

February 12, 2020

**Via Electronic Filing**

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

**Re: Docket No. C-2019-3015187  
MAW Communications, Inc. v. PPL Electric Utilities Corporation  
Reply to New Matter of PPL Electric Utilities Corporation**

Dear Secretary Chiavetta:

Attached for filing, is MAW Communications' (Complainant) Reply to New Matter of PPL Electric Utilities Corporation (Respondent) in the above-captioned proceeding.

A copy of the Reply to New Matter has been forwarded to the parties in the manner indicated on the attached Certificate of Service.

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM  
Enclosures

cc: Service List [w/encl.]

**Re: Docket No. C-2019-3015187  
MAW Communications, Inc. v. PPL Electric Utilities Corporation  
Reply to New Matter of PPL Electric Utilities Corporation**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served upon the following persons, 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**

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Pennsylvania Power & Light Co.*

Dated: February 12, 2020

  
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Margaret A. Morris, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

MAW COMMUNICATIONS, INC.,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2019-3015187
	:	
PPL ELECTRIC UTILITIES	:	
CORPORATION, FORMERLY KNOWN	:	
AS PENNSYLVANIA POWER & LIGHT	:	
CO.,	:	
	:	
Respondent.	:	
	:	

**REPLY OF MAW COMMUNICATIONS, INC.  
TO NEW MATTER OF PPL ELECTRIC UTILITIES CORPORATION**

AND NOW, comes MAW Communications, Inc. (“MAW” or Complainant), by and through its attorneys, Reger, Rizzo & Darnall, LLP, pursuant to 52 Pa. Code Section § 5.63, hereby files its Reply to the New Matter averred by PPL Electric Utilities Corporation (“PPL” or Respondent) as follows:

74. Paragraph 74 of PPL’s New Matter is an incorporation paragraph to which no response is required and is therefore denied.

75. Denied. MAW’s Formal Complaint contends that the Pennsylvania Public Utility Commission (“the Commission”) is responsible for ensuring the adequacy, efficiency, safety and reasonableness of public utility services and that the Commission is empowered to correct, by regulation or order, abuses in the provision of service. See 66 Pa. C.S. § 1501. Moreover, the Commission is the appropriate regulatory body to determine whether the terms or conditions of attachment being imposed on MAW are unreasonable. See 66 Pa.C.S. § 1304. The Commission has elected to regulate pole attachments and therefore, it has primary jurisdiction over the pole

attachment dispute between PPL and MAW. See Final Rulemaking Order, PUC Docket No. L-2018-3002672 (Order entered August 29, 2019 and published by the Pennsylvania Bulletin on January 18, 2020 at 50 Pa. B 469). Since this is a case of first impression before the Commission, it is therefore impossible to assert that MAW's Formal Complaint fails to state a claim upon which relief can be granted.

76. Denied. The averments in Paragraph 76 constitute conclusions of law to which no response is required. It is specifically denied that MAW's requests for relief set forth in its Formal Complaint are barred or limited in any way. By way of further response, Section 1501 of the Public Utility Code ("the Code") authorizes the Commission to determine if PPL's specifications are reasonable. See 66 Pa.C.S. § 1501.

77. – 81. Denied. The averments in Paragraphs 77, 78, 79, 80 and 81 constitute conclusions of law to which no response is required. It is specifically denied that MAW's requests for relief set forth in its Formal Complaint are barred or limited in any way. All allegations pertaining to jurisdiction are denied. MAW's requests for relief are not barred by the doctrines of *res judicata* or collateral estoppel. There has been no final judgment entered in the Civil Case involving PPL and MAW currently pending in the Lehigh Court of Common Pleas (Civil Action No. 2017-C-3755). Moreover, MAW's Formal Complaint does not revive any prior claims which were actually litigated by FCC. See FCC Memorandum Opinion and Order, FCC Docket No. 19-29 (Order entered August 29, 2019). To the contrary, MAW's Pole Attachment Complaint filed with the FCC on February 8, 2019, set forth One Count, Ongoing Denial of Access. For this reason, the FCC did not rule on any other requests for relief. By way of further response, the Commission has elected to regulate pole attachments and therefore, it has primary jurisdiction over the pole attachment dispute between PPL and MAW set forth in

MAW's Complaint. See Final Rulemaking Order, PUC Docket No. L-2018-3002672 (Order entered August 29, 2019 and published in the Pennsylvania Bulletin on January 18, 2020 at 50 Pa. B. 469).

82. – 84. Denied. The averments in Paragraphs 82, 83 and 84 constitute conclusions of law to which no response is required. There has been no final judgment entered in the Civil Case involving PPL and MAW currently pending in the Lehigh Court of Common Pleas (Civil Action No. 2017-C-3755). By way of further response, the Commission has elected to regulate pole attachments and therefore, it has primary jurisdiction over the instant pole attachment dispute between PPL and MAW set forth in MAW's Formal Complaint. See Final Rulemaking Order, PUC Docket No. L-2018-3002672 (Order entered August 29, 2019 and published by the Pennsylvania Bulletin on January 18, 2020 at 50 Pa. B 469). The Commission is the appropriate regulatory body interpret the specific terms of the 2003 Pole Attachment Agreement (the "Agreement") and address PPL and MAW's performance pursuant to the Agreement and under existing statutory and regulatory obligations.

85. Denied. To the contrary, PPL has not advanced its legal rights and interests in the utility poles or controls in an equitable, nondiscriminatory fashion. At all times relevant, MAW acted in a manner which was proper, reasonable, and lawful.

86. Denied. The averments in Paragraph 86 constitute conclusions of law to which no response is required. MAW is a Pennsylvania "telecommunications carrier" with a Certificate of Public Convenience granting MAW statutory access rights to PPL's poles under the Telecommunications Act of 1996, 47 U.S.C. § 224 ("TA-96"). By way of further response, PPL lacks the required direct, immediate, and substantial impact required for standing to assert that

MAW has infringed on the pole attachment rights of others. See Mun. Auth. Of Borough of West View v. PUC, 41 A.3d 929, 933 (Pa. Cmwlth. Ct. 2012).

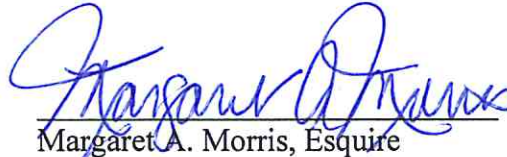
87. Denied. Paragraph 87 is replete with allegations which are vague, argumentative and conclusory in nature and which require no responsive pleading. Moreover, PPL is inserting facts beyond those stated in MAW's Formal Complaint. The averments in Paragraph 87 appear to be addressed to an entity other than MAW (i.e. Lancaster General Hospital), and to the extent there are any averments of fact, MAW denies same. At all times relevant, MAW acted in a manner which was proper, reasonable and lawful.

88. Denied. The averments in Paragraph 87 constitute conclusions of law to which no response is required. At all times relevant, MAW acted in a manner which was proper, reasonable, and lawful.

89. – 90. Denied. Paragraphs 89 and 90 are replete with allegations which are vague, argumentative and conclusory in nature and which require no responsive pleading. The averments in Paragraphs 89 and 90 appear to be addressed to an entity other than MAW (i.e. the City of Lancaster), and to the extent there are any averments of fact, MAW denies same. At all times relevant, MAW acted in a manner which was proper, reasonable and lawful.

WHEREFORE, MAW Communications, Inc. respectfully requests that the Commission dismiss the New Matter of PPL Electric Utilities Corporation, sustain MAW's Formal Complaint and grant such other relief as may be deemed appropriate.

Respectfully submitted,



Dated: February 12, 2020

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