

October 30, 2019

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

OCT 31 2019

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Docket Number C-2019-3008272 Michael and Sharon Hartman vs. PPL

Dear Secretary of Commission,

Please accept this letter as our formal appeal (Exceptions) of Judge Calvelli's adverse ruling in the above captioned matter.

Judge Calvelli's unsigned order was dated October 4, 2019, and mailed to our attention on October 16, 2019. We were out of town and our mail was on hold. We received the mailing on October 26, 2019.

We filed our complaint nearly eight (8) months ago. Despite repeated discovery requests, Judge Calvelli failed to compel PPL to produce discovery materials. Discovery materials that we trust would shed some light on PPL's unsavory business practices to include misrepresentations to our neighbors when PPL negotiated new right of way agreements incident to reconstruction of a powerline that crosses our property. While PPL was negotiating with our neighbors, PPL denied us notice of its reconstruction plans to include excessive destruction of our property and surrounding environment.

We are not attorneys. Our complaint and supporting documents, however, raised genuine issues of fact that warrant a fair hearing.

Judge Calvelli, in sum and substance, ruled that we have to pursue this matter in the Court of Common Pleas, and if we prevail the PUC will be in a position to determine if PPL's actions also constituted unreasonable service under Section 1501. We respectfully submit that we have presented evidence of PPL service quality irregularities that violate Section 1501, and that the PUC has primary jurisdiction and interest in this matter.

Our interpretation of the adverse ruling is that PPL can do whatever it chooses against a customer or landowner, to include de facto condemnation, without oversight of the PUC until PPL victims incur substantial legal fees and wait months and years as their case progresses through the court system. Any reasonable person recognizes the unreasonableness of the Judge's ruling.

I have copied the PUC Mission Statement, below:

The Pennsylvania Public Utility Commission balances the needs of consumers and utilities; ensures safe and reliable utility service at reasonable rates; protects the public interest; educates consumers to make independent and informed utility choices; furthers economic development; and fosters new technologies and competitive markets in an environmentally sound manner.

We have presented substantial documentary evidence, including photographs, that PPL devastated the environment in a manner that threatens not only our home, but also a valuable Class A Chesapeake Bay waterway; Clarks Creek in Dauphin County.

Furthermore, PPL willfully and unreasonably failed to protect the public interest when it constructed a fragile foreign material roadway over pristine mountain property without authorization of the Dauphin County Conservation District (DCCD). Despite a Permit to construct the roadway on a neighboring property, PPL unilaterally excavated our property and constructed the roadway over our property in contradiction to PPL's application and in violation of the DCCD permit. Furthermore, PPL threatened our property and the environment when PPL's contractors disturbed our property outside of the right of way. In fact, PPL's excessive use of herbicides and indiscriminate use of excavation equipment over the past 70 years has exterminated native plant species that in no way endanger PPL powerlines.

PPL failed to restore our property to any semblance of its original condition, but rather littered our property with waste and commercial rocks. The roadway and unrestored adjoining excavated area pose an unreasonable threat to Clarks Creek and surrounding private property due to erosion and storm water run-off.

The National Park Service, our neighbor, and PPL have reached a formal agreement to restore NPS property post construction. That agreement arguably represents "environmentally sound" restoration standards. PPL, again in violation of the public's interest, refused to apply the same "environmentally sound" restoration standards to our property to the detriment of our remaining property, home and Clarks Creek.

Furthermore, it is in the public interest that PPL, its contractors and subcontractors conduct their business affairs in an open and honest manner. We have presented overwhelming evidence that this is not the case.

Despite our November 2017 written request for construction detail, PPL failed to furnish advance notice of PPL's intent to modify the natural slope of our mountain property to construct two large crane pads and a foreign material access road; neither of which were addressed or envisioned pursuant to the original ROW agreement. Instead, in a July 17, 2018,

letter addressed to our home, PPL wrote: "Every effort will be made to avoid disturbing you or your property." There is no doubt that on July 17, 2018, PPL planned to turn our mountain property into the equivalent of a roadway and parking lot complete with unmitigated storm water runoff. To add insult to injury, PPL removed top soil and rock from our property to construct crane pads on neighboring properties. We were raised to consider that theft, or in PPL's best case scenario, de facto condemnation for its corporate enrichment. Has the PUC granted PPL immunity?

Furthermore, PPL misrepresented to the DCCD that PPL would re-vegetate newly constructed roadways at the option of the landowner. PPL unilaterally denied our request to re-vegetate the roadway on our property.







Our case is not just about Right of Way agreements and monetary damages. It is about the environment and whether or not a Public Utility, primarily through the actions of unaccountable contractors and subcontractors, can run roughshod over commonwealth residents, commonwealth resources, property and vegetation, commonwealth waterways and commonwealth wildlife without oversight of the Public Utility Commission.

