL's first Preliminary Objection.

In West Penn Power Company v. Pa. P.U.C., 578 A.2d 75 (Pa. Cmwlth 1990) (West Penn), the Commonwealth Court affirmed the Commission's decision to impose a fine on the utility for the removal of 74 trees from a customer's property. The Court stated:

Although West Penn has a right of way agreement dated December 11, 1948, which permits West Penn ‘to cut and trim or remove trees and shrubbery whenever necessary ...’ we agree with the commission that substantial evidence exists to support the finding that West Penn failed to conduct the right of way vegetation management on Brown’s property in a reasonable manner.

* * * *

Although the right of way agreement permits West Penn to engage in vegetation maintenance, section 1501 of the Code requires public utilities to provide service which is adequate, efficient, safe and reasonable.

Id. at 77. The Court noted that the Public Utility Code defines “service” as “any and all acts done, rendered or performed, and any and all things furnished or supplied, and any and all facilities used, furnished or supplied by public utilities. Id., *citing*, 66 Pa. C.S. §102.

The Court concluded that: “The PUC is correct in concluding that vegetation maintenance is a service and that West Penn’s clearing of the entire 40 foot right of way and West Penn’s removal of trees outside of the right of way did not constitute reasonable and adequate service.” Id.; *see also*, PECO Energy Company v. Township of Upper Dublin, 922 A.2d 996 (Pa. Cmwlth 2007)(Commission possesses the sole authority to regulate a public utility’s vegetation management practices in its service territory) (PECO) and Popowsky v. Pa. P.U.C., 653 A.2d 1385 (Pa. Cmwlth 1985)(vegetation maintenance constitutes a utility service and must be performed in a safe, adequate, reasonable and efficient manner).

In PECO, *supra*, the Commonwealth Court addressed the issue of vegetation management within a township’s right of way. In doing so, the Court noted that both PECO and the Commission, who intervened in the appeal to support PECO, relied on the reliability provisions of Section 2802(20) of the Public Utility Code in affirming the Commission’s jurisdiction over vegetation management. Section 2802(20) states:

Since continuing and ensuring the reliability of electric service depends on adequate generation and on conscientious inspection and maintenance of transmission and distribution systems, the independent system operator or its functional equivalent should set, and the commission shall set through regulations, inspection,

maintenance, repair and replacement standards and enforce those standards.

PECO at 1003-1004; *citing*, 66 Pa. C.S. § 2802(20). The Court noted the Commission's Proposed Rulemaking Order adding Inspection and Maintenance Standards for Electric Distribution Companies to the Commission's regulations that require the electric utilities to develop vegetation management plans, including for trees and limbs "on and off a right of way." Id. at 1004; *citing*, 52 Pa. Code §57.198(a)(3). The Court concluded, in part, that "public utility service embraces vegetation management." Id.

When accepting as true all well pleaded material averments in Mr. Hashagen's Complaint, as well as every reasonable inference from those averments, as is required when addressing PPL's Preliminary Objection, Mr. Hashagen's Complaint is not solely about "the scope and validity of an easement," as PPL argues. The Complaint also includes averments pertaining to vegetation management, including the use of herbicides, that warrant a hearing before an Administrative Law Judge and should not be dismissed on the basis of a preliminary pleading. Granting PPL's first Preliminary Objection would contradict the appellate precedent and statutory directive that gives the Commission jurisdiction over vegetation management "on or off a right of way." This is true regardless of the fact that Mr. Hashagen has also filed a civil suit in the Court of Common Pleas based on the same underlying facts as the Complaint filed before the Commission.

PPL's first Preliminary Objection, therefore, will be denied with regard to averments pertaining to PPL's vegetation management practices and granted with regard to any averments pertaining to the scope and validity of the easement as per Fairview, *supra*.

With regards to PPL's second Preliminary Objection, that the Commission does not have authority to order a public utility to pay compensatory damages, PPL is correct. The statutory array of Commission remedial and enforcement powers does not include the power to award damages to a private litigant for breach of contract by a public utility. *See*, Feingold v. Bell of Pennsylvania, 383 A.2d 791, 794 (1977). To the extent that Mr. Hashagen requests that the Commission award compensation, such claims may be appropriate for a Court of Common

Pleas. This Commission, however, lacks authority over those claims raised in the Complaint. PPL's Preliminary Objection is sustained with regard to Mr. Hashagen's claims for compensation.

