

**BEFORE THE PENNSYLVANIA  
PUBLIC UTILITY COMMISSION**

DOCKET No. C-2020-3019763

Lawrence Kingsley,  
Complainant

v.

PPL Electric Utilities,  
Respondent

**COMPLAINANT'S MOTION TO STRIKE  
AND MOTION FOR SANCTIONS**

Overview

The complainant Lawrence Kingsley moves to strike the records which PPL submitted to PUC on 11/16/20.

The complainant also asks for sanctions inasmuch as PPL, while having time to file the aforesaid bundle of objectionable material, has yet to serve on the complainant a copy of its report to Judge Rainey. PPL thus is in violation of 52 Pa. Code §§ 1.54(a), which requires service upon parties in a proceeding.

Four months after submitting this report and after numerous requests for a copy of it, PPL has disclosed only a single, though misleading sentence from this report. The rest of the report may be misleading as well. In severe prejudice to the complainant, PPL evidently intends to withhold the complete report until after the

complainant's amended complaint in due on Dec. 14. Before then, the complainant needs to research and draft a reply to PPL and, as appropriate, set the record straight.

### Background

The court's instructions on Nov. 12 left no doubt that filings in this case should be served on both parties.

PPL's report to Judge Rainey appears to have introduced confusion into this case for, contrary to the court's Nov. 12 order, the only mediation in this case failed.<sup>1</sup> The prior agreement reached by the parties—there was no order for mediation at this time—was on 3/22/20 in the complainant's informal complaint (PUC Case No. 3682784). There PPL agreed, with respect to vegetation management on the complainant's property, that “any future trimming work would only happen with your prior approval.”

The idea for this provision is that the complainant should have time to contest any excessive or unnecessary work intended by PPL, whether through dialog with PPL, a new complaint to PUC, or injunctive relief in the Court of Common Pleas. But without penalty, PPL can violate the parties' previous agreement. (PUC's

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<sup>1</sup> The Nov. 12 order observes: “It appears that Complainant is seeking to have the Commission unilaterally modify the private agreement he reached through mediation with PPL. This the Commission cannot do.”

policy has been to impose penalties only in a formal, as opposed to informal, complaint.<sup>2</sup>) PPL’s refusal to submit to PUC’s oversight and to join with the complainant in a new consent decree that would protect both parties implies unwillingness to alter policies which threaten irreparable harm to the complainant’s property.

Independently of the partial settlement last year, PPL also committed to notifying customers of intended vegetation management in its Document LA-79827-8 filed with PUC and entitled (with PPL’s capitalization) “Specification For Initial Clearing and Control Maintenance Of Vegetation on Or Adjacent To Electric Line Right-of-Way through Use Of Herbicides, Mechanical, And Handclearing Techniques” (p. 24). PPL not only breached this duty of notification when PPL first cut the complainant’s trees, but PPL would have no reason to abstain from a new consent decree unless it intends to continue its current policies.

This dispute would have been avoided if PPL had implemented current regulations for placing wiring underground<sup>3</sup> or else decided to use conventional poles on the street. An important distinction of this case is that PPL never acquired a right of way on the complainant’s property. PPL nonetheless demands freedom

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<sup>2</sup> If this interpretation is incorrect, the parties’ previous agreement would afford the needed relief except for specification of how far in advance notice of nonemergency work should be sent. At least 10-15 days notice is needed for a preliminary injunction or further action by PUC—for example, a cease and desist order until a hearing can be scheduled.