We trust that the PUC will reverse Judge Calvelli's decision and narrow interpretation of PUC jurisdiction in the interest of the public and environment.

Attached please find a summary of our complaint incorporated herein by reference.

Sincerely yours,



Michael and Sharon Hartman

1650 Primrose Lane

Dauphin, PA 17018

(717) 315-9473

CC: Graig Schultz, Gross McGinley, 33 S Seventh Street, Allentown, PA 18105
Commission's Office of Special Assistants via ra-OSA@pa.gov

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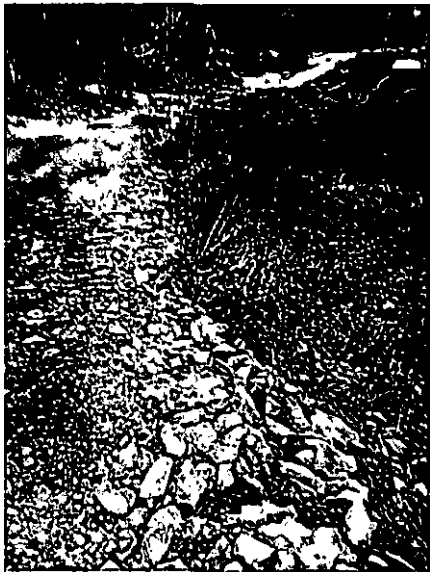
October 30, 2019

C-2019-3008272 Exceptions Attachment

Summary of PPL's willful, unreasonable, excessive and unauthorized excavation of pristine mountain property to construct a roadway that did not conform to a Dauphin County Conservation District permit and terms of an existing ROW agreement. PPL then failed to restore our property to any semblance of its original condition, but rather littered our property with waste and commercial rocks. The roadway and unrestored adjoining excavated area pose an unreasonable threat to Clarks Creek and neighboring homes due to erosion and storm water run-off.

Failure to Furnish advance Notice to Landowner

1. Despite our November 2017 written request for construction detail, PPL failed to furnish advance notice of PPL's intent to modify the natural slope of our mountain property to construct two large crane pads and a foreign material access road; neither of which were addressed or envisioned pursuant to the original ROW agreement. Instead, in a July 17, 2018 letter addressed to our home, PPL wrote: "Every effort will be made to avoid disturbing you or your property."





2. PPL also failed to provide notice of PPL's intent not to utilize an existing access road, but rather excavate virgin territory, build impassable high walls and destroy natural vegetation to construct the foreign material roadway and crane pads.



Misrepresentation to Dauphin County Conservation District

3. In or about January 2018, PPL filed an Erosion and Sediment Control Plan (E & S Plan) with the Dauphin County Conservation District (DCCD) which falsely reported that PPL planned to improve an existing access road to install new powerline poles with minor earth disturbance.

4. In contradiction to PPL's E & S Plan filed with the DCCD, PPL chose an alternate route that permanently disturbed and scarred our property on and off the ROW, to include a decapitated evergreen off the ROW, below. PPL also excavated surface areas far beyond the perimeter of the newly constructed roadway.





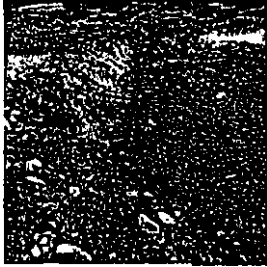
5. The E & S Plan falsely represented that PPL offered the landowner the option to re-vegetate, or not, the newly constructed roadways, as follows: **“Following construction, most sections of the access routes will be covered with site and/or clean fill soils and re-vegetated with permanent seeding as indicated in the E & S Plans. Some areas of roadways may remain in improved condition depending on the preference of each specific property owner.”**

6. In contradiction to the E & S Plan, PPL not only failed to afford us this option, but also told us that the foreign material roadway would remain over our objection. The roadway has since eroded greatly, and is now both a safety and environmental hazard, not to mention a horrific eyesore.



Permanent Disfiguration of Mountain Property (Our Back Yard)

7. In so doing, PPL obliterated existing foot trails and logging roads and constructed high walls that permanently obstructed foot and vehicle (tractor) access to portions of our property.



8. PPL moved the excavated virgin territory earth and stone to construct the crane pads.

9. PPL left our property permanently scarred.



Removal of Landowner's Property, Earth and Stone, for PPL's Financial Enrichment

10. A substantial portion of the earth moved from our property to construct the crane pads was deposited onto our neighbor's property.

11. PPL failed to replace excavated topsoil utilized to build the crane pads. The remaining subsoil will never support natural vegetation.

12. The former virgin territory off the roadway is now devoid of topsoil and natural vegetation due to PPL's abysmal attempt at re-vegetation.



