

Pg. 1
C-2013-2354026

3.26.14
RECEIVED

MAR 28 2014

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

This is a letter of reconciliation in an attempt to have a reasonable understanding of the situation that Peco is trying to prevent my legal use of my private land. We the owners have tried reasonably to avoid our use as a farm to grow fruit trees, x-trees as a crop and the use of our land to what we bought the property in certain township codes this is as shown in a document by the township of West Goshen. In code 52 PA code 5.572 there are this reason for this petition.

In the statement shown & sighted by Peco codes 66 Pa.C.S. 550, there pursuit of our farm seems to be singling this particular area. I would appreciate the court to reevaluate what our uses are in this area. Peco determines what they appear to be. their determination

as vineyard, grazing etc. we feel that
Fruit bearing trees and trees -x are a
crop and would like to further our use
not to conflict with the larger trees which
border the property, which are cut to 8' FT
at this time.

In addition I have provided additional
photos of other tree-xmas farms in the
area and additional areas not conflicting with
transmission service at any level

I have underlined other areas in doc
that I do not agree with,

RECEIVED

MAR 28 2014

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

⊗ There are many
more examples of
tree farms to follow

Yours kindly

Fred J. Bell
owner / Farmer

* note: under-reconsideration
prejudicial on PUC's part.

ALSO: The pics are examples
of X-MAS-Tree Farms in our area
that are producing and working Farms

We argue the right to use property as zoned to earn a wage and protect neighborhood aesthetics

PECO and affiliated parties claim it is necessary to clear cut 1171 Macpherson Dr property because trees interfere with the safe operation of the facilities. They also claim the trees bordering the property are not safe because they are capable of growing 100ft in height at maturity. PECO also refuses to compensate for any damages to property, crops, or land. PECO claims zoning, regulations and easement prevent the property owner from farming crops that will reach a maturity height of more than 15'.

The Bobb's argue the definition of "maturity" for crops which will be harvested well before they reach nature's peak maturity with no maintenance. The Bobb's argue maturity is defined as the peak growth height within the growth cycle in which that crop will be harvested. The Bobb's do not agree that potential growth height (maturity) is a factor in safe operation so long as the trees are maintained at a height that is proven to be safe which is less than 15 feet or within 50ft of any lines as mandated by the Federal NERC Guidelines. This practice is also known as pruning or selective cutting and is practiced in many other situations in residential and agricultural areas. The Bobb's furthermore argue that selective cutting/pruning is a viable option. There are negative environmental as well as community effects to clear-cutting.

The Leland Cypress trees were planted before the Bobb's bought the property to please the local homeowners in the neighborhood who complained of unsightly towers. Neighbors have complained in the past of the condition of the said property before the Bobb's purchase. Property line trees have subsided much of the neighborhood complaints to the township of both unsightly powerlines and wood stacks. The property was purchased and an agreement with the township to clean up the site from previous owner of fell timber

and to restore an area to be used as a Christmas tree farm. "The Bobb's have expressed their intention to plant trees on the property which is in compliance with Section 84-9 of the Code." "Within 30 days of the date that the Board of Supervisors executes the Settlement Agreement all wood chip piles that are located on the property must be completely removed." (See attached document for citation)

A similar case in New Jersey against BPU with NOTICE OF SOLICITATION OF INFORMAL PUBLIC INPUT Docket # EX07070511 and # EX08040235 and outlined at newjerseysierraclub.org, in the draft resolution from the Somerset Co. Board of Freeholders states: "clear cutting can have significant environmental and community character impacts, particularly for established neighborhoods, scenic corridors and high integrity forest subwatersheds, as well affect the quality of life of neighborhoods and the ecological integrity of natural systems that are located near the EDC right of way." (see attached).

The Bobb's have attempted to compromise on this matter several times by giving PECO the right of way to remove the trees as they see fit as stated in the easement, under the condition that they are reasonably reimbursed for any and all damages to land and property as agreed upon in the easements in exhibits 11 and 12. PECO has refused to reimburse the Bobb's. The Bobb's refuse to allow PECO or any parties affiliated with PECO to cut any planted trees that are less than 15' in height unless compensated.

The easement implicitly states that the "said ELECTRIC COMPANY, its successors and assigns, shall indemnify and save harmless the undersigned owners, their successors and assigns from any and all damages to PROPERTY, cattle, or crops resulting from the construction, operation or maintenance of the afforsaid poles, towers, wires and appurtenances constructed under the terms of this grant [easement]. This clause states the "said ELECTRIC COMPANY" is responsible for any and all damages incurred in maintenance of the said facilities.