<sup>3</sup> See Section 57.84 of PUC regulations (52 Pa. Code §57.84).

for “marauding” chainsaw gangs—misnamed “foresters”<sup>4</sup>—to invade private property at will, poison wells and vegetation, or, on no one else’s say-so, destroy trees. To this extent, PPL subordinates Commonwealth residents to its corporate owners in Boston and, in a sense, keeps Pennsylvanians in a state of colonial vassalage.<sup>5</sup>

The complainant is not asking PUC to restrain PPL from vegetation management that is appropriate. Although a subsequent court should decide constitutional questions where PPL has violated the “takings clause” of the U.S. Constitution, the due process guaranty of the 14<sup>th</sup> Amendment, and Article I of the Pennsylvania Constitution,<sup>6</sup> the complainant, for simplicity, is not asserting these claims as part of the instant case. The complainant asks only for verifiable, adequate notice of PPL’s intended work on his property and time to contest work which is excessive or unnecessary at all.

In support thereof, the complainant states:

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<sup>4</sup> The complainant has pointed out that PPL may have one or more corporate managers who have a degree in forestry, but who are not known for accompanying chainsaw gangs on the job site. PPL’s chainsaw gangs invariably are blue collar workers paid by the job and indifferent to the wishes of the property owner.

<sup>5</sup> The complainant’s Memorandum, filed on 10/5/20, points out that PPL is owned by Boston investors who have a poor environmental record in Pennsylvania.

<sup>6</sup> For example, “possessing and protecting property” and security from “unreasonable . . . seizures” are protected by Article I of the Pennsylvania Constitution. See the complainant’s 10/5/20 Memorandum at 13-14 and 16.

## Argument

### Irrelevant records

1. There is no foundation for the new records which PPL submitted on 11/16/20. PPL states that it expects to introduce these records later, but, as by sleight of hand or double talk, already has done so.
2. PPL evidently is attempting to clutter the proceedings in this case as distraction or diversion from the issues at bar while unnecessarily prolonging the proceedings.
3. These records violate the best evidence rule since either party, in its own words, can attest to its position on any topic that the court deems relevant. A long history of routine transactions with no foundation for their usage today is irrelevant to any issue now before the court.
4. These records are one-sided, created solely by PPL. They have never been shown to the complainant before now and do not necessarily reflect his point of view or language that he would use. Comments purporting to reflect statements by the complainant actually express PPL's point of view and act as incomplete, self-interested summary of topics where PPL was at fault.
5. PPL is likely to wrench the subject records out of context for the sole purpose of annoying, tarnishing, or embarrassing the complainant.
6. The questionable records disclose private information never meant for public

dissemination, but that now puts the complainant at risk of identity theft and spam.

7. The subject records cover a wide range of topics and transactions, none of which is probative of the leading question of whether PPL, under ordinary, nonemergency conditions, can act with impunity when it ignores or feigns compliance with its previous commitments.
8. However, the complainant, while reserving all rights, foresees no objection if, later, PPL can establish the relevance of the subject records and, deleting personal information, submit redacted excerpts that are properly introduced. PPL has not proceeded in that fashion and will have a heavy burden to show the relevance of ordinary transactions.

Failure to comply with service obligations

9. The attached correspondence, which supplements correspondence appended to the complainant's 10/5/20 Memorandum, demonstrates the complaint's numerous attempts to secure what PPL should have sent already, a copy of its report to Judge Rainey. It would only take a moment for PPL to send an electronic copy (.PDF). This case is e-filed, and email has been the parties' principal form of communication.
10. Mediation should be confidential, but PPL has committed a serious indiscretion by going beyond what Judge Rainey ordered. He asked in

principal part for:

(c) A statement whether a full resolution, including withdrawal of Complaint, was achieved and, if not, whether the parties consent to have this case set for mediation by the mediation staff of the Commission; and

(d) A statement of any issues which have been resolved, if a full resolution was not achieved.

11. He did not ask for bias or for commentary on the relative positions of each party. However, PPL has used this report not only to shift blame to the complainant, but to take an unfair swipe at him. The single sentence from this report that has been disclosed suggests that PPL made a generous offer that complainant refused because he wanted to add new conditions. In fact, the only offer was window dressing on PPL's business as usual—there was no offer that would assure adequate notice and time to prevent irreparable damage to the complainant's property.
12. PPL's refusal to serve the entire report on the complainant suggests consciousness of guilt—behind his back, has PPL attempted to distort the record, tarnish the complainant, and thereby gain unfair advantage?