13. PPL failed to smooth excavated areas off the roadway and on private property off the ROW.

14. PPL's ROW Specialist failed to honor a promise to reduce the size of the crane pads after pole installation, and return earth and natural rocks removed from our property.



15. After PPL constructed the crane pads with our earth and stone, PPL covered the earthen crane pads with large foreign material stone. Instead of hauling in approved fill to cover the stone, PPL further excavated our soil to cover the stone. The subsoil has not and will not support natural vegetation on the crane pads. Presently, October 29, 2019, the crane pads have not re-vegetated and the thin layer of soil has eroded and the foreign stone litters the landscape.





Soil Erosion and Water Run-Off onto Our Property from Roadway Construction

16. PPL, in contradiction to the E & S Plan, constructed the roadway with an extreme combination of stone and gravel of various sizes.

17. PPL haphazardly scattered many of the large rock component of the mix, in some instances off the ROW, which permanently impedes foot and vehicle traffic on our property and thwarts re-vegetation efforts.

18. The newly constructed roadway greatly exceeds the 15 foot width approved by DCCD.



19. PPL graded and damaged private property off the ROW to construct the roadway.



20. Furthermore, the road was constructed without safeguards to prevent storm water run-off and erosion.



21. The roadway began to degrade immediately after construction. Storm water and small gravel immediately washed off the roadway and ROW onto our property and Clarks Creek, a class A waterway. Note a muddy Clarks Creek, a direct result of PPL storm water runoff.



22. In some places the roadway is now impassable and is an eyesore, and consists mostly of the large foreign material stone that now litters and degrades our property.



23. PPL's ROW Specialist failed to honor a promise to smooth the roadway during the restoration process.

Preferential Treatment Afforded Neighbors (Are all landowners created equal?)

24. PPL made personal visits to seven neighborhood ROW property owners pre-construction and negotiated new ROW agreements which included financial compensation.

25. PPL falsely told us that the neighbors received financial compensation because the ROWs were modified from 50' to 100'.

26. PPL, however, had a pre-existing 100' ROW agreement associated with each property that was filed with Dauphin County effective 1990.

27. Only two of the neighboring properties were impacted by the PPL construction activity.

28. In each of the two instances the ground disturbance was minimal and fully remediated, and the slope and topography of the property remain unchanged and unscarred.

29. PPL incurred great expense and made great concessions to the National Park Service, our neighbor to the north.

30. PPL mulched access roads to prevent any disturbance pre-construction, and agreed to remove and re-vegetate all access roads post construction. On September 4, 2019, PPL and the National Park Service filed a restoration plan that affords NPS property environmental *safeguards and restoration activity denied our property.*

NATIONAL PARK SERVICE RESTORATION PLANS
PREPARED FOR
PPL ELECTRIC UTILITIES CORPORATION
FOR THE
SUNBURY-DAUPHIN TRANSMISSION LINE REBUILD PROJECT

31. Pre-restoration, PPL applied smaller sized stones to construct crane pads and roadways on NPS lands that would be easier to vegetate and maneuver. The afore-mentioned NPS restoration plan, however, requires PPL to remove all foreign materials, groom the existing soil and add topsoil if necessary to restore NPS property to its original landscape.