We claim the total lack of communication on the matter is unreasonable service as well as a breach in the right of way contract. PECO claims the property must be clear cut. By claiming the right to cut down any tree, or destroy crops on the property at any time with no reimbursement, PECO inhibits the property owners ability to use the land as granted in writing by the township, the township's zoning and deed. (See attached documents from the township). Furthermore, no compensation increases farming risk, which is creating both financial and emotional distress to the farmers.

Our intent is of a crop farm. The USDA defines Christmas trees as a crop. Also, planted trees which are the disputed are real property as used in insurance claims and real estate. Crops are defined to include Christmas trees as they are yielded on a regular basis. Exhibits 11 and 12 signed by our predecessors describe what the property can be used for: Crops, pasture, etc.

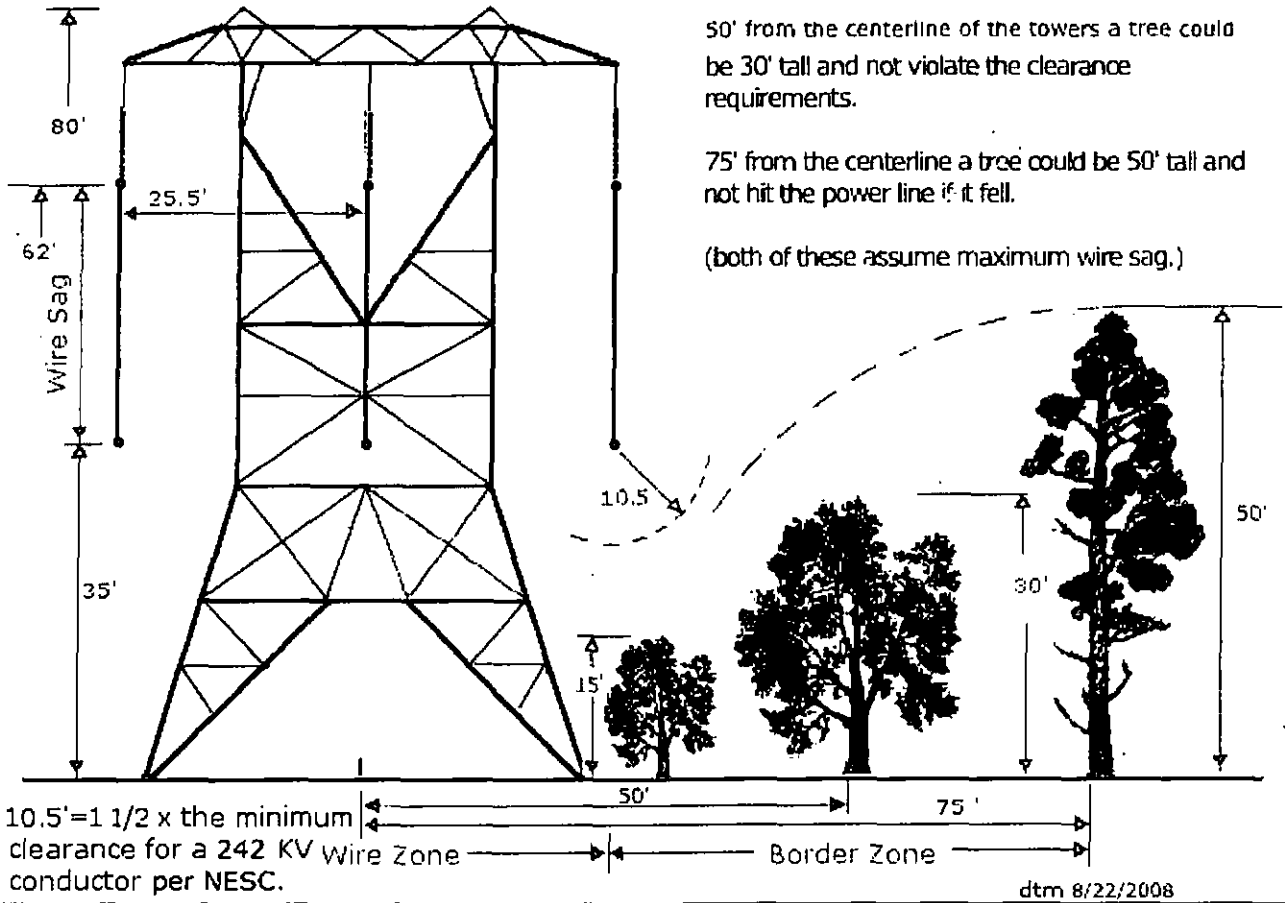
The value of the landscape specimens cannot exceed that of the parcel(s) they contribute to. 350 Leland Cypress trees bordering the property at 7-8ft maturity has a wholesale cost of \$30 each totaling \$10,500 in real property damages which we deem to be reasonable.