#### Conclusion

13. For these reasons, the records which PPL improperly filed on 11/16/20 should

be stricken.

14. PPL immediately should serve a copy of the withheld report on the complainant.
15. For withholding this report (thereby deliberately prejudicing the complainant), violating service obligations, violating the standard of confidentiality in mediation; filing unwarranted, personal data (re: new, unattested records); and causing both the complainant and the court extra, easily preventable work, PPL should be sanctioned in such sums as the court deems fair and just.
16. PPL's underhand methods, games about service, and consistent failure to furnish notice of intended work show why the complainant has no expectation of due process from PPL and, accordingly, why this complaint is needed.
17. Finally, the complainant asks that the deadline for his amended complaint be extended for at least ten days after PPL decides to serve on him its report to Judge Rainey.

Dated: Lancaster, PA  
November 28, 2020

Respectfully submitted,

/S/

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Lawrence Kingsley  
2161 West Ridge Drive  
Lancaster, PA 17601  
646-543-2226



Certificate of Service

I hereby certify that on November 28, 2020 I emailed a true copy of the  
within papers to PPL's counsel:

Kimberly G. Krupka, Esq.  
Gross McGinley, LLP  
33 S Seventh Street, PO Box 4060  
Allentown, PA 18105-4060

Respectfully submitted,

/S/

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Lawrence Kingsley  
2161 West Ridge Drive  
Lancaster, PA 17601  
646-543-2226

COMPLAINANT'S REQUESTS FOR A COPY  
OF PPL'S REPORT TO JUDGE RAINEY

## Lawrence Kingsley

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**From:** Lawrence Kingsley <mail@research-1.com>  
**Sent:** Wednesday, October 7, 2020 4:13 PM  
**To:** 'Kimberly Krupka'  
**Subject:** RE: PUC C-2020-3019763

Inasmuch as you have not served a copy of your report to Judge Rainey on me, you have yet to comply with 52 Pa. Code §§ 1.54(a).

By refusing to acknowledge receipt of my Oct. 5 Memorandum, you are only adding new evidence of PPL's bad faith or games about service, which I will have to report to PUC.

Since e-filing is standard at PUC, forcing me to serve you by other means—I need to confirm the service—may also be construed as petty harassment by PPL.

Lawrence Kingsley

## Lawrence Kingsley

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**From:** Lawrence Kingsley <mail@research-1.com>  
**Sent:** Thursday, October 29, 2020 2:00 AM  
**To:** 'Kimberly Krupka'  
**Subject:** RE: PUC C-2020-3019763

If you complied with PUC's June 10, 2020 order, you still have not served a copy of your response on me.

Lawrence Kingsley

## Lawrence Kingsley

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**From:** Lawrence Kingsley <mail@research-1.com>  
**Sent:** Thursday, October 29, 2020 8:16 AM  
**To:** 'Kimberly Krupka'  
**Subject:** RE: PUC C-2020-3019763

Please note that if you complied with PUC's June 10, 2020 order, you still have not sent me a copy of your response to this order.

Lawrence Kingsley

## Lawrence Kingsley

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**From:** Lawrence Kingsley <mail@research-1.com>  
**Sent:** Sunday, November 8, 2020 4:00 AM  
**To:** 'Kimberly Krupka'  
**Subject:** RE: PUC C-2020-3019763

This item has not reached me. Would you check with your assistant and, if necessary, mail another copy to me?

You should not assume that the mailing is complete unless I acknowledge receipt, as I am happy to do for either regular mail or a .pdf.

Lawrence Kingsley

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**From:** Kimberly Krupka [<mailto:KKrupka@grossmcginley.com>]  
**Sent:** Thursday, October 29, 2020 7:57 PM  
**To:** Lawrence Kingsley  
**Subject:** RE: PUC C-2020-3019763

I will ask that my assistant review the file and send. I am currently out of the office and in trial.

