

October 10, 2015

Yanling Chen
1126 Chadwick Circle
Hummelstown, PA 17036

Via first class mail

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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2015 OCT 13 AM 11:11
PA P.U.C.
SECRETARY'S BUREAU

Re: Metropolitan Edison Company v. Yanling Chen
Docket No. C-2015-2502964

Dear Secretary Chiavetta:

Attached please find the reply to the Preliminary Objections filed by Metropolitan Edison Company in the above-referenced matter. This document has also been served on the parties of record as shown in the attached Certificate of Service.

Very truly yours,


Yanling Chen

C: Administrative Law Judge Joel H. Cheskis
As per Certificate of Service

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Before The
Pennsylvania Public Utility Commission

Metropolitan Edison Company	:	
	:	
V.	:	<u>Docket No. C-2015-2502964</u>
	:	
Yanling Chen	:	

Reply to the Preliminary Objection of Metropolitan Edison Company

To The Pennsylvania Public Utility Commission:

Background

Metropolitan Edison Company (The Company) removed two trees from my property On December 5, 2013. I filed a formal complaint through the Pennsylvania Public Utility Commission on the same day and requested to solve the easement dispute issue and compensation due to the trees' removal.

The Company filed Preliminary Objection afterward and asked the case to be dismissed. In the Administrative Law Judge Joel H. Cheskis' response to the Company's Preliminary Objection, he wrote:

...the scope and validity of the easement at issue is beyond the Commission's jurisdiction and the Commission does not have the power to award money damages. (see paragraph 3, page 4 in Order dated March 3, 2014)

Again, in the Initial Decision, the Administrative Law Judge Joel H. Cheskis repeated:

.....the request in the Complainant to have a Company representative meet with the township community development director to discuss the scope and validity of the easement and to have a certified third-party re-measure the easement line, were stricken from the Complaint because they are beyond the scope of the Commission's jurisdiction. (see Initiative Decision the end of the first paragraph, page 11)

Discussion

The Company has chosen not to remove the neighbor's trees, **TALLER** than mine, **CLOSER** to the Company's powerline and **ORIGINALLY MARKED** to be removed by the Company's surveyor,

but **intentionally** removed my trees instead. This action is unlawful and not acceptable by our sociality. The Company's damage to me and my family due to the trees' removal is not reversible. Furthermore, the Company's discrimination action in conducting the Vegetation Management has not only caused tremendously mental stress to me and my family but also affected our daily life. I filed a formal complaint on August 31, 2015 through the Pennsylvania Public Commission against the Company's racial discrimination in conducting Vegetation Management.

Conclusion

Metropolitan Edison Company has violated the Anti-discrimination law in conducting the Vegetation Management. Justice needs to be served.

Dated: October 10, 2015

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Yanling Chen', written in a cursive style.

Yanling Chen
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Hummelstown, PA 17037
(717) 566- 4799

community development director to discuss the easement because the easement in the township office is different from the one the Company showed them. The Complainants also requested that the easement line be re-measured by a certified third party because they believe that the trees were not within the scope of the easement. The Complainants requested that the Company compensate them at the market value of the trees along with any costs associated with the damage to the landscape of the property and loss of property value as a result of the trees being removed.

In its Answer, Met-Ed admitted that it removed the two trees as part of the easement it holds over the property. Met-Ed also stated that it properly notified the Complainants of the work plan before the trees were removed. In its Preliminary Objection, Met-Ed averred that the Complaint should be dismissed because the Commission is without jurisdiction to interpret and enforce a private written agreement between a customer and a utility, such as an easement, and that the Commission does not have power to award money damages. X

Met-Ed's Preliminary Objection will be granted in part and denied in part. As discussed further below, the scope and validity of the easement at issue is beyond the Commission's jurisdiction and the Commission does not have the power to award money damages. The Commission does, however, have jurisdiction over the Complainants' averments regarding the Company's vegetation management practices, the notice they received prior to the trees being removed and their interactions with the Company throughout the process.

With regard to the Commission's jurisdiction to interpret and enforce a private written easement between a customer and the utility, Met-Ed is correct that the Commission does not have the power to address the scope and validity of the easement.

It is well established 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. City of Pittsburgh v. Pa. Pub. Util. Comm'n., 43 A.2d 348 (Pa. Super 1945) (City of Pittsburgh). Met-Ed argued that the allegations relating to property rights and the interpretation of a valid right of way

As noted in the Order Granting in Part and Denying in Part the Company's Preliminary Objections issued in this case on March 3, 2014, it is well established 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. City of Pittsburgh v. Pa. Pub. Util. Comm'n., 43 A.2d 348 (Pa. Super 1945). 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 providing that the Commission does not have jurisdiction to determine the scope and validity of an easement. See e.g., Fairview Water Co. v. Pa. Pub. Util. Comm'n., 502 A.2d 162 (Pa. 1985). Therefore, the request in the Complaint to have a Company representative meet with the township community development director to discuss the scope and validity of the easement and to have a certified third-party re-measure the easement line, were stricken from the Complaint because they are beyond the scope of the Commission's jurisdiction. Those issues may be raised in the County Court of Common Pleas.

The Commission does, however, have jurisdiction over matters involving vegetation management within a right of way that warranted denying Met-Ed's Preliminary Objection in part and allowing the Complainants to proceed to a hearing. West Penn Power Company v. Pa. P.U.C., 578 A.2d 75 (Pa. Cmwlth 1990) (West Penn) (affirming the Commission's decision to impose a fine on the utility for the removal of 74 trees from a customer's property). In West Penn, the Commonwealth 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

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:
Yanling Chen :

Certificate of Service

I hereby certify that I have this day served a true copy of the reply to the Preliminary Objection of Metropolitan Edison Company listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

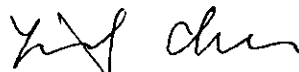
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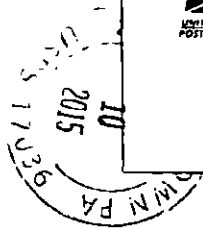
Tori L. Giesler
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001

Dated: October 10, 2015

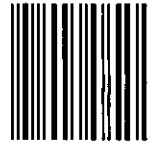
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Respectfully submitted,


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Rosemary Chiavetta, secretary

Pennsylvania Public Utility Commission

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