

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Ronald and Susanne Hillard |
v. |
UGI Utilities, Incorporated |
Initial Telephonic Hearing

Docket No.: C-20065879

Pages: 1-16

DOCUMENT
FOLDER

State Office Building
Hearing Room 318
100 Lackawanna Avenue
Scranton, Pennsylvania 18503

Tuesday, June 6, 2006
Commencing at 10:00 A.M.

BEFORE:

EMBER S. JANDEBEUR, Administrative Law Judge

APPEARANCES:

SUSANNE HILLARD, Pro Se
For the Complainant

LARRY KRANE, Esquire
Krane Law Office
238 Johnston Road
Pittsburgh, PA 15241

For the Respondent

REPORTER: KENNETH D. O'HEARN

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WITNESS

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P R O C E E D I N G S

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3 JUDGE EMBER S. JANDEBEUR:

4 This is the time and place for the
5 telephonic hearing in the matter of Ronald and Susanne
6 Hillard, H-I-L-L-A-R-D versus UGI Utilities,
7 Incorporation, Docket C-20065879. I have on this
8 telephone call Mrs. Hillard representing herself and
9 her husband. And I have Larry Krane representing UGI
10 Utilities with a number of potential witnesses.

11 Now, Mr. Krane, I have received your one
12 exhibit. And Ms. Hillard, I have received a number of
13 exhibits from you. So I have received all of those.

14 Now, Ms. Hillard ---

15 MS. HILLARD:

16 Yes.

17 JUDGE JANDEBEUR:

18 --- would you like an explanation of what
19 to expect? Have you been through one of our hearings
20 before?

21 MS. HILLARD:

22 No, that's okay. I don't require an
23 explanation.

24 JUDGE JANDEBEUR:

25 Okay. Then let's go ahead and go

1 forward. Are there any preliminary matters from
2 either party before we proceed into the actual
3 hearing?

4 MS. HILLARD:

5 None from myself.

6 JUDGE JANDEBEUR:

7 Okay. Mr. Krane?

8 ATTORNEY KRANE:

9 I only want to mention, Your Honor, that
10 this case went to mediation. And I really think the
11 case involves several matters, because what we're
12 dealing with this is interpretation of a right-of-way
13 document that is in the line of title for Ms.
14 Hillard's property, but we, at UGI, has tried to
15 settle this case with Ms. Hillard unsuccessfully.
16 There appears to be no middle ground. So UGI is
17 prepared today to present the evidence which indicates
18 that UGI has a good easement and right-of-way to
19 maintain the pole in its present location.

20 JUDGE JANDEBEUR:

21 Well, I'm not sure if you're stating that
22 as a motion to dismiss for lack of jurisdiction or
23 lack of authority, but it sounds like that's your
24 allegation.

25 ATTORNEY KRANE:

1 It is, Your Honor. And I was planning to
2 make such a motion at an appropriate time. I can make
3 it now if you wish.

4 JUDGE JANDEBEUR:

5 Well, let me ask Ms. Hillard. Ms.
6 Hillard, do you understand what Mr. Krane has said?

7 MS. HILLARD:

8 Yes, he's basically, if I'm correct,
9 saying that we really have no merit in what we're
10 saying. And therefore, he would just like to dismiss
11 this whole situation.

12 JUDGE JANDEBEUR:

13 No, that's not exactly what he's saying.
14 It would have the same affect. But what he's saying
15 is that in his opinion the Public Utility Commission
16 is the wrong forum and that you actually need to be in
17 a Civil Court. In other words, your county Common
18 Pleas Court.

19 MS. HILLARD:

20 Okay.

21 JUDGE JANDEBEUR:

22 Now, to address that for me, I need to
23 hear from you, what is the basis of your complaint?
24 I've read your actual complaint, but let me hear it
25 from you in your own words.

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MS. HILLARD:

All right. Basically, when we purchased this land, we noticed that there is a utility pole. And in reference to all the other utility poles which are on Boleford Road and Sutton Road going down the whole course of the area, ours is set more back. There is no equal distance to all the other properties in reference to Boleford and Sutton Road.

JUDGE JANDEBEUR:

Okay. Now, why is that a problem?

MS. HILLARD:

It's a problem because I don't understand what the basis of their easement is in reference to the documentation that we have in so far as right-of-ways and easements.

JUDGE JANDEBEUR:

So would it be correct that in order to get an answer, the deed has to be analyzed?

MS. HILLARD:

In order to get an answer, we had attempted to meet with UGI representatives who initially, in reference to Mr. Bacrash (phonetic), would not really meet with us. They just said, you know, we have this right-of-way, and UGI has reference over all of the situation. And our questions are not

1 being answered.

2 And then I met with Mr. Adams and Mr.
3 Bacrash who, again, agreed that there is no equal
4 distance to all of this. And it's just, basically,
5 not an interpretation of a deed. It's just that no
6 one is giving me answers in so far as what easement
7 are they referencing and, you know, where is the line
8 of start and stop.

9 JUDGE JANDEBEUR:

10 Okay. So how is it measured?

11 MS. HILLARD:

12 Correct.

13 JUDGE JANDEBEUR:

14 Okay.

15 MS. HILLARD:

16 So that was their attempt to just say
17 well we have this piece of paper, but yet no one is
18 showing us that.

19 ATTORNEY KRANE:

20 Your Honor, may I make a statement?

21 JUDGE JANDEBEUR:

22 Well, I think Ms. Hillard, do you not
23 have that easement in hand now. Didn't Mr. Krane send
24 it to you?

25 MS. HILLARD:

1 Yes, I do.

2 JUDGE JANDEBEUR:

3 Okay. All right. So is it your
4 contention that in order for the Public Utility
5 Commission to provide you an answer, we need to
6 interpret how the measuring is done in the deed that
7 Mr. Krane sent to you?

8 MS. HILLARD:

9 I need my questions answered in so far as
10 I have a covenant and conditions and restrictions as
11 well as a grant of right-of-way that gives specific
12 lineage and footage, where as what he sent me has
13 nothing specific on it.

14 JUDGE JANDEBEUR:

15 Okay. You didn't answer my question
16 though. My question is in order to get an answer to
17 those very questions, is it your contention that the
18 PUC needs to interpret how the measuring is done in
19 the deed Mr. Krane sent you?

20 MS. HILLARD:

21 Yes.

22 JUDGE JANDEBEUR:

23 Okay. Then that takes me back to you,
24 Mr. Krane. Mr. Krane, did you still wish to say
25 something or did we cover what you wanted to say?

1 ATTORNEY KRANE:

2 You covered what I wanted to say, Your
3 Honor. I would like to make a speaking motion at this
4 time that this case be dismissed because it clearly
5 does not involve a statute regulation or order that
6 the commission has jurisdiction to administer. As I
7 stated before, this is a civil matter.

8 If you look at the documents Ms. Hillard
9 submitted, their document in her line of title, just
10 as the exhibit, is one which I submitted, is a
11 document in Ms. Hillard's line of title. And the
12 location of the poles in relation to the property line
13 really has nothing to do with the rights involved.
14 That pole is sitting on Ms. Hillard's property
15 pursuant to an easement that was granted in 1950. The
16 pole has been removed, at least, once since then. It
17 is a major distribution pole line that serves a number
18 of underground distribution lateral line. If you look
19 at Ms. Hillard's document that she submitted, they all
20 clearly relate to underground distribution lateral
21 lines.

22 So I just think that we could go forward
23 with a hearing, if you wish, Your Honor, but one, and
24 I don't think the document Ms. Hillard has submitted
25 are relevant, and two, this involved interpretation of

1 an easement and, therefore, I move to dismiss the
2 case.

3 JUDGE JANDEBEUR:

4 Ms. Hillard, do you wish to respond?

5 MS. HILLARD:

6 Well, from what he has said so far as the
7 easement, there is no specific measurements on it.
8 Yes, I do send in documents with covenants and such.
9 And Mr. Krane had mentioned that the pole was moved.
10 Well, yes, it has been moved or revised. But it was
11 moved to a different area. So my argument is, with
12 what he's saying then, they can move it anywhere on
13 our property based on what his easement says.

14 ATTORNEY KRANE:

15 Your Honor.

16 MS. HILLARD:

17 However, ours clearly states because this
18 is a major distribution pole where all the underground
19 wires go into it. That surely my documentation of
20 covenants and grant of right-of-way should be withheld
21 some how or upheld some how.

22 JUDGE JANDEBEUR:

23 Okay.

24 ATTORNEY KRANE:

25 May I reply, Your Honor?

1 JUDGE JANDEBEUR:

2 Briefly,

3 ATTORNEY KRANE:

4 Easements are usually defined by the
5 initial construction. The easement is --- would be
6 called a center line right-of-way. It is defined by
7 the construction. There's no specified distances from
8 property lines or roadways or anything in the
9 easement. That's why it is a civil matter that needs
10 interpreted by the Court.

11 JUDGE JANDEBEUR:

12 Okay. Hearing both of you and
13 understanding from Ms. Hillard what she wishes the
14 Public Utility Commission to look at. It is clear to
15 me as well that this is a matter for Civil Court. I
16 do not have authority to review and interpret deeds
17 and deed restrictions and easements.

18 Unfortunately, Ms. Hillard, you need to
19 be in a Court of Common Pleas, Civil Court, a court of
20 law. This is an agency administrative hearing. This
21 is not what is considered quote, a court of law,
22 unquote. And you absolutely need a court of law to
23 interpret what you wish to have interpreted for you.
24 So unfortunately, the Public Utility Commission cannot
25 help you at all. Therefore, your complaint is

1 dismissed.

2 MS. HILLARD:

3 Well ---.

4 JUDGE JANDEBEUR:

5 And Ms. Hillard, let me finish. I will
6 put an order to that effect in the mail to you. And
7 you do have the right to challenge it. Typically,
8 that's called an appeal. In PUC lingo, that is called
9 filing exceptions with the commissioners. However,
10 I'm confident that exactly as Mr. Krane has put it,
11 and I have put it to you, unfortunately, the Utility
12 Commission just doesn't have authority to interpret
13 such documents you wish me to look at, but that's the
14 way that it is going to go.

15 MS. HILLARD:

16 I just don't understand. If the PUC is
17 basically the watchdog, so to speak, of the Utility
18 Commission, then where ever I may take this issue
19 under the fact that no one would be able to say, well
20 the UGI or any of the utility companies have to give
21 me a specific lingo insofar as, you know, measurement,
22 then by virtue of this one document that Mr. Krane has
23 submitted, they're basically saying that they can put
24 their pole wherever they choose to.

25 JUDGE JANDEBEUR:

1 That is your interpretation. I don't
2 necessarily agree with it. And I don't believe that
3 you will find a Court of Common Pleas agrees with it
4 either. There are rules that are followed even in
5 real estate/property law.

6 MS. HILLARD:

7 Okay.

8 JUDGE JANDEBEUR:

9 But, again, that is not my area, and I
10 have absolutely zero authority to address it.

11 MS. HILLARD:

12 At least, that makes me feel better in
13 that, you know, perhaps then somebody in Civil Court
14 will be able to look at my declaration of covenants
15 and conditions and restrictions as well as grants and
16 right-of-way to show that the measurements even
17 though, all be it, some of these are underground by
18 virtue of where the pole is and these underground
19 wires do, in deed, lead to this pole, then somewhere
20 there is a violation here.

21 JUDGE JANDEBEUR:

22 Okay. Well, I would suggest that you
23 pursue that in Civil Court and see what you can come
24 up with. And I will get an order out as soon as I can
25 to the effect that I just put on the record that the

1 complaint is dismissed through lack of authority to
2 interpret the deed.

3 MS. HILLARD:

4 Okay.

5 JUDGE JANDEBEUR:

6 I appreciate you all being available.

7 Thank you.

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HEARING CONCLUDED AT 10:20 A.M.

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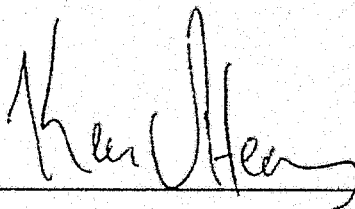
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