**Kimberly G. Krupka**

*Attorney at Law*

GROSS MCGINLEY, LLP  
DIRECT (610) 871-1325

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**From:** Lawrence Kingsley <[mail@research-1.com](mailto:mail@research-1.com)>  
**Sent:** Thursday, October 29, 2020 8:16 AM  
**To:** Kimberly Krupka <[KKrupka@grossmcginley.com](mailto:KKrupka@grossmcginley.com)>  
**Subject:** RE: PUC C-2020-3019763

**CAUTION: External Email**

Please note that if you complied with PUC's June 10, 2020 order, you still have not sent me a copy of your response to this order.

Lawrence Kingsley

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## Lawrence Kingsley

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**From:** Lawrence Kingsley <mail@research-1.com>  
**Sent:** Tuesday, November 17, 2020 11:29 PM  
**To:** 'Kimberly Krupka'  
**Subject:** RE: PUC C-2020-3019763

I still have not received a copy of your report to Judge Rainey: please send a paper or electronic copy at once.

You should not assume that the mailing is complete unless I acknowledge receipt, as I am happy to do for either regular mail or a .pdf.

Lawrence Kingsley

## Lawrence Kingsley

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**From:** Lawrence Kingsley <mail@research-1.com>  
**Sent:** Wednesday, November 18, 2020 1:53 PM  
**To:** 'Kimberly Krupka'  
**Subject:** RE: [External] RE: Lawrence Kingsley v. PPL Electric Utilities Corp. (PUC# C-2020-3019763)

On Nov.18, 2020 I received what you listed below—e.g., “Unfortunately, Mr. Kingsley did not accept our offer. He has conditioned his acceptance on additional terms which we advised we could not accept.” However, I repeatedly asked you for a copy of your report to Judge Rainey; I am referring to the entire report.

Lawrence Kingsley  
646-714-5668

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**From:** Kimberly Krupka [mailto:KKrupka@grossmcginley.com]  
**Sent:** Wednesday, November 18, 2020 12:01 PM  
**To:** Lawrence Kingsley  
**Subject:** FW: [External] RE: Lawrence Kingsley v. PPL Electric Utilities Corp. (PUC# C-2020-3019763)

Mr. Kingsley,

In response to inquiries I had received from Mr. Homsher, below are the responses I provided to his questions.

**Kimberly G. Krupka**  
*Attorney at Law*  
GROSS MCGINLEY, LLP  
DIRECT (610) 871-1325

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**From:** Kimberly Krupka  
**Sent:** Monday, October 05, 2020 8:46 AM  
**To:** 'Homsher, Matt' <mahomsher@pa.gov>  
**Subject:** RE: [External] RE: Lawrence Kingsley v. PPL Electric Utilities Corp. (PUC# C-2020-3019763)

Unfortunately, Mr. Kingsley did not accept our offer. He has conditioned his acceptance on additional terms which we advised we could not accept.

**Kimberly G. Krupka**  
*Attorney at Law*  
GROSS MCGINLEY, LLP  
DIRECT (610) 871-1325

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**From:** Homsher, Matt <mahomsher@pa.gov>  
**Sent:** Thursday, October 01, 2020 9:48 AM  
**To:** Kimberly Krupka <KKrupka@grossmcginley.com>  
**Subject:** RE: [External] RE: Lawrence Kingsley v. PPL Electric Utilities Corp. (PUC# C-2020-3019763)

**CAUTION: External Email**



Kim: following up on my last few emails. Has the complainant accepted the offer? Is a CS going to be filed soon? Thanks,

-Matt

Matthew Homsher  
Mediator  
Office of Administrative Law Judge  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg PA 17120  
Ph: 717-787-3988  
Fax: 717-787-0418

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**From:** Homsher, Matt  
**Sent:** Wednesday, September 23, 2020 9:26 AM  
**To:** Kimberly Krupka <[KKrupka@grossmcginley.com](mailto:KKrupka@grossmcginley.com)>  
**Subject:** RE: [External] RE: Lawrence Kingsley v. PPL Electric Utilities Corp. (PUC# C-2020-3019763)

