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December 6, 2013

Pennsylvania Public Utility Commission
c/o Secretary's Bureau
P.O. Box 3265
Harrisburg, PA 17105-3265

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SECRETARY'S BUREAU

RE: Patricia C. Manganaro v. Verizon Pennsylvania
LLC; Docket No. C-2012-2332597
Patricia C. Manganaro v. Duquesne Light Company;
Docket No. C-2012-2332929

Dear Sir or Madam:

Enclosed for filing please find Complainant's Brief in
the above-referenced cases.

Very truly yours,

BALZARINI & WATSON


Edward J. Balzarini, Jr.

EJBJr:lmd

Enclosure

cc: Suzan D. Paiva, Esq.
Jennifer L. Allison, Esq.

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COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

In the Matter of:

Patricia C. Manganaro vs.
Verizon Pennsylvania, LLC.
Patricia C. Manganaro vs.
Duquesne Light Company.

Docket Number:
C-2012-2332597
Docket Number:
C-2012-2332929

COMPLAINANT'S BRIEF

Filed on Behalf of
Complainant

Counsel of record for
This Party:

Edward J. Balzarini,
Jr., Esq.
Pa. I.D. #34320

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COMPLAINANT'S BRIEF

In accordance with this Honorable Court's Order of November 18, 2013, the complainant respectfully submits the within Brief.

I. STATEMENT OF THE CASE

This action arises from a dispute involving the ownership of two wooden utility poles on Complainant's property in Ross Township, Pennsylvania. Complainant, Patricia Manganaro, has owned the property located at 325 Jacks Run Road, Pittsburgh, Pennsylvania since 1999. (R. at 12). Complainant has been provided with, and has paid for, electric service by Duquesne Light the entire time she has resided at 325 Jacks Run Road. (R. at 13).

On Complainant's property there exist two wooden utility poles which, since before Complainant's ownership of the property, have had numerous utility wires attached to them. (R. at 14-15). Duquesne Light used the two wooden utility poles to attach their wires to provide electric service to the property. (R. at 62). Although Complainant has never received services from Verizon during her ownership of the Jacks Run Road property, Verizon had a "dead wire" attached to the two utility poles at issue. (R. at 11).

In May of 2012, following a power outage at her property, Complainant discovered that the two wooden poles on her property had fallen. (R. at 14). As a temporary solution to the power outage, Duquesne Light temporarily tied the power wires to a tree on Complainant's property. (R. at 91).

Following the above-referenced temporary repair, Complainant requested that Duquesne Light replace or repair the two wooden poles. (R. at 15) A representative of Duquesne Light alleged that Duquesne Light does not own the poles and said Verizon is the likely owner. (R. at 15). Complainant then requested that Verizon replace or repair the poles. (R. at 15). Verizon responded that they did not own the poles either. (R. at 15). A representative of Verizon also alleged that a document existed stating that the owner of the property owned the two wooden poles. (R. at 22). Complainant then called a representative of Verizon and requested a copy of the alleged document. (R. at 23). Despite numerous requests, Complainant has never been shown the original document which Verizon alleges lists Complainant as the owner of the wooden utility poles. (R. at 14).

Shortly thereafter, Complainant filed a Complaint with the Public Utility Commission's Bureau of Consumer Services.

(R. at 24). Following an investigation by the agency, Complainant received a letter advising that "Duquesne confirmed the poles 517/1 and 517/2, found in the right-of-way, belong to Verizon, and that, Duquesne owns the pole on the road." (R. at 25), (Exhibit 1). Poles 517/1 and 517/2 are the numbers marking the two fallen poles on Complainant's property. (Exhibit 1).

To date, no repairs have been made on the two poles which are at issue. (R. at 10). Complainant's position is that she is not responsible for repairs because she is not the owner of the two utility poles and Duquesne Light has a responsibility to provide safe electric service to customers. Nowhere in Complainant's deed is there any mention of the poles. (R. at 16). Complainant believes that repairs are needed because Duquesne Light's temporary solution is unsafe and she had frequent power outages at the property. (R. at 28).

II. SUMMARY OF THE ARGUMENT

Duquesne Light has a duty to provide electric power in a safe manner to customers as well as to make all repairs in a safe manner. Duquesne Light made an unsafe repair to Complainant's electrical wiring, which has existed on her property for a period of over one year.

Under settled decisions of Pennsylvania courts and Pennsylvania statute, electric utilities have a duty to make electrical repairs to customers in a safe manner. While Duquesne Light has denied ownership of the two wooden poles at issue in this case, they have also refused to make a more permanent and safe repair to Complainant's electrical service.

III. ARGUMENT

- A. FOLLOWING A CATASTROPHIC LOSS OF POWER, POWER WAS NOT RESTORED TO COMPLAINANT'S HOME IN A SAFE MANNER AS REQUIRED UNDER PENNSYLVANIA STATUTE.

Under the applicable law of Pennsylvania, a public utility must provide and make all "repairs, changes, alterations, substitutions, extensions and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public." 66 Pa.C.S.A. §1501(Purdons, 1990). Duquesne Light's temporary repair to the Complainant's electrical service is not compliant with Pennsylvania law. It is undisputed that Duquesne Light serviceman strung electric utility wires through trees on Complainant's property. (R. at 91). Since this temporary repair was made, Complainant has experienced numerous power outages and a fire in her home that she believes may be

attributable to the temporary repair made in May 2012. (R. at 28).

