

July 19, 2017

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-2610584

RE: Robert Kuhn, Jr. vs Duquesne Light Company
Docket No. C-2017-2610584

Dear Secretary Chiavetta:

Enclosed please find Robert Kuhn's response to Preliminary
Objections filed by Duquesne Light.

A copy of this document has been sent via first class mail to:

Jeremy V Farrell
Paul Shane Miller
Attorneys for Duquesne Light Company
1500 One PPG Place
Pittsburgh, PA 15222

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Sincerely,



Robert Kuhn, Jr

JUL 19 2017

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Robert Kuhn Jr.,

Complainant

VS

No.C-2017-2610584

Duquesne Light Company,

Respondent

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RESPONSE TO PRELIMINARY OBJECTIONS

1. - 2. Denied. The 1926 Right of way agreement page 2 states in part that Duquesne Light Company (DLC) has the right to trim or remove trees deemed necessary to prevent interference or threatened interference with the transmission system. The trees that DLC proposes to remove cannot be reasonably deemed as threatening due to their size and proximity to the transmission lines. For example, it is not possible for a 30 foot tall tree located 30 feet from a transmission line to fall on or interfere with an 80 feet tall transmission line.

However, IF the commission lacks jurisdiction over rights of way disputes, then the vaguely worded 1926 right of way agreement should not be allowed as an exhibit or evidence to be presented in this case. Instead the precise deeded surveys that clearly represent the easement boundaries should be deferred to as a superseding legal document of record. There is no determination needed as to the scope and validity of the surveys. There is no ambiguity whatsoever. The surveys have been universally accepted, approved, and recorded as legal documents by the municipalities and other government agencies such as zoning boards and planning commissions as well as the property owners.

Furthermore, DLC's "past practice" and "course of performance" over a 90 year period should also be accepted as superseding the outdated ambiguous 1926 document. DLC's past practice of pruning

and trimming trees within the universally accepted boundaries of the easement has demonstrated a clearly successful and adequate course of performance in vegetation management. DLC has acknowledged this in paragraph 12 of their own document (PUC docket No. A-110150, (exhibit 5)):

Paragraph 12 acknowledges the course of performance and past practice procedure regarding successful vegetation management:

"The operation and maintenance procedures for these lines conforms to Duquesne Light's transmission and distribution construction standards and Duquesne Light's procedures for clearance and vegetation managements of rights-of-way. These standards meet or exceed all relevant NESC standards and all standards of the Federal Occupational Safety and Health Administration."

3. Denied. I have not enumerated a monetary request for compensation in my Formal Complaint. I am not seeking financial gain. To the contrary, I am expending time and resources to save the trees and to protect my property and the environment. I am merely stating what the Fifth Amendment to the United States Constitution states in part:

'That private property shall not be taken for public use without just compensation'

In fact, DLC first initiated a compensation offer of tree vouchers.

The offer is much appreciated but certainly not "just".

I have asked that DLC be required to enter into negotiations for a reasonable and just compensation agreement before cutting any trees outside of the surveyed easement.

4. Denied. It is in the best interest of MS4 communities to preserve as many trees and as much pervious land as possible. It is going to be very expensive for municipalities to implement measures to reduce pollutant loading, the primary of which is sediment. Preserving existing vegetation is much less costly (by several orders of magnitude) than implementing new green infrastructure measures.

The Pennsylvania DEP requires Shaler Twp to reduce the amount of pollution from pathogens, nutrients and siltation from entering Pine

Creek by 10% over the next 5-years. Trees trap the pollutants and filters the runoff to reduce the amount of pollution that reaches the stream water. DLC's tree removal will increase the burden onto the Township. As a taxpayer who bears part of that financial burden, I am directly impacted by the unnecessary tree removal. Without a professional environmental assessment, the extent of the environmental pollution and the **necessary means** to control it is being ignored.

In conclusion, I respectfully request that my case be heard and that these important issues that impact my property, the communities, and the environment be heard, and that DLC not be permitted to avoid these serious issues via legal maneuvering for dismissal.

Sincerely,



Robert Kuhn Jr.
3705 Aurelia Dr.
Allison Park, PA 15101

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