Unreasonable manipulation of original ROW Agreement

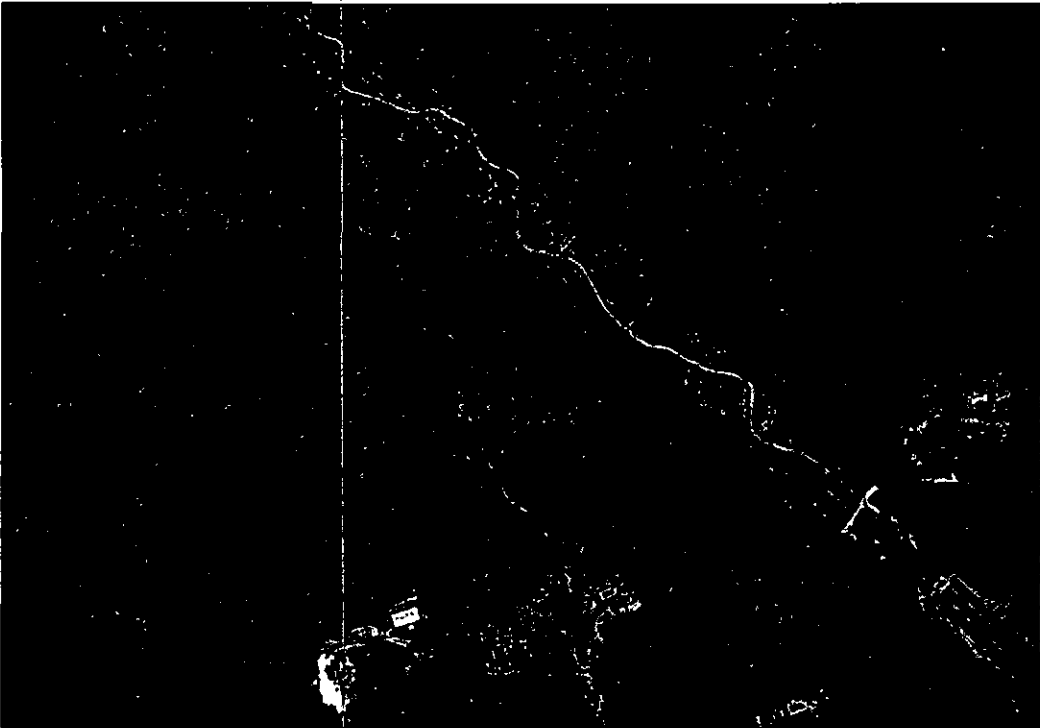
32. The new construction exceeded the terms, conditions and authority of the original ROW.
33. The original ROW agreement did not address, nor could the Fetterhoff's envision, the complete, unreasonable and excessive scarring and devastation of the natural Peter's Mountain landscape caused by the recent construction.
34. We have lost the use and enjoyment of their property for the past 11 months, and the foreseeable future due to the abysmal restoration effort and vegetation failure.
35. Our property is forever modified and scarred by the washed-out roadway and crane pads.
36. The original 1950s powerline construction improved the landowner's access to their remaining property. The new construction has reduced, and in some instances permanently obstructed, our access to our remaining property.



37. The original ROW did not address or authorize:
 1. The excavation and removal of topsoil and natural rock from the property.
 2. The construction of a permanent foreign material roadway that would eliminate ground vegetation.
 3. The construction of a hard surface roadway that would facilitate storm water run-off and erosion that would threaten Clarks Creek and lower elevation property; at the time grain producing farm fields, now our home and basement.
 4. The construction of crane pads that forever altered the natural slope and topography of the mountain.
38. Furthermore, PPL's manipulation of the original ROW is unreasonable due to repeated bad faith misrepresentations made to us during the past year, most notably:
 1. A July 17, 2018 written notice from PPL that **"Every effort will be made to avoid disturbing you and your property."**

2. That PPL had obtained a permit and authorization to construct a roadway on our property when in fact PPL represented to the DCCD that the roadway would be constructed over an existing access road that was not situated on our property. Without notice or authorization, PPL altered the course of the approved roadway and constructed same on our property.
3. A false cover story that neighbors were compensated to modify their ROW from 50' to 100' when PPL knew that PPL already possessed a 100' ROW on the neighbors' properties, and in fact negotiated new ROWs with our neighbors under the premise that PPL already possessed a 100' ROW.
4. The false representation that we had no say whether the foreign material roadway would remain permanent, when in fact PPL represented to DCCD that the option of a permanent stone vs re-vegetated access road was the option of the landowner.
5. At the same time PPL refused to restore our property, PPL negotiated a written agreement to remove all foreign materials on the crane pads and roadway on NPS lands and completely restore NPS property.
6. The false representation, in writing, that PPL did not grade and destroy our property off the ROW, which PPL later admitted was false.
7. The false representation that we would be present and have input during PPL's restoration effort during spring 2019.
8. The false representation that the size of the crane pads would be reduced post installation, and that soil and natural rock, particularly a giant landscape boulder, would be returned to their original location.
9. The false representation that the road would be smoothed to permit use by the landowner.
10. PPL's 70 year history of poor conservation and soil preservation efforts, and aggressive herbicide applications that exterminated native grasses, flowers and shrubs.
11. PPL has effectively converted the 100' ROW to a 110' ROW as acknowledged by PPL ROW Specialists during an April 25, 2019 visit.

Before Construction: Smaller Powerline on left straddles our property



After Construction



Sharon and Michael Hartman

Sharon and Michael Hartman

1650 Primrose Lane

Dauphin, PA 17018

(717) 921-8708

angelgah@comcast.net

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October 30, 2019

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

Subject: C-2019-3008272 Michael and Sharon Hartman v. PPL Exceptions

Dear Secretary,

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party) via first class mail.

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

Graig Schultz
Gross McGinley
33 S Seventh Street
Allentown, PA 18105

Commission's Office of Special Assistants via ra-OSA@pa.gov


Michael Hartman

Dated this 30th day of October 2019

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FROM:

Michael Hartman

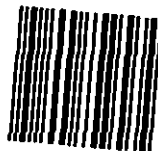
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