Pennsylvania's Superior Court has recognized the high duty of care placed on electric utilities to provide safe service to customers. In Alderwoods (Pennsylvania), Inc. v. Duquesne Light Co., 2012 PA Super. 153, 52 A.3d 347 (2012, power was lost in several Squirrel Hill area properties when a motor vehicle crashed into a utility pole. Shortly after the accident, Defendant Duquesne Light Company replaced the pole and made repairs to restore power to the affected properties, including the plaintiff's funeral home. 52 A.3d at 349. Shortly afterwards, an electrical fire started in the funeral home that was caused by repairs made in an unsafe manner on the part of Duquesne Light. Id. After weighing the social utility of "prompt restoration of power against Hirsch's claim that Duquesne Light did not safely restore power to the funeral home", the court held that Duquesne Light has a duty to provide safe electrical service to its customers. Id. at 357.

Similarly, the Allegheny County Court of Common Pleas in Wivagg v. Duquesne Co., 73 D & C 702, (Allegheny Co. 1975), opined that the public are "forced to rely upon Duquesne Light's skill and electrical apparatus for providing safe and hazard-free electrical power." The

court also held that Duquesne Light has an implied warranty of merchantability and fitness to provide safe and hazard-free electrical power. Id. at 695.


At the initial hearing in the present case, Duquesne Light Representative Donald Piasecki admitted that "tying" the power lines up the tree is meant to be a temporary solution and was done in an effort to continue to provide electrical service to the home. (R. at 63). Duquesne Light's "temporary" repair has, in fact, remained in place since May of 2012. (R. at 104). At the hearing of this matter, Duquesne Light took the position that it was unable to repair and/or replace the two poles on Complainant's property because they are allegedly owned by the Complainant. (R. at 98-99). Replacing a utility pole is a costly task that Duquesne Light has claimed they are under no obligation to complete. (R. at 96-99). However, Duquesne Light simultaneously acknowledges that they were able to use a tree, which is undisputedly owned by the Complainant, to string wires to and use to temporarily provide electrical service to Complainant. (R. at 63). It therefore appears that Duquesne Light is willing to make customer repairs and restore power quickly but only in a manner that is not too costly for Duquesne Light.

It is respectfully submitted that Duquesne Light's temporary solution, which permits them to continue to charge Complainant for electrical service without a costly repair, is unreasonable, unsafe, and in direct violation of Pennsylvania law, specifically 66 Pa.C.S.A. §1501(Purdons, 1990).

Respectfully submitted,

BALZARINI & WATSON

BY



Edward J. Balzarini, Jr.
Attorney for Complainant
Pat Manganaro



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

9/6/2012

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PATRICIA MANGANARO
325 JACKS RUN RD
PITTSBURGH PA 15202

DEAR PATRICIA MANGANARO:

Recently you contacted the Bureau of Consumer Services about separate complaints with Verizon and Duquesne Light regarding the poles on your property.

If you believe additional service records might help prove your dispute, you have the right to request the statutory four years of records the Pennsylvania Open Records Law. A requester can file a Right-to-Know request in four ways. You can submit your request by: Fax. Email, in person or through the USPS. Please Google PA open records law to find the website. The address of the site is too long to provide herein.

You might consider filing against both companies in one formal complaint.

Documentation of your interactions with the company, including dates, times and the names of the representatives to whom you spoke regarding specific trouble, is an advantage when submitted along with your complaint. There will be a lag-time between when you submit the complaint and you hear back from the PUC Secretary's Bureau. The Bureau needs to serve the complaint on the company. The bureau will be in contact with you, for you to be scheduled for a hearing with an administrative law judge.

Following is a summary of the Verizon position.

Verizon investigation has determined poles 517/1 & 2, lying on the ground now, were set in 1937 and are subscriber poles according to Verizon pole records. Ms. Manganaro was advised by Verizon Engineer Verizon has no interest in the poles or in replacing them. Ms. Manganaro was advised her to call Duquesne Light since there is a hazard with secondaries tied off to trees, (DLCo tri-plex is hanging from trees to her home thru R-O-W and given Duquesne Light engineering contact information of Chuck Hertweck 412 393-2610.

Duquesne Light advised that Duquesne confirmed the poles, 517/1 and 517/2, found in the right of way, belong to Verizon and that Duquesne owns the pole on the road.



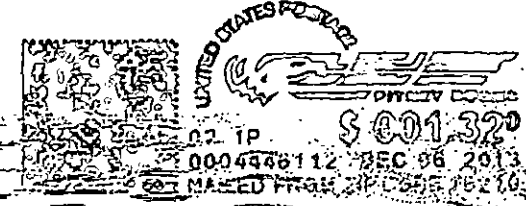
You will find additional information on the PUC website at <http://www.puc.state.pa.us/>. If I can be of further assistance, I can be reached at 717-783-5237 or 800-692-7380.

I have enclosed formal complaint forms that you must complete for the Commission to review our decision.

Sincerely,

Anne Kearney-Raynor
Complaint Investigator

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FIRST CLASS MAIL

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