

REBUTTAL RESPONSE

Attached is an official filing of a written response
to the preliminary objections of respondent,
Duquesne Light Company

FILED BY DAWNE SOHN AND
DIANE SOHN THROUGH THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

TO DUQUESNE LIGHT'S
"ANSWER TO FORMAL COMPLAINT"
(Responses that follow will be answered both
written and with photographs to
Duquesne Light's direct statements as they were
written and submitted to the PUC.)

DOCKET NUMBER C-2016-2532799

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Statement 1: "Duquesne Light denies that its employees or vegetation management contractor damaged Complainants' fence during the course of this work."

RESPONSE: The damage done to the fence was not part of our Formal Complaint to the Pennsylvania Public Utility Commission. We did not request reparation for the fence in the Formal Complaint. Hazlett Tree Service personnel did let tree limbs drop on our fence line and knock down rails in two separate locations. This is not part of our Official Complaint, but visual showing of this is included in response to Statement 8.

Statement 2: Duquesne Light further denies that its employees or vegetation contractor caused damage to a maple tree located on Complainants' property during the course of the work performed."

RESPONSE: This statement will be discussed in detail under Statements 5-6.

Statement 3: "On May 19, 2015, Duquesne Light's contractor performed the routine maintenance work on the Property, which included pruning along the high tension electrical lines and removing limbs from an ash tree that was hazardous/posed a threat to Duquesne Light's facilities." (NOTE: Underlining added, as this is the part of the statement to be rebutted.)

RESPONSE: This line is a regular, general, residential power line that services the following: three houses at the top of the property, a barn in the middle, and two houses at the bottom of the line.



Electrical Line. Barn and corral to right of photograph.



With this type of electrical line in our residential situation, a representative of Duquesne Light's vegetation management program voluntarily told us in a phone conversation that the right-of-way on this line is three feet. Historically, including this summer, Duquesne Light and their contractors far exceed this three feet limit. (NOTE: The reason for this particular phone call was we officially documented that in the future we will hire our own company to trim any necessary trees along this line for all the houses on our driveway.)

The ash tree in question was 31 feet from the electrical line. Not only was it 31 feet from the line, it was inside a fenced horse corral and beside a barn. It posed zero "threat to Duquesne Light's facilities". There was no need for them to be within the fence line. Pictures in subsequent responses will show this visually, including this photograph taken standing under lines. Arrow is tree location:



Statement 4: "This tree was located in an undeveloped area of Complainants' Property that could not be accessed with an aerial lift due to potential rutting."

RESPONSE: As home and barn owners, we are quite disturbed and insulted that Duquesne Light and their contactors continually call our property "undeveloped". According to this summer's Hazlett manager, to be considered "developed", the grass has to be cut. We have three pastures and a riding ring that are mowed weekly. This can be seen in the following photograph.



Barn and Pastureland. Far left blue arrow is electrical wire location (pole visible). Middle arrow is where the maple tree was located and the right arrow is the ash tree location behind the barn.

Photographs to follow will also show the development of our property Duquesne Light calls "undeveloped". In these photographs, an area is distinctly shown that any truck—including an aerial truck—can drive on, contrary to the contractor saying "could not be accessed with an aerial lift due to potential rutting". This hard-packed ground area was purposely built by neighbors to drive to the back property. Photos show the blacktop and rocks. Plus, it was a very dry period and the ground was hard. There have been many trucks driven to the back property, including the bucket truck and chipper that the property owners hired to take out the spiked maple tree and ash tree.





Left arrow is the ash tree location behind fence and barn.

Right arrow is the maple tree location behind the fence.

The ground is blacktop and rocks along this drive.

Development of back property and barn also shown.

Statement 5: "This tree was located in an undeveloped area of Complainants' Property that could not be accessed with an aerial lift due to potential rutting. Therefore, Duquesne Light's contractor manually climbed an adjacent maple tree to perform the work." (NOTE: Underlining added, as this is the part of the statement to be rebutted. Prior sentence was Statement 4, repeated for context.)

RESPONSE: If this was not such a serious and upsetting situation for the homeowners, this statement would be laughable. This is humanly not possible. Prior to proving this is an impossibility through photographs and diagrams, following is what was actually done: One of the homeowners saw and heard an employee of the Hazlett Tree Company high up in the ash tree. This Hazlett employee had climbed, by spikes and ropes, to the top of the ash tree and cut a large section out of the tree and let fall to the ground. (This will be further discussed in Statement 7.) While he was doing this, he was screaming obscenities, including the F-word. When the homeowner complained about this, she was told he would be talked to as it was unacceptable work behavior. At this point the maple tree was not involved in anything the homeowner observed. (The spiking of the maple tree will be discussed specifically in response to Statement 6.) The following addresses the statement "Duquesne Light's contractor manually climbed an adjacent maple tree to perform the work":



Maple Tree
Stump
and Maple
Tree Stump
Measurement.
7 inches.



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Ash tree stump and ash tree stump measurement.
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Distance from maple tree to ash tree:
20 feet.



There was also a fence between the two trees, which was knocked down when the ash tree limbs were cut. The maple tree was the smaller tree. The ash tree was significantly taller and above the barn roof. Therefore, to “manually climbed an adjacent maple tree to perform the work”, the contractor had to literally leap over 20 feet backwards into the air from a little maple tree, navigate this leap over a fence, flip facing front from a backwards position in the maple tree, and land high up in the ash tree—all while carrying a chain saw. Here is a diagram of the only way that could have happened. Since both trees and the damaged rails are gone, no photographs can be provided:



Or if he did not make this leap and therefore cut the ash tree while balanced in the maple tree, then he would have to have a gigantic saw and be standing on a narrow little maple branch reaching over backwards to the top of an ash tree over 20 feet away in an upward projection. It is absurd.

And this is not meant to be “amusing”. This is what Duquesne Light and the vegetation management contractor said happened in the “Answer to Formal Complaint”—a legal document. This is what we as homeowners deal with when Duquesne Light and their vegetation management people come on our property. They do whatever they want, wherever they want, however they want, and say whatever they want afterwards—and almost always with no consequences to themselves. It would be of no surprise to us as homeowners dealing with this rogue form of vegetation management for so many years to find their stories change after being presented with this rebuttal.

Statement 6: “Duquesne Light denies that any damage was caused the maple tree as a result of this work.”

RESPONSE: There is no conceivable reason anyone was in or near this tree, let alone spiking and killing it. As stated above, we have no actual sighting of anyone from Duquesne Light’s contractors being in this tree. This is what we do know: The top of this maple was cut off during Duquesne Light’s contractors being on our property. This tree was not within Duquesne’s Light right-of-way, it was not near any electrical wire, and it was within our fence line. Within days it was visibly wilting. Within a few weeks it was dying. When an expert from another tree service company visited the

property to review for clean-up, he was asked what was wrong with the tree. He said within seconds: It was spiked. Spiking kills a tree.



Spike marks and
dead leaves
on maple tree.



Attached in an article on tree spiking. No professional tree service person spikes a tree that is not purposely meant to be killed. Once you spike a tree, it will die. Put simply, spiking a tree by climbing is to the tree the same as a person being repeatedly stabbed with a knife and cutting arteries. Infections and diseases enter the tree quickly and totally—and the tree is dead in a short time. It is speculated by the homeowners that this tree was spike-climbed and had the top cut off by the Hazlett employee, after he came down from the ash tree and was reprimanded for the screaming curses. Whether vindictive or not is a moot point—the tree is dead and it should not be.

This is ultimately the only point of our Formal Complaint to the Pennsylvania Public Utility Commission: We want reimbursed for the unnecessary spiking and killing of this maple tree. This would include payment for a new tree of equal size and quality of the one spiked and payment for the planting of the tree by a nursery of our choice.

Statement 7: "Pursuant to Duquesne Light Company policy, once the tree limbs were pruned, they were left on the Complainants' Property." and "During this meeting, Duquesne Light's vegetation management contractor informed Complainants that Duquesne Light is not responsible for removing debris from undeveloped customer property after routine maintenance."

RESPONSE: Again, this property is not "undeveloped". And again, this Formal Complaint is not connected to the limbs and debris left on our property, except indirectly to the whole situation. In fact, the Hazlett supervisor on-site told the homeowners that the limbs from the ash tree would be cut-up into manageable pieces and left piled on the property for the homeowners to use or remove easily. It is in Duquesne Light's own paperwork that they leave hanging on a homeowner's door that there is "no cost to the homeowner" for this work. Instead, Duquesne Light's contractors left the big limbs from the ash tree laying in whole pieces on the corral ground. It was impossible for the homeowners—two women of small stature—to remove these limbs themselves. A contractor had to be hired to remove and it cost the homeowners \$300.00. The removal of both of these trees was an additional cost to the homeowners and also not part of our Formal Complaint.

Statement 8: "Duquesne Light's vegetation management contractor did not find any damage to the fence as a result of the routine maintenance."

RESPONSE: This simply is not true. The limbs from the ash tree landed on two separate sections of the split rail fence and knocked out the rails. Most were intact, but a few of the rails were broken. This is not part of our Formal Complaint. The rails are scheduled to be replaced at the homeowner's personal expense. Arrows show sections in the fence where rails were hit by ash tree limbs.



The photograph above is the same section as the lower arrow in the right photograph.

In conclusion, Tucker Arensberg used much legalese and noted past court cases to argue why the Pennsylvania Public Utility Commission has no rights to pass judgement and the homeowners have no rights to receive reparation for damage to their property. Our argument remains the same as it was on Day One: It is indisputable that Duquesne Light and their contractors spiked and killed a maple tree on our property. This tree was nowhere near the electric wires and the contractor could never have accessed the ash tree from the maple tree. It is time the right action is taken and reparation made to us. We have lost far more than just this tree we are asking to be replaced. Over the years Duquesne Light and their rogue "vegetation management" contractors have treated our yard, with the single residential electrical line, as a major power grid. We are tired of this. Their damage through needless cutting and poison spraying on our property is permanent for our lifetimes. This extensive rebuttal of Duquesne Light's and their contractor's "facts" is just the perfect example of the disrespectful way they treat homeowners and their properties.

Thank you.

Submitted by homeowners:



Dawne Sohn



Diane Sohn

March 31, 2016

Sent to: Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
and

Jeremy V. Farrell, Attorney
Lauren N. Woleslagle, Attorney
Tucker Arensberg

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When I was originally drafting this blog, I was going to put a lot of emotion into it. I wanted to show my readers that climbing spikes are harmful to trees, and that no tree guy should use them when pruning a tree. Instead of taking that approach I decided to write down the facts about tree spikes. Then after you hear the facts, you can develop your own opinion.

The layers of a tree



The photo to the right is that of a cross section of a Red Oak tree. I have highlighted three area's of the growth rings.

The RED area is the phloem. The ISA Arborists' Certification Study Guide defines Phloem as; plant vascular tissue that transports photosynthates and growth regulators. Situated on the inside of the bark, just outside the cambium. Is bidirectional (transports up and down). So in general terms the phloem transports sugars, carbohydrates, and growth regulators affecting the development of the plant.

The small GREEN area is the cambium. In the ISA Arborists' Certification Study Guide cambium is defined as; the layer of meristematic cells that give rise (outward) to the phloem and (inward) the the xylem, increasing stem and root diameter. That simply means that the cambium is responsible for outward, or lateral growth of the tree.

Finally the BLUE layer is the xylem. Xylem is the main water-and mineral-conducting (unidirectional, up only) tissue in trees and other plants. Provides structural support.

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Arises (inward) from the cambium and becomes wood after lignifying. That definition also comes from the ISA Arborists' Certification Study Guide.

What are spikes and what do they do?

Tree spikes, climbing spurs, and tree gaffs, are all common names. They are attached to the outside of a workers boots via velcro straps and/or belt straps. They were originally developed as a climbing aid to help climbers get a proper foothold on a pole or tree with no limbs. They play a critical role in tree work and without them some jobs would be impossible.

Tree spikes are a very simple and effective design. They work by stabbing into the wood on an angle and giving the climber a place to stand.

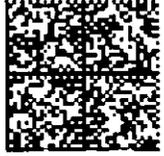
Spikes transmit disease

One of the biggest problems that is overlooked with tree spikes is that they transmit disease. If a climber is wearing tree spikes when removing a tree, there is no reason why it would have a negative impact. The spikes are damaging a tree that is no longer going to be effecting the landscape. On the other hand, if you are pruning a tree with spikes on, the climber could kill the tree by infecting it with a deadly disease. The pictures below show a cut that I made on a Tulip tree (*Liriodendron tulipifera*). I removed this tree because it was getting a lot of dead wood in the tree, and it was way too close to the house. During the removal I noticed a lot of spike marks that were stained black, so I asked the homeowner a few questions. When I was done speaking with her I learned that another tree company pruned this tree about a year and a half ago. I knew the company, and also knew that they do not climb trees without the aid tree spikes. When the removal was finished I cut out a section to show the homeowner that the previous company killed this tree by giving it [Verticillium wilt](#).



How did that happen? The answer is very simple. The company used tree spikes on a tree that had [Verticillium wilt](#). Not knowing about the disease, or just being negligent, they used the same spikes to climb the Tulip tree in question. When they went up the tree, every penetration the spikes made injected the disease into the tree's conducting tissue. My big concern is, how many other trees have they climbed with the same set of spikes. They could be spreading [Verticillium wilt](#) to hundreds of trees.

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Rosemary Chiavella, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265