March 9, 2023

Secretary
PA Public Utility Commission
Commonwealth Keystone Building
2nd Floor, Room – N201
Harrisburg, PA 17120

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

Complainant Brief

Dear Secretary,

I hereby certify that on March 9, 2023, I served a true copy of the Complainant Brief upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party) via email.

Secretary
PA Public Utility Commission

Honorable Steven K. Haas
Administrative Law Judge
PA Public Utility Commission

Devin Ryan, Esquire
Nicholas Stobbe, Esquire
Post and Schell
dryan@postschell.com
nstobbe@postschell.com

Michael Hartman

Dated this 9th day of March 2023

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Michael and Sharon Hartman	:	
	:	
v.	:	C-2019-3008272
	:	
PPL Electric Utilities Corporation	:	

HARTMAN (COMPLAINANT) BRIEF

Summary

1. During the period December 2018 through the present, PPL construction, restoration and vegetation management activity on our property was discriminatory, unreasonable, unsafe, and unreliable. During construction, PPL needlessly destroyed our vegetation and removed our topsoil to construct excessively large crane pads. Post construction, PPL failed to return our topsoil and establish permanent vegetation. The crane pads and newly constructed access road and expansive compacted subsoil shoulders enabled accelerated erosion, and endanger our property, on and off the ROW, including our house, to stormwater run-off, as depicted in the Hartman Exhibit 52 photographs. The situation was exacerbated during July 2021 when PPL applied herbicides that destroyed compatible erosion deterrent vegetation that escaped excavation during the 2018 construction. As detailed herein, PPL's construction, restoration and vegetation management activity violated PPL's own published construction, restoration and vegetation management best practices and specifications, and were not consistent with PPL's construction, restoration, and vegetation management activity on similarly situated neighboring private and public property.

Background

2. For the past four years we have struggled with PUC discovery and jurisdiction guidelines and PPL's general lack of transparency and candor. I respectfully submit that the PUC must consider the latter, PPL transparency and candor, or more appropriately the lack thereof, when evaluating this case.

3. Some relevant unanswered questions after four years of discovery and three days of testimony follow: Why did PPL dispatch three contractors, Bush, Crossley, and Scott, and not an employee, Eby, to speak on PPL's behalf and meet with me on-site on April 25, 2019? Why did then PPL counsel, Kimberly Krupka, tell me that PPL would make the three contractors available for cross-examination at a PUC Hearing in this matter? Why did PPL replace Krupka and Gross McGinley, with Devin Ryan and Post and Schell? Why has PPL and Post and Schell, who have never disputed my report of Krupka's representation to make the three contractor witnesses available, fail to honor Krupka's representation? Why have all PPL contractors and subcontractors refused to speak with me, cooperate, or testify in this matter? Why hasn't PPL identified or presented testimony from the individuals that completed construction, restoration, and vegetation management activity on our property? Why hasn't PPL identified the name and credentials of the individual that made the decision to overturn a Licensed Professional Engineer's written plan to use the existing Pole 75 access road, but instead destroy vegetation and remove our topsoil to construct an unplanned access road over our property? Why didn't PPL present the testimony of a professional engineer or comparable expert with safety credentials in the operation and movement of heavy equipment to justify the departure from PPL's E & S Plan? Why did PPL instead present the testimony of an employee witness, William Salisbury, who admittedly found the PPL E & S Plans ambiguous?

4. Why did the Eby, Salisbury, Weseloh,, and Stutzman Rebuttal Statements include suggestions, representations, and opinions which either did not originate with the witness or could not be verified by the witness? The most egregious manufactured statement appears on Page 7 of the Rebuttal Statement of William Salisbury. Salisbury purportedly answered a question posed by PPL counsel in response to our allegation that PPL excavated and removed topsoil and mountain stone from the Hartman property to construct the Pole 75 crane pad situated primarily on Wech property. "Salisbury" answered, "I disagree with Mr. Hartman's conclusions. As a courtesy to Mr. Hartman, PPL Electric marked the property lines for Mr. Hartman's property and the Wech property within the transmission line right-of-way, and PPL required its contractors not to transfer "topsoil," "mountain stone," or other materials between the two properties." The statement is blatantly false, and its falsity is well known to Thomas Eby and PPL counsel that reviewed the E & S Plans and visited our property in my presence.

5. At the time of construction, December 2018, through April 2019 when I advised PPL otherwise, PPL mistakenly believed that we owned the entire ROW as represented by PPL in the E& S Plans, particularly PPL Exhibit TE – 1, Attachments 114 and 115. Your Honor's attention is invited to Hartman Exhibit A Paragraphs 7, 8, 9, and 10, Photographs 1, 2, and 3, and Hartman Exhibits 19 and 47 which document and depict the real-time excavation of Hartman topsoil and mountain stone, including the Hartman/Wech logging road, to construct the Pole 75 and Pole 76 crane pads. Clearly, PPL did not "mark" the Hartman/Wech border as represented, and there is no evidence that PPL segregated Hartman and Wech topsoil and mountain stone. Regardless of the truth or falsity of Salisbury's statement, PPL failed to return our topsoil used to construct the Pole 75 and Pole 76 crane pads.

6. During cross examination, page 128, Salisbury himself offered testimony that contradicted Salisbury's Rebuttal Testimony as follows: "I'll be honest, your honor, you know, I don't often consider the names, sir, anything of the people that, you know, own these property lines, that is something that's more of a right-of-way issue. You know, in construction we stay focused on safety, reliability and falling in line with