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November 25, 2013

VIA ELECTRONIC FILING

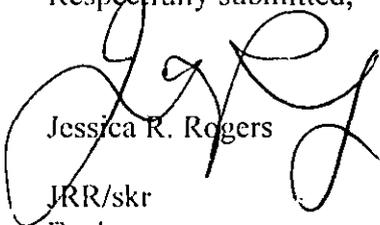
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Edward J. Leonard v. PPL Electric Utilities Corporation
Docket No. C-2013-2359971

Dear Secretary Chiavetta:

Enclosed please find the Answer of PPL Electric Utilities Corporation to the Motion of Edward J. Leonard to Compel Answers to Discovery Requests in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Jessica R. Rogers

JRR/skr
Enclosures

cc: Honorable David A. Salapa
Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Edward J. Leonard,	:	
	:	
Complainant	:	
	:	Docket No. C-2013-2359971
v.	:	
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent	:	

**ANSWER OF PPL ELECTRIC UTILITIES CORPORATION
TO THE MOTION OF EDWARD J. LEONARD TO
COMPEL ANSWERS TO DISCOVERY REQUESTS**

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To Administrative Law Judge David A. Salapa:

I. INTRODUCTION

PPL Electric Utilities Corporation (“PPL Electric”) hereby answers the Motion of the Complainant (“Motion”), Edward J. Leonard, to compel answers to interrogatories and requests for production of documents dated November 14, 2013. Below, PPL Electric will not attempt to respond to each and every allegation contained in the Complainant’s thirty-three page motion with its voluminous attachments. Instead, PPL Electric will make several general observations, address the Complainant’s chief arguments and address the specific relief sought by the Complainant. At the end of the day, PPL Electric believes that this discovery dispute is much ado about very little.

The Complainant attempts to use his Motion to argue the merits of his case. This is an improper use of a Motion to Compel. The majority of Complainant’s Motion puts forth his view of the case and the insufficiency of PPL Electric’s responses to defend its

position. In many instances, Complainant does not even seek additional information, but rather spends pages of his Motion criticizing the Company for what he has determined are its insufficient responses. As he did in certain of his interrogatories, the Complainant also personally denigrates the Company's employees, contractors and attorneys in a manner that is inappropriate and unprofessional, and in any event, completely irrelevant to the merits of a motion to compel discovery responses. *See e.g.*, Complainant's Motion p. 3.

Interrogatories are appropriate only if they are reasonably calculated to lead to admissible evidence. Complainant's extensive interrogatories and document requests have not been reasonably calculated to lead to admissible evidence. Rather than showing in his Motion that his requests legitimately seek information that is within the scope of this proceeding, Complainant argues that his beliefs about PPL Electric's pruning practices mandate that the Company must answer his interrogatories in the specific manner he sees fit. Complainant has confused a reasonable dispute over the facts and policies at issue in this proceeding with insufficient discovery responses. The Company has provided sufficient responses to Complainant's interrogatories; the fact that Complainant does not agree with those responses provides no support for his Motion to Compel.¹

II. PROCEDURAL HISTORY

1. On April 26, 2013, the Pennsylvania Public Utility Commission ("Commission") served on PPL Electric the Complaint which initiated this proceeding.

¹ In addition, Complainant's Motion is procedurally inappropriate. Complainant appears to have included many of the Company's interrogatory responses, although not all of the responses he references or alludes to in his Motion, as well as new documents and information not produced by PPL Electric and not previously provided to the Company by Complainant. As noted in Paragraph 10, Complainant's Motion also was not filed properly.

Although the Complaint raises several issues, its principal focus is on the manner in which PPL Electric's contractor pruned one particular Norwegian spruce tree and the sufficiency of the notice provided prior to pruning. The tree had been pruned as part of PPL Electric's vegetation management program. The primary purpose of the Company's vegetation management program is to ensure reliable service to its customers by reducing the likelihood that trees will come into contact with PPL Electric's distribution lines and cause service outages.

2. PPL Electric timely answered the Complaint.

3. The matter was set for a resolution conference. After a lengthy telephone discussion on June 5, 2013, the parties were unable to resolve the Complaint.

4. On July 22, 2013, the Complainant served his first two sets of discovery requests – a set of 109 interrogatories and requests for admissions and a set of seven very broad requests for production of documents.

5. On August 14, 2013, PPL Electric provided voluminous materials in response to these discovery requests.

6. A telephonic prehearing conference was held on August 21, 2013, with Administrative Law Judge David A. Salapa ("ALJ") presiding.

7. On September 13, 2013, PPL Electric provided additional material to the Complainant in response to information requests contained in the Complainant's "informal" motion to compel dated August 21, 2013.

8. On September 20, 2013, the Complainant served a second set of information requests. This second set of requests included 27 questions, many of which

had numerous subparts. PPL Electric responded to these discovery requests on October 15, 2013.