The real issue here is not of these trees bordering the property but of the right to use this property for a Christmas tree farm as intended and granted consent from the township. By allowing the energy company to clear cut with no reimbursement we are unable to use this land as intended and granted permission to do so. The Bobb's are willing to work out a deal to work together with the public utility to ensure public safety as well as their property rights.

Tree heights conforming to distance requirement to avoid arcing for 242 kV lines.

The Federal Guidelines refer to (IEEE) Standard 516-2003 (Guide for Maintenance Methods on Energized Power Lines) for clearance while the NJ BPU refers to the National Electric Safety Code (NESC) (C2 2007) also published by IEEE.

	242 kV	500 kV
NESC C2	7'	16.7'
IEEE 516	5'	14.7'



COMMONWEALTH OF PENNSYLVANIA)
) SS.
COUNTY OF

On this, the _____ day of _____, 19____, before me,
the undersigned officer, personally appeared _____,
who acknowledged himself to be the _____
President of _____, a corporation,
and that he as such _____ President, being authorized to do so executed the
foregoing instrument for the purposes therein contained by signing the name of
the corporation by himself as _____ President.
In witness whereof, I hereunto set my hand and official seal.

Notary Public
My Commission Expires:

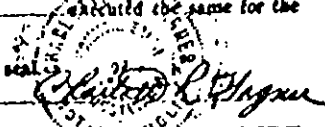
	TO	RECEIVED - NEEDS OCT 7 11 21 AM '00
Philadelphia Electric Company		RIGHT OF WAY GRANT

COMMONWEALTH OF PENNSYLVANIA *Edwin M. Morrison*
 COUNTY OF *Montgomery* RECORDED
 On this, the _____ day of *July*, 19____, before
 me, *Notary Public*, the undersigned officer, personally appeared
Thomas H. Dehagan, known to me (or satisfactorily
 proven) to be the person whose name _____
 subscribed to the within instru-
 ment, and acknowledged that _____ executed the same for the
 purposes therein contained.
 In witness whereof, I hereunto set my hand and official seal.

 Title of Officer
 My Commission Expires:

Rec'd in Register Co. P
M 1000 BK 191 Page 514

491 515



PC 1494-11 W-18091
1327-4

FORM 100-20000 REVISED 2/70

RIGHT OF WAY GRANT

Be it known that for and in consideration of the payment by PHILADELPHIA ELECTRIC COMPANY of the sum of One Dollar (\$1.00), the receipt whereof is hereby acknowledged, the undersigned hereby grant(s) to Philadelphia Electric Company, its successors and assigns, the right to erect, install, operate, maintain, renew, add to, relocate, and remove such facilities, including poles, cross arms, wires, cables, anchor guys, conduits, manholes, gas mains, gas service pipes, and appurtenances, as shall be necessary for the transmission and distribution of electricity and gas within the legal right of way limits of a public highway known as Grubbs Mill or Little Broad Run Rd. (L.R. 1518) on the easterly side thereof, as now existing or as may be hereafter established, abutting premises of the undersigned (part of the aforesaid facilities such as wires, cross arms and appurtenances overhanging the said premises adjacent thereto) located at a point 750 feet north of Sunset Hollow-Green Hill Rd. (T-387) and extending northwesterly for a distance of 59 feet, bounded on the north by lands now or late of Thomas H. Darlington and on the south by lands now or late of Philadelphia Electric Company.

West
In the Township of Coates, County of Chester, Commonwealth of Pennsylvania, with right of ingress and egress to and from said facilities and right to trim and keep trimmed, in a workmanlike manner, all trees and branches of trees, to the extent deemed necessary by the Company to provide sufficient clearance for the protection of the aforesaid facilities.

The Company is further granted the right to locate said facilities outside the limits of said highway but immediately adjacent thereto; also the further right to install outside the limits of said highway such anchors and guys as may be necessary to stabilize said poles.