In conclusion, PPL's Preliminary Objections will be granted in part and denied in part. When accepting as true all well pleaded material facts raised in Mr. Hashagen's Complaint, as well as all reasonable inferences from those facts, it is clear that Mr. Hashagen should be given an opportunity to demonstrate before an Administrative Law Judge whether PPL has violated the Public Utility Code, any Commission Order or regulation or any Commission-approved Company tariff with regards to its vegetation management practices on or off the right of way on Mr. Hashagen's property. Mr. Hashagen will not, however, be able to raise any claims regarding the scope or validity of the right of way or damages.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objections filed by PPL Electric Utilities Corporation in the above-captioned case at Docket Number C-2012-2317387 dated August 23, 2012 are denied in part and granted in part.
2. That the portion of the Complaint requesting that the Pennsylvania Public Utility Commission address the scope or validity of the right of way and any request for damages is stricken from Mr. Hashagen's Complaint.
3. That the remaining issues set forth in Mr. Hashagen's Complaint are

allowed to proceed to a hearing before an Administrative Law Judge.

Date: October 3, 2012

Joel H. Cheskis
Administrative Law Judge

Attachment “B”

AUG 20 2013

LAW OFFICES OF JOHN W. MCDANEL

**107 Rear E. 2nd Street
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(570) 752-3687
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August 18, 2013

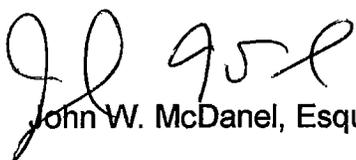
**Jessica R. Rogers
Post & Schell, PC
17 North Second Street - 12th Floor
Harrisburg, PA 17101-1601**

**Re: Clinton Hashagen v. PPL Electric Utilities Corporation
Docket NO. C-2012-2317387**

Dear Attorney Rogers:

Please find enclosed Complainants' Supplemental Answer to Interrogatories and Propounded by PPL Electric Utilities.

Sincerely,


John W. McDanel, Esquire

JWM/kh

Enclosure – *Complainants' Supplemental Answer*
Cc: File

Attachment “C”



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August 13, 2013

VIA E-MAIL & REGULAR MAIL

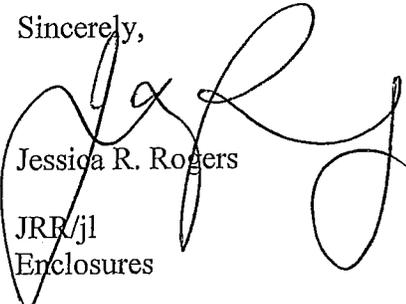
John W. McDanel, Esquire
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Re: Clinton Hashagen v. PPL Electric Utilities Corporation
Docket No. C-2012-2317387

Dear Mr. McDanel:

Enclosed are Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation on Clinton and Caroline Hashagen – Set II in the above-referenced proceeding.

Sincerely,



Jessica R. Rogers

JRR/jl
Enclosures

cc: Rosemary Chiavetta, Secretary (*Letter & Certificate of Service Only*)
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing 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).

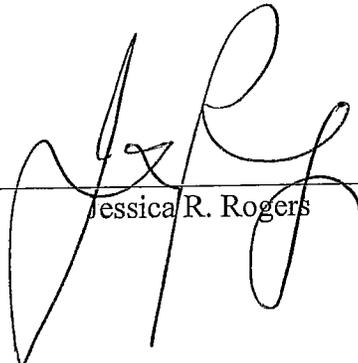
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Date: August 13, 2013



Jessica R. Rogers

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED BY
PPL ELECTRIC UTILITIES COPRORATION ON
CLINTON AND CAROLINE HASHAGEN – SET II**

Pursuant to 66 Pa.C.S. § 333 and 52 Pa. Code §§ 5.341 *et seq.*, PPL Electric Utilities Corporation (“PPL Electric” or the “Company”), propounds the following Interrogatories and Requests for Production of Documents on Clinton and Caroline Hashagen (“Complainants”) – Set II.

INSTRUCTIONS AND DEFINITIONS

1. The “Responding Party,” “you,” or “your” means the Complainants and/or all attorneys, agents, affiliates, employees, consultants, and representatives acting on their behalf.

2. “Commission” means the Pennsylvania Public Utility Commission.

3. To “identify” a natural person means to state that person’s full name, title or position, employer, last known address, and last known telephone number.