9. On October 21, 2013, the Complainant submitted a second “informal” motion to compel. In response to this second “informal” motion to compel, PPL Electric declined to provide further information in response to the Complainant’s discovery requests that had been served on PPL Electric by the Complainant.

10. On November 14, 2013, the Complainant mailed to the ALJ, with copies to PPL Electric, a “formal” motion to compel further answers to his discovery requests. This “formal” motion does not appear to have been filed with the Secretary of the Commission, and therefore is procedurally flawed. However, in order to facilitate the forward progress of this case, the Company is responding to the motion as if it were properly filed.

11. At this time, PPL Electric has already expended substantial resources in providing voluminous responses to the Complainant’s discovery requests. The Company has produced more than 350 pages of documents in response to the Complainant’s interrogatories, and has answered more than 130 questions, not counting the numerous subparts to questions. To provide some context for this number, in PPL Electric’s last base rate proceeding, which was a case involving a request for a rate increase of more than \$100 million, the Company responded to only 636 interrogatories. Further, the 636 interrogatories came from ten different parties participating in the discovery process. 130 interrogatories from a single complainant, essentially over the treatment of one tree, is clearly unduly burdensome.

12. Discovery is improper when it burdens parties unreasonably. *See, e.g.*, 52 Pa. Code § 5.361(a)(2).

13. In determining whether discovery is burdensome, the amount of discovery should be kept in proportion to the issues presented. Simple cases with simple issues and small amounts in controversy should not require substantial discovery. *Bodosky v. Scullin*, 6 Pa. D. & C.4th 445 (1990); *Bierbaum v. King*, 32 Pa. D. & C.2d 55 (1963).

14. The continual stream of discovery requests and demands for more and more information by Complainant in this case have become burdensome and should be halted.

15. As explained below, much of Complainant's current motion to compel is based on misunderstandings or are the product of the factual dispute at issue in this proceeding.

III. ARGUMENT

16. As previously noted, the Company does not intend to address every argument raised by the Complainant in his Motion, because his Motion inappropriately argues the legitimacy of his claims and PPL Electric's evidence, rather than raising clear areas where the Company has failed to adequately respond to Complainant's interrogatories. The Company generally denies that Complainant has raised any legitimate issues in his Motion, and therefore his Motion should be denied. In this Section, however, the Company will address certain specific factual allegations raised in the Motion.

17. The Complainant claims in his Motion that he needs substantial information regarding estimates of, and training regarding, growth of various species of

trees. Complainant does not seem to understand that these requests are fundamentally irrelevant to his inquiries regarding why certain branches were removed from his Norwegian spruce tree. Further, the Company has answered numerous questions regarding how the Company determines where to make its pruning cuts and that it does not use standard calculations or formulas because it does not believe those would improve the quality or efficiency of its pruning practices. The Company has stated that its position is that it must ensure that its lines remain clear of vegetation for the entirety of the distribution trimming cycle, and that this trimming must be done consistent with industry standard practices for good arboriculture. Complainant disputes that this is a legitimate practice for utility vegetation management. That does not mean, however, that the Company's interrogatory responses are insufficient.

18. Complainant also dedicated his "Motion Item #1" to a dispute over the semantics associated with directional pruning. His argument, in and of itself, shows that he has a theory about directional pruning and that he does not need further responses from the Company on this issue. In fact, all he appears to ask for after nine pages of argument about his theory are that the Company should: (1) provide the entire seven sections of the American National Standards Institute ("ANSI") Standard Practices A300; (2) tell the Complainant where in the standards he can find each of the items he has identified on page 9; and (3) tell him certain pieces of information about crown reduction, when the Company has already told him that crown reduction was not conducted on his property.

19. To the Complainant's three demands, the Company has legitimate grounds for not responding to each. To his first demand, not only does the Complainant identify

that he could easily obtain a copy of the very standards he claims he needs the Company to provide, but the Company already has provided the only relevant portion of the standards to Complainant. PPL Electric provided Part 1; there are seven parts in total. PPL Electric provided Part 1 because it is the only part that is relevant to the subject matter of the Complaint, which is pruning of trees. Part 2 pertains to Fertilization. Part 3 pertains to Supplemental Support Systems. Part 4 pertains to Lightning Protection. Part 5 pertains to Site Planning, Site Development and Construction Operations. Part 6 pertains to Transplanting. Part 7 pertains to Integrated Vegetation Management of Utility Rights-of-Way. Parts 2 through 7 of the standards are clearly outside the scope of this proceeding. Complainant also criticizes PPL Electric for not providing the most current version of the ANSI A300 standard. PPL Electric provided the copy of the ANSI A300 that was readily available to the PPL Electric personnel compiling answers to Complainant's many discovery requests. A comparison of the version that PPL Electric provided to the Complainant and the most current version reveals that there have been no material changes to the section of the ANSI A300 Part I Standard on utility pruning.

20. With regard to the Complainant's second demand, the Company is under no obligation to interpret the plain language of a document. The document provided to the Complainant speaks for itself.

21. Complainant's third demand is plainly irrelevant. The Company has already admitted that crown reduction is not relevant to this proceeding because it utilized side pruning, which PPL Electric described as a subset of directional pruning, on the Complainant's property. The Company clearly stated that crown reduction was not used on the Complainant's property. Further, crown reduction is used on trees where

vegetation is growing up into the circuit. Complainant's tree is located adjacent to the circuit, and therefore crown reduction would not be utilized. Complainant's requests for further information on crown reduction are not calculated to lead to admissible evidence.

22. In further answer, the Complainant also relies on sources not produced by PPL Electric in this proceeding, and which it received for the first time as attachments to Complainant's Motion. The Company has not had sufficient time to review these documents, *verify that they are true and correct, or determine their relevance to this proceeding.* Complainant's inclusion and reliance on these documents is clearly improper in a Motion to Compel.

23. Complainant also requests that PPL Electric and Asplundh Tree Expert Company ("Asplundh"), the contractor which provided vegetation management services at Complainant's property, be required to provide certain proprietary and confidential information. Complainant states that he is willing to sign a non-disclosure agreement. Motion, pp. 20-21, 27-28. As is clearly indicated from the correspondence between Counsel for PPL Electric and the Complainant, included as Motion Attachment 11, Asplundh is willing to allow Complainant to review the proprietary and confidential documents. *The final e-mail included in Motion Attachment 11 from Counsel for PPL Electric indicated that, should Complainant be willing to sign a non-disclosure agreement, he should contact Counsel and she would prepare one.* Complainant did not contact counsel prior to filing either his informal and then formal motions to compel.

24. It is not necessary for the ALJ to undertake any action on this matter because PPL Electric has prepared an appropriate form of non-disclosure agreement which it will present to the Complainant in the near future. When that agreement has

been executed, PPL Electric will contact the Complainant and Asplundh to arrange for a mutually convenient opportunity for the Complainant to inspect the requested documents, including all training materials and guidelines for tree pruning, to the extent that they exist.

25. The Complainant also has requested information regarding the identities of employees of Asplundh and PPL Electric who were present when the vegetation management at the Complainant's property was performed. The information, as well as the names of supervising personnel, has been provided to the Complainant in responses to discovery requests. Regarding the possibility of subpoenas for taking of depositions of these persons, the undersigned attorneys for PPL Electric will accept service of all documents regarding possible subpoenas for depositions of PPL Electric's employees. To the extent that the Complainant wishes to take depositions of employees of Asplundh, it should be understood that the undersigned attorneys do not represent Asplundh. Counsel for Asplundh has indicated that for service of subpoenas, the following address should be used:

Asplundh Tree Expert Co.
708 Blair Mill Road
Willow Grove, Pennsylvania 19090

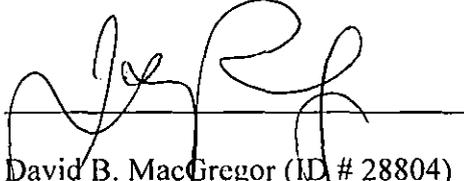
The Complainant should contact Asplundh directly with regard to depositions of its employees. By providing this information neither PPL Electric nor Asplundh waives any objection it may have to the service of a subpoena or the request for deposition.

26. For any issues of fact or requests for relief not addressed specifically in this Answer, the Company generally denies that Complainant's requests for additional information are appropriate. Complainant's requests have exceeded the scope of this

proceeding both in subject matter and in the appropriate extent of information sought. PPL Electric has willingly cooperated through numerous formal and informal requests for information, and has already expended considerable time and resources in responding to the Complainant's various requests. It would be fundamentally unfair to require PPL Electric to provide more information than it has already done. This is particularly true because, in many instances, the Complainant is merely disputing either the veracity or appropriateness of the content of the Company's responses, and cannot show that the Company did not provide the requested information.

WHEREFORE, for all the foregoing reasons, PPL Electric Utilities Corporation respectfully requests that the Motion of the Complainant Edward J. Leonard be denied.

Respectfully submitted,



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Date: November 25, 2013

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Corporation

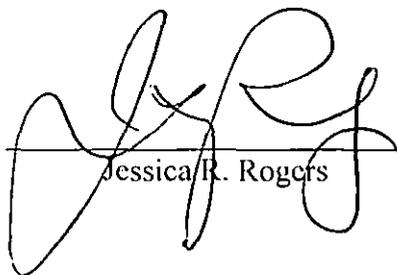
CERTIFICATE OF SERVICE

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 E-MAIL AND FIRST CLASS MAIL

Edward J. Leonard
736 Weil Street
Bethlehem, PA 18015

Date: November 25, 2013



Jessica R. Rogers

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