Notary Public
John W. Curcio

EXECUTED this 1st day of July, A. D. 1922

In the presence of:
John W. Curcio

By: Thomas H. Darlington (SEAL)
Thomas H. Darlington (SEAL)
(SEAL)
(SEAL)

The undersigned, owners of premises situate in the Townships of WEST WHITE-
 LAND and WEST GOSHEN, County of CHESTER, Commonwealth of PENNSYLVANIA, described
 in deed dated December 28, 1948 and recorded in the Office for the Recording
 of Deeds of the County aforesaid, in Deed Book G-23, Volume 544, page 251, &c.,
 for and in consideration of the sum of One Dollar (\$1.00) and other good and
 valuable consideration paid by PHILADELPHIA ELECTRIC COMPANY to the undersigned,
 the receipt whereof is hereby acknowledged, hereby grants to the said PHILADELPHIA
 ELECTRIC COMPANY, its successors and assigns, with respect to so much of said
 premises as lies within a seventy-five feet (75 ft.) wide strip, thirty-seven
 and one-half (37½) feet on each side of the following described center line:

2. - Blueprint looks to read 7.5 ft?

BEGINNING at a point in line of land of Philadelphia Electric Power
 Company; thence extending through land of the undersigned parallel with and
 37.5 feet Southeastwardly from and measured at right angles to the Southeast-
 erly right of way line of the Philadelphia Electric Power Company the two
 following courses and distances: (1) North 53° 21' East 2136.18 feet to a
 point; and (2) North 40° 14' East 94.8 feet to a point in line of other land
 of the Philadelphia Electric Power Company;

the full, free and uninterrupted right, liberty and privilege to erect, con-
 struct, install, use, operate, patrol, inspect, maintain repair, renew, add
 to, relocate and remove facilities including towers, poles, cross arms, wires,
 cables, anchor guys and other equipment and appurtenances, necessary for
transmitting and distributing electricity along, on, over, under and across the
 said strip;

TOGETHER with the right, as often as necessary, to cut down and remove from
 said strip, any trees, brush, buildings or other things, and to cut, trim and
 keep trimmed any trees on the premises adjoining said strip on either side
 likely to interfere with the safe operation of the said facilities, also the
 right of ingress and egress to, from and over the said strip.

The said Electric Company, its successors and assigns, shall indemnify
 and save harmless the undersigned owners, their successors and assigns, from any
 and all damages to property, cattle or crops resulting from the construction,
 operation or maintenance of the aforesaid poles, towers, wires and appurtenances
 constructed under the terms of this grant.

EXECUTED this 24th day of January, A.D. 1950

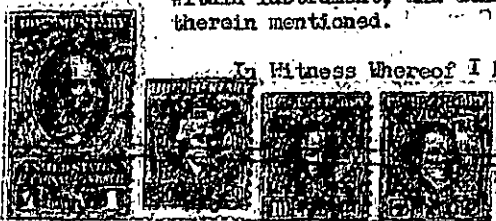
Witnesses:

Edith M. Ozden

Robert P. Gandy (SEAL)
 (Robert P. Gandy)
Irene G. Gandy (SEAL)
 (Irene G. Gandy)

COMMONWEALTH OF PENNSYLVANIA
 COUNTY OF Chester

On this, the 24th day of January, A.D. 1950, before me,
 a Notary Public, the undersigned officer, personally
 appeared Robert P. Gandy, director known to me (or
 satisfactorily proven) to be the persons whose names are subscribed to the
 within instrument, and acknowledged that they executed the same for the purposes
 therein mentioned.