4. To “identify” a “document” means to provide all of the following information irrespective of whether the document is deemed privileged or subject to any claim of privilege:

- a. The title or other means of identification of each such document;
- b. The date of each such document;
- c. The author, preparer or signer of each such document; and
- d. A description of the subject matter of such document sufficient to permit an understanding of its contents and importance to the testimony or position being examined and the present or last known location of the document. The specific nature of the document should also be stated (*e.g.*, letter, business record, memorandum, computer print-out, etc.).

In lieu of “identifying” any document, it shall be deemed a sufficient compliance with these interrogatories to attach a copy of each such document to the answers hereto and reference said document to the particular interrogatory to which the document is responsive.

5. “Document” means the original and all drafts of all written and graphic matter, however produced or reproduced, of any kind or description, whether or not sent or received, and all copies thereof which are different in any way from the original (whether by interlineation, date-stamp, notarization, indication of copies sent or received, or otherwise), including without limitation, any paper, book, account, photograph, blueprint, drawing, sketch, schematic, agreement, contract, memorandum, press release, circular, advertising material, correspondence, letter, telegram, telex, object, report, opinion, investigation, record, transcript, hearing, meeting, study, notation, working paper, summary, intra-office communication, diary, chart, minutes, index sheet, computer software, computer-generated records or files, however stored, check, check stub,

delivery ticket, bill of lading, invoice, record or recording or summary of any telephone or other conversation, or of any interview or of any conference, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter of which the Responding Party has or has had possession, custody or control, or of which the Responding Party has knowledge.

6. "Communication" means any manner or form of information or message transmission, however produced or reproduced, whether as a document as herein defined, or orally or otherwise, which is made, distributed, or circulated between or among persons, or data storage or processing units.

7. "Date" means the exact day, month, and year, if ascertainable, or if not, the best approximation thereof.

8. Items referred to in the singular include those in the plural, and items referred to in the plural include those in the singular.

9. Items referred to in the masculine include those in the feminine, and items referred to in the feminine include those in the masculine.

10. The answers provided should first restate the question asked and identify the person(s) supplying the information.

11. In answering these interrogatories, the Responding Party is to furnish all information that is available to the Responding Party, including information in the possession of the Responding Party's attorneys, agents, consultants, or investigators, and not merely such information of the Responding Party's own knowledge. If any of the interrogatories cannot be answered in full after exercising due diligence to secure the requested information, please so state and answer to the extent possible, specifying the

Responding Party's inability to answer the remainder, and stating whatever information the Responding Party has concerning the unanswered portions. If the Responding Party's answer is qualified in any particular way, please set forth the details of such qualification.

12. If the Responding Party objects to providing any document requested on any ground, identify such document by describing it as set forth in Instruction 5 and state the basis of the objection.

13. If the Responding Party objects to part of an interrogatory and refuses to answer that part, state the Responding Party's objection and answer the remaining portion of that interrogatory. If the Responding Party objects to the scope or time period of an interrogatory and refuses to answer for that scope or time period, state the Responding Party's objection and answer the interrogatory for the scope or time period that the Responding Party believes is appropriate.

14. If, in connection with an interrogatory, the Responding Party contends that any information, otherwise subject to discovery, is covered by either the attorney-client privilege, the so-called "attorneys' work product doctrine," or any other privilege or doctrine, then specify the general subject matter of the information and the basis to support each such objection.

15. If any information is withheld on grounds of privilege or other protection from disclosure, provide the following information: (a) every person to whom such information has been communicated and from whom such information was learned; (b) the nature and subject matter of the information; and, (c) the basis on which the privilege or other protection from disclosure is claimed.

16. In accordance with 52 Pa. Code § 5.342(d), the Responding Party shall serve answers to these interrogatories within twenty (20) days from the date of service, unless otherwise modified by the presiding officer or by agreement. To the extent that the Responding Party objects to any portion of these interrogatories, any such objections must be served within ten (10) days from the date of service pursuant to 52 Pa. Code § 5.342(e).

17. As set forth in 52 Pa. Code § 5.342(g), these interrogatories are continuing and the Responding Party is obliged to change, supplement, and correct all answers given to conform to new or changing information.

**INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS
TO CLINTON AND CAROLINE HASHAGEN – SET II**

PPL Electric-II-1

Identify each fact witness you expect to call in the hearings and describe each specific subject matter on which the witness is expected to testify.

PPL Electric-II-2

Identify each expert witness you expect to call in the hearings, provide credentials and describe each specific subject matter on which the witness is expected to testify.

PPL Electric-II-3

Explain in detail the facts supporting the allegations in paragraph 4B of the Formal Complaint.

