

August 19, 2019

Via Electronic Filing

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

**Re: Docket No. C-2019-3010453
James Kuhn v. Pennsylvania Electric Company
Motion for Continuance of September 11, 2019 Hearing**

Dear Secretary Chiavetta:

Attached for filing is Pennsylvania Electric Company's Motion for Continuance of the Initial Hearing scheduled for September 11, 2019 (Motion). James Kuhn (Complainant) opposes the requested continuance.

A copy of the Motion for Continuance has been forwarded to the Complainant and the Indispensable Party in the manner indicated on the attached Certificate of Service.

If there are any questions, please contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/lam
Attachment

cc: The Hon. Katrina L. Dunderdale, PA Public Utility Commission [w/enc.]
John L. Munsch, Esquire, FirstEnergy Service Company [w/enc.]
James Kuhn [w/enc.]
Thomas and Mary Ann Ritter [w/enc.]

Re: Docket No. C-2019-3010453
James Kuhn v. Pennsylvania Electric Company
Motion for Continuance of September 11, 2019 Hearing

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the person(s) listed below, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Via Electronic and First Class Mail

James Kuhn
222 Buxton Rd.
Titusville, Pa. 16354
jkuhn@manreenergy.com

Via First Class Mail

Thomas Ritter
Mary Ann Ritter
612 5th Avenue
Verona, Pennsylvania

Dated: August 19, 2019



Margaret A. Morris, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JAMES KUHN

V.

PENNSYLVANIA ELECTRIC COMPANY

:
:
:
:
:

Docket No. C-2019-3010453

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.103, you are hereby notified that if you do not file a written response answering the enclosed **Motion for a Continuance of the September 11, 2019 Hearing**, filed by Pennsylvania Electric Company, within **five (5) days** from service of this Notice, the facts set forth by Pennsylvania Electric Company in the Motion may be deemed to be true, whereby requiring no other proof. All pleadings, such as a Reply to Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy to counsel for Pennsylvania Electric Company, Margaret A. Morris, Esq., and Administrative Law Judge Katrina L. Dunderdale who is presiding over the proceeding.

File with:

Rosemary Chiavetta, Esquire
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2 North
P.O. Box 3265
Harrisburg, PA 17105

With a copy to:

The Hon. Katrina L. Dunderdale
PA PUC - OALJ
Piatt Place, Suite 220
301 Fifth Avenue
Pittsburgh, PA 15222

Margaret A. Morris, Esquire
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104

Date: August 19, 2019



Margaret A. Morris, Esquire
Attorney ID No. 75048
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Counsel for Pennsylvania Electric Company

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JAMES W. KUHN :
 :
 v. : Docket No. C-2019-3010453
 :
 PENNSYLVANIA ELECTRIC COMPANY :

MOTION FOR CONTINUANCE OF PENNSYLVANIA ELECTRIC COMPANY

Pennsylvania Electric Company (Penelec or Company), by and through its attorneys, Reger Rizzo & Darnall LLP, and pursuant to 52 Pa. Code § 1.15, hereby moves the Honorable Katrina L. Dunderdale (Judge Dunderdale) of the Pennsylvania Public Utility Commission (Commission) for an order continuing the scheduled September 11, 2019, Telephonic Hearing (Hearing). The legal owners of the tree sought to be removed, Thomas and Mary Anne Ritter (Owners), have not been joined as an indispensable party. The Commission is without jurisdiction to entertain the action without the Owners since any determination will directly impact their property rights. *Sprague v. Casey*, 550 A.2d 184 (1988). James Kuhn (Complainant) opposes the requested continuance.

In support thereof, Penelec avers as follows:

1. In his Formal Complaint, filed May 30, 2019, the Complainant admits that (1) he is not the owner of the tree; (2) he has no legal right to remove the tree; and (3) the Owners oppose its removal. He alleges the tree is a safety hazard and requests its removal.

2. In its Answer and New Matter, filed July 1, 2019, the Company averred that the tree is not located in the public right-of way or pursuant to any easement that Penelec holds. Penelec denied that it has the legal authority to enter the Owners' property and remove the tree when it does not pose an immediate danger to the Company's facilities.

3. By Notice, dated July 26, 2019, the matter was scheduled for a telephonic hearing before Judge Dunderdale on September 11, 2019.

4. On July 29, 2019, Judge Dunderdale issued a Prehearing Order which, *inter alia*, informed the parties how to request a continuance in the proceedings.

5. The Complainant requests the Commission order Penelec to remove, over the objection of the Owners, a tree located on their private property.

6. The Complainant provided, *via* email, the name of the Owners to the undersigned counsel on August 14, 2019.

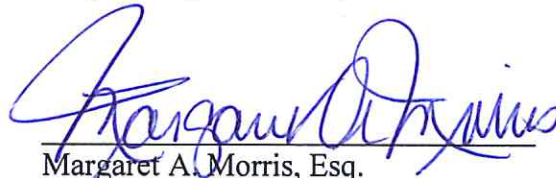
7. On August 16, 2019, Penelec filed a Motion to Join the Owners as an Indispensable Party. The responsive pleading is due September 5, 2019.

8. On August 14, 2019, the Complainant, *via* email, advised he opposes any continuance of the hearing.

9. The Company respectfully requests the Hearing be rescheduled for a date after October 10, 2019 so as to permit the Company to propound Discovery to the Owners.

WHEREFORE, for good cause shown, Respondent, Pennsylvania Electric Company, respectfully requests that the Honorable Katrina L. Dunderdale grant its Motion for Continuance of the September 11, 2019 Hearing.

Respectfully submitted,



Margaret A. Morris, Esq.

PA ID No. 75048

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Dated: August 19, 2019

Counsel for Pennsylvania Electric Company