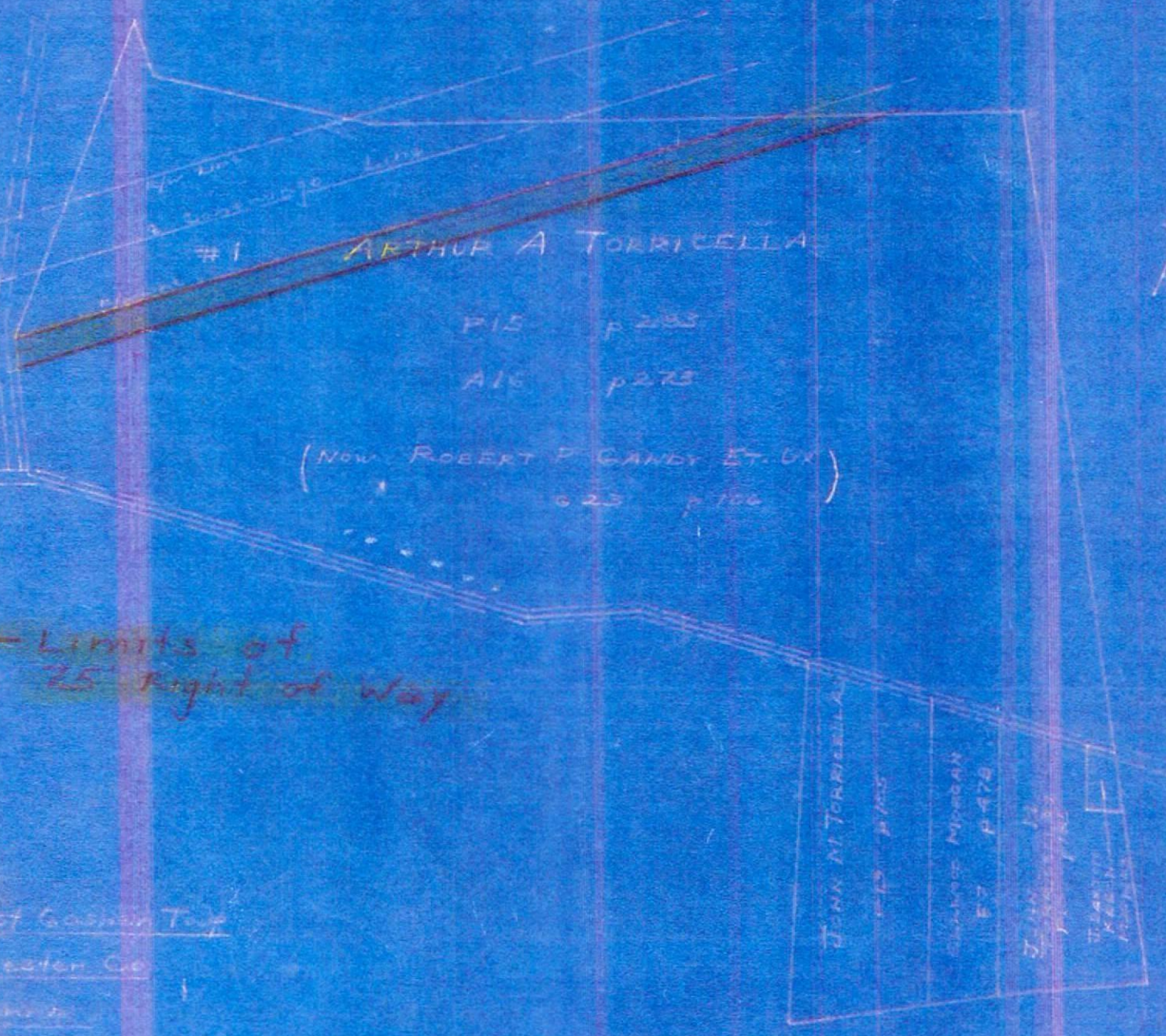


In Witness Whereof I hereunto set my hand and official seal.

Edith M. Ozden
 My Commission Expires:

Jan 7, 1951

PECO ENERGY
 EXHIBIT 12



#1 ARTHUR A TORRICELLA

P15 P 2083

A16 P 273

(NOW ROBERT P GANDY ET. UX)
G 23 P 106

— Limits of
25' Right of Way

West Goshen Twp
Schenectady Co
New York

1/27/1973



JENN M TORRICELLA

P 19 P 1003

CLAUDE MIPROGAN

E 7 P 478

JENN M

1/27/1973

WEST GOSHEN TWP
Schenectady Co
New York



A 17

0 125 250 375 ft



New Way



0 125 250 375 ft



Autumn View Way

Telegra



Google Maps

Google, Inc.



FREE — On the App Store

View

position@3c



Imagery ©2014 DigitalGlobe, U.S. Geological Survey, USDA





Search or enter an address



3D



right of way on the Complainant's property. I.D. at 13, 15. The ALJ stated that the Complainant did not present any evidence that the NERC standards themselves or the application of the NERC standards in this case were unreasonable. *Id.* at 14. The ALJ additionally determined that Section 10.9 of PECO's Tariff Electric - Pa. P.U.C. No. 4,² which authorizes the Respondent to remove vegetation near its wires when the vegetation may pose a threat to public safety or system reliability, is presumed to be reasonable, and the Complainant failed to rebut that presumption. *Id.* at 15.