PPL Electric-II-4

State whether you have had any communications with any representatives of PPL Electric regarding herbicide use in the right-of-way. If so, please identify the PPL Electric representative, the date of the communication and provide the contents of the communication.

PPL Electric-II-5

Produce all support for the allegations that PPL Electric's vegetation maintenance is not:

- (a) Adequate;
- (b) Efficient;
- (c) Safe; and
- (d) Reasonable.

PPL Electric-II-6

For each of the documents identified as "Exhibit A" in answer to PPL Electric Interrogatory I-14, will the authors of the documents be presented as witnesses at the hearing in this matter?

PPL Electric-II-7

For the documents identified as “Exhibit A” in answer to PPL Electric-I-14, please provide the qualifications of each of the authors, including educational background and experience, and specific education, training, and experience relating to the chemical composition, use, and effects of herbicides.

PPL Electric-II-8

Produce a copy of any and all documents and/or pictures you intend to rely on or introduce into evidence in this proceeding that are related to vegetation maintenance. For any such document and/or picture, please produce the following:

- (a) State what the picture and/or document purports to illustrate;
- (b) Identify the individual that prepared each document and/or took each picture;
- (c) For each picture produced, state the date when it was taken and where it was taken.

PPL Electric-II-9

Produce a copy of the “folder” referenced in PPL Electric-I-10.

PPL Electric-II-10

Looking at the document labeled “Exhibit D” produced in response to PPL Electric Interrogatory I-14, identify the dates and times the photographs were taken.

PPL Electric-II-11

Update your response to PPL Electric Interrogatory I-16.

Attachment “D”



17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Main Fax
www.postschell.com

Jessica R. Rogers

jrogers@postschell.com
717-612-6018 Direct
717-731-1985 Direct Fax
File #: 140074

August 22, 2013

VIA E-MAIL & REGULAR MAIL

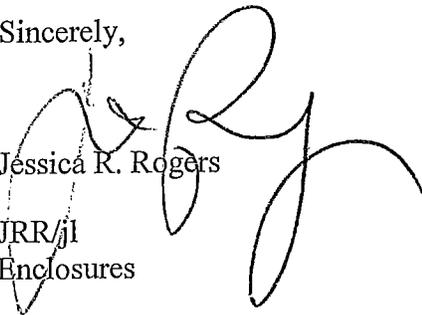
John W. McDanel, Esquire
107 Rear East Second Street
Berwick, PA 18603

Re: Clinton Hashagen v. PPL Electric Utilities Corporation
Docket No. C-2012-2317387

Dear Mr. McDanel:

Enclosed are Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation on Clinton and Caroline Hashagen – Set III in the above-referenced proceeding.

Sincerely,


Jessica R. Rogers

JRR/jl
Enclosures

cc: Rosemary Chiavetta, Secretary (*Letter & Certificate of Service Only*)
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing 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).

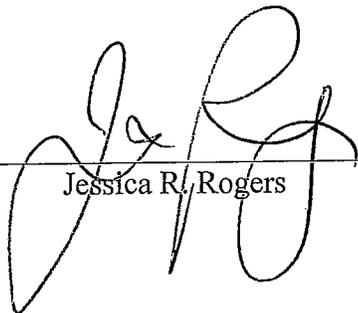
VIA FIRST CLASS MAIL

Clinton & Caroline Hashagen
171 Everetts Lane
Berwick, PA 18603

VIA E-MAIL AND FIRST CLASS MAIL

John McDanel, Esquire
107 Rear E. Second Street
Berwick, PA 18603

Date: August 22, 2013



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.	:	

**INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED BY
PPL ELECTRIC UTILITIES CORPORATION ON
CLINTON AND CAROLINE HASHAGEN – SET III**

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delivery ticket, bill of lading, invoice, record or recording or summary of any telephone or other conversation, or of any interview or of any conference, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter of which the Responding Party has or has had possession, custody or control, or of which the Responding Party has knowledge.

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**INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS
TO CLINTON AND CAROLINE HASHAGEN – SET III**

PPL Electric-III-1

With regard to the water test referenced in Supplemental Response 1, provide a copy of all documents or reports containing the results of the test.

PPL Electric-III-2

On what date was the test conducted?

PPL Electric-III-3

Identify the person who conducted the water test. Will the person who conducted the test be a witness in this proceeding?

PPL Electric-III-4

If a company was used to conduct the water tests, provide all corporate history, including the number of years that the company has conducted water testing, the area in which it conducts its tests, any licenses, professional organization memberships, or qualifications held by the company or its employees, training materials for employees,

PPL Electric-III-5

For the specific individual who conducted the test, provide all qualifications, including education, professional memberships, associations or organizations, training specific to herbicides, and a list of prior appearances in civil, criminal, or administrative hearings including the docket number and the subject of testimony.

PPL Electric-III-6

With regard to the claim in Supplemental Response 1 that Penn Lines poured herbicides on the access road, on what date did this event occur?

PPL Electric-III-7

What evidence or documentation do you intend to present at hearing to support this claim?

Attachment “E”

Rogers, Jessica

From: John McDanel <jmcdanel@yahoo.com>
Sent: Tuesday, September 10, 2013 10:18 AM
To: Rogers, Jessica
Subject: Re: Hashagen v. PPL Electric

Jessica,

I will get those to you as soon as possible.

John

From: "Rogers, Jessica" <JRogers@PostSchell.com>
To: "jmcdanel@yahoo.com" <jmcdanel@yahoo.com>
Sent: Tuesday, September 10, 2013 9:01 AM
Subject: Hashagen v. PPL Electric

John,

We served interrogatories on you on August 13th. By my calculation, including the 3 day mailing rule, they were due on September 5th. We have not received them at this time. Do you have a copy you can provide us via email?

Thank you.

This message is from the law firm Post & Schell, P.C. . This message and any attachments may contain legally privileged or confidential information, and are intended only for the individual or entity identified above as the addressee. If you are not the addressee, or if this message has been addressed to you in error, you are not authorized to read, copy, or distribute this message and any attachments, and we ask that you please delete this message and attachments (including all copies) and notify the sender by return e-mail or by phone at 215-587-1000. Delivery of this message and any attachments to any person other than the intended recipient(s) is not intended in any way to waive confidentiality or a privilege. All personal messages express views only of the sender, which are not to be attributed to Post & Schell, P.C., and may not be copied or distributed without this statement.

Attachment “F”

Rogers, Jessica

From: Rogers, Jessica
Sent: Tuesday, September 17, 2013 10:12 AM
To: 'John McDanel'
Subject: RE: Hashagen v. PPL Electric

John,

I should have an exact time for Wednesday later today, but the sample collector said it should be somewhere near 11am.

Also, Set III interrogatory responses were due yesterday. Did you mail them to us? Given the short time before hearing, if we don't get the responses for Sets II and III either in the mail or emailed to us by close of business today, I will file a motion to compel tomorrow morning. Let me know.

Thanks.

From: John McDanel [<mailto:jmcdanel@yahoo.com>]
Sent: Monday, September 16, 2013 6:46 PM
To: Rogers, Jessica
Subject: Re: Hashagen v. PPL Electric

Jessica,

I can. Let me know so I can rearrange some things.

John

From: "Rogers, Jessica" <JRogers@PostSchell.com>
To: John McDanel <jmcdanel@yahoo.com>
Sent: Monday, September 16, 2013 3:10 PM
Subject: Re: Hashagen v. PPL Electric

John,

Does Wednesday around 11am work for you? The technician is available that day.

Sent from my iPhone

On Sep 12, 2013, at 7:18 PM, "John McDanel" <jmcdanel@yahoo.com> wrote:

Jessica,

I am not available Friday. I could do it Wednesday or Thursday of next week.

John

From: "Rogers, Jessica" <JRogers@PostSchell.com>
To: "jmcDaniel@yahoo.com" <jmcDaniel@yahoo.com>
Sent: Thursday, September 12, 2013 4:34 PM
Subject: Hashagen v. PPL Electric

John,

The Company we have retained to test the water from the Hashagen property could be available tomorrow morning at 11 am to take samples. Are you available to escort them onto the property? Given the short notice, I would be understanding if that does not work. If not tomorrow, could you provide dates and times next week that you would be available?

Please let me know.

This message is from the law firm Post & Schell, P.C. . This message and any attachments may contain legally privileged or confidential information, and are intended only for the individual or entity identified above as the addressee. If you are not the addressee, or if this message has been addressed to you in error, you are not authorized to read, copy, or distribute this message and any attachments, and we ask that you please delete this message and attachments (including all copies) and notify the sender by return e-mail or by phone at 215-587-1000. Delivery of this message and any attachments to any person other than the intended recipient(s) is not intended in any way to waive confidentiality or a privilege. All personal messages express views only of the sender, which are not to be attributed to Post & Schell, P.C., and may not be copied or distributed without this statement.