

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG PENNSYLVANIA 17105-3265**

Robert G. Kuhn, Jr.
v.
Duquesne Light Company

**Public Meeting held September 20, 2018
2610584-OSA
C-2017-2610584**

MOTION OF COMMISSIONER DAVID W. SWEET

Before the Commission are the exceptions of both Duquesne Light Company (DLC) and Complainant Robert G. Kuhn, Jr., to the Initial Decision (ID) of Administrative Law Judge David A. Salapa (ALJ), which grants the Preliminary Objections (POs) of DLC and dismisses the formal Complaint.

Mr. Kuhn's Exceptions raise several issues: (1) the reasonableness of the DLC plan to remove certain trees; (2) the request for an environmental assessment; and (3) the proper width of the DLC right-of-way in light of the Commission order in A-110150F0033.¹ Duquesne's filing in that case indicated that the voltage would be increased on the line in question but that the existing rights-of-way widths would "remain unchanged."

DLC's Exceptions argue that the Commission has no jurisdiction over this dispute, which it characterizes as a "purely private dispute regarding property rights."² DLC argues that this is a challenge to the scope and validity of the right of way agreement, which the Commission lacks jurisdiction to resolve.

While there are matters raised that are outside of Commission jurisdiction, there remains the allegation that DLC's proposed vegetation management for its transmission circuit is unreasonable, which is clearly jurisdictional. Accordingly, this matter is remanded to the ALJ for a determination of the safety impact of the proposed tree removal on the Complainant's property, including but not limited to any erosion to the soil and sedimentation on the Complainant's property and any safety hazards resulting therefrom that may be reasonably identified and the steps that DLC proposes to implement in order to adhere to its statutory duty to furnish adequate, safe and reasonable service.

In addition, DLC is directed to provide evidence regarding its actions pursuant to the 2007 LON Order, including an accounting of the actions that it has taken and whether those actions are consistent with the original filing; whether the width of the rights-of-way have changed to support the increased voltage on the line; what communications with owners of underlying property had occurred; and any other relevant information aimed at determining whether the information that the Commission relied on in granting the LON was accurate.

Accordingly, the ID shall be affirmed in part and reversed in part, and the case remanded to the OALJ for further proceedings consistent with this Motion.

¹ *Letter of Notification of Duquesne Light Company for Increasing the Voltage to 138 kV on a 6.4 Mile Long Double Circuit Transmission Line in Indiana Township, Harmar Township, Springdale Township, and Springdale Borough, Allegheny County*, Docket No. A-110150F0033 (Order Entered August 13, 2007).

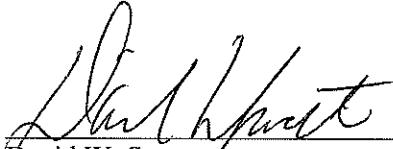
² DLC Exceptions at 1.

THEREFORE,

I MOVE:

1. That the Exceptions of Robert G. Kuhn, Jr., filed in this docket are granted, consistent with this Motion.
2. That the Reply Exceptions of Duquesne Light Company are granted in part and denied in part, consistent with this Motion.
3. That the Initial Decision of Administrative Law Judge David A. Salapa, issued September 7, 2017, is affirmed in part and reversed in part, consistent with this Opinion and Order.
4. That this matter is remanded to the Office of Administrative Law Judge for further proceedings limited to the vegetation management claims appearing in the pleadings and the issues raised regarding whether the actions of Duquesne Light Company are consistent with the allegations and directives in the case captioned *Letter of Notification of Duquesne Light Company for Increasing the Voltage to 138 kV on a 6.4 Mile Long Double Circuit Transmission Line in Indiana Township, Harmar Township, Springdale Township, and Springdale Borough, Allegheny County*, Docket No. A-110150F0033 (Order Entered August 13, 2007).
5. That the Office of Special Assistants prepare an appropriate order consistent with this Motion.

September 20, 2018
DATE



David W. Sweet
Commissioner