Exceptions and Replies

The Complainant's Exceptions consist of the following two sentences: "I disagree with the ruling. I found new evidence in prejudice towards our particular parcel, concerning our Christmas tree farm." Exc. at 1.

In response, PECO states that the Complainant did not discuss the new evidence he claims to have or the basis for his Exceptions and did not identify any specific error of law or abuse of discretion. Accordingly, PECO avers that the Exceptions do not satisfy the requirements in Section 5.533(b) of our Regulations, 52 Pa. Code § 5.533(b) and should be dismissed summarily. R. Exc. at 2.

²

Section 10.9 of PECO's tariff provides the following:

10.9 AERIAL LINE CLEARANCE. In accordance with the requirements set forth in the National Electric Safety Code, the Company shall have the right to trim, remove, or separate trees, vegetation or any structures therein which, in the opinion of the Company, interfere with its aerial conductors, such that they may pose a threat to public safety or to system reliability.

Upon the presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the customer shifts to the Respondent. If the evidence presented by the Respondent is of co-equal value or “weight,” the burden of proof has not been satisfied. The Complainant now has to provide some additional evidence to rebut that of the Respondent. *Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff’d*, 501 Pa. 433, 461 A.2d 1234 (1983). While the burden of going forward with the evidence may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

ALJ Salapa made nineteen Findings of Fact and reached eleven Conclusions of Law. I.D. at 4-6, 15-16. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

Before addressing the Exceptions, we note that any issue or Exception that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *also see, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

Initial Decision

Prior to addressing the merits of the Complaint, the ALJ initially declined to address the Complainant’s request made during the hearing that the Commission award him monetary damages, because the Commission lacks the authority to award damages.



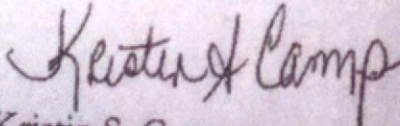
Buckley, Brion, McGuire,
Morris & Sommer LLP
ATTORNEYS AT LAW

Arianna and Angelina's Enterprises
c/o Mr. Rick Mammacuri
November 11, 2009
Page 2

- 4) Within 30 days of the date that the Board of Supervisors executes the Settlement Agreement, all wood chip piles that are located on the Property must be completely removed.
- 5) Prior to execution of the Settlement Agreement by the Township, the property owner or you shall pay the Township the judgments of \$8,124.50 and \$1,031.00 which were entered by the District Court on September 24, 2009 and October 1, 2009 respectively.
- 6) Prior to execution of the Settlement Agreement by the Township, the property owner or you shall reimburse the Township for its legal fees incurred to date to enforce the Township Code in the amount of \$3,500.00.
- 7) The Bobbs shall obtain a grading permit to allow the crushed stone driveway which was previously installed without a permit to remain. The Bobbs shall submit the necessary application and plans required by Chapter 69 of the Township Code to obtain a grading permit within 30 days of the date that they acquire the Property and they shall proceed with diligence in obtaining the same. If stormwater controls are required, they shall be installed in accordance with the time permitted in the permit.
- 8) Except as permitted by paragraph 2 above, after the Property is transferred to the Bobbs, they shall be prohibited from using it to store lumber or wood products. The Bobbs shall use the Property in conformity with Section 84-9 of the West Goshen Code. The Bobbs have expressed their intention to plant trees on the Property which is in compliance with Section 84-9 of the Code.

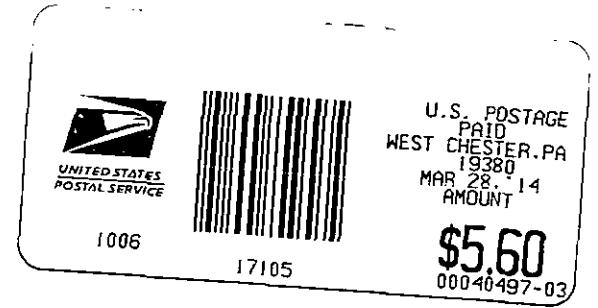
Please review the proposed settlement terms and advise if you are willing to accept the same. By copy of this letter to Ethan Bobb, I ask that he contact me as well to advise if the terms are acceptable to him and his parents. If all parties are in agreement, I will formalize these terms into a Settlement Agreement to be signed by all parties.

Very truly yours,


Kristin S. Camp



1167 Mth Johnson
W.C. Pa 19380



Public Utility Commission
Commonwealth of PA
P.O. Box 3265
Harrisburg, PA

17105-3265



MAR 1 2014 4:00 PM



ATI/ n. Chvialto