Kim: Checking in again on my last email. Thanks,

-Matt

Matthew Homsher  
Mediator  
Office of Administrative Law Judge  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg PA 17120  
Ph: 717-787-3988  
Fax: 717-787-0418

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**From:** Homsher, Matt  
**Sent:** Tuesday, August 25, 2020 9:51 AM  
**To:** Kimberly Krupka <[KKrupka@grossmcginley.com](mailto:KKrupka@grossmcginley.com)>  
**Subject:** RE: [External] RE: Lawrence Kingsley v. PPL Electric Utilities Corp. (PUC# C-2020-3019763)

Kim: Just checking back in on this. Have you heard anything further from the complainant about the CS? Thanks,

-Matt

Matthew Homsher  
Mediator  
Office of Administrative Law Judge

Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg PA 17120  
Ph: 717-787-3988  
Fax: 717-787-0418

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**From:** Kimberly Krupka <[KKrupka@grossmcginley.com](mailto:KKrupka@grossmcginley.com)>  
**Sent:** Wednesday, August 5, 2020 6:09 PM  
**To:** Homsher, Matt <[mahomsher@pa.gov](mailto:mahomsher@pa.gov)>  
**Subject:** [External] RE: Lawrence Kingsley v. PPL Electric Utilities Corp. (PUC# C-2020-3019763)

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I have provided Mr. Kingsley with a proposed certificate of satisfaction today outlining our agreement. He has requested a week to review it.

**Kimberly G. Krupka**  
*Attorney at Law*  
GROSS MCGINLEY, LLP  
DIRECT (610) 871-1325

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**From:** Kimberly Krupka <[KKrupka@grossmcginley.com](mailto:KKrupka@grossmcginley.com)>  
**Sent:** Thursday, July 02, 2020 7:55 AM  
**To:** Homsher, Matt <[mahomsher@pa.gov](mailto:mahomsher@pa.gov)>  
**Subject:** Re: Lawrence Kingsley v. PPL Electric Utilities Corp. (PUC# C-2020-3019763)

My apologies for the delay. Mr. Kingsley and I, along with a PPL forester, spoke via telephone last week. On Tuesday I sent him a written settlement proposal via email for review and am awaiting his comments. I will contact him again today to see if he is in agreement with the proposal or not.

Sent from my iPhone

On Jul 2, 2020, at 7:32 AM, Homsher, Matt <[mahomsher@pa.gov](mailto:mahomsher@pa.gov)> wrote:

**CAUTION: External Email**

Kim: I just wanted to check in on the status of the above case. It looks like your report was due 6/22/20. Have you been able to connect with the complainant yet? Thanks,

-Matt

Matthew Homsher  
Mediator  
Office of Administrative Law Judge  
Pennsylvania Public Utility Commission  
400 North Street

Harrisburg PA 17120  
Ph: 717-787-3988  
Fax: 717-787-0418

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To protect the health and safety of our staff, clients and community and pursuant to Governor Wolf's Order issued March 19, 2020 we have closed our physical Gross McGinley offices. However, we remain fully operational, serving new and existing clients remotely, via phone, email and virtual meetings. Thank you for your patience and understanding.

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## Lawrence Kingsley

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**From:** Lawrence Kingsley <mail@research-1.com>  
**Sent:** Thursday, November 19, 2020 2:27 AM  
**To:** 'Kimberly Krupka'  
**Subject:** RE: PUC C-2020-3019763

Thank you for the phone call yesterday. However, this phone call, which was only general, is not a substitute for the document which you still have not served on me, your report ordered by Judge Rainey. Nor is the one sentence from this report that you sent me. I need the full report, please.

An electronic copy will be fine, but only if I acknowledge its receipt, as I am glad to do.

Lawrence Kingsley  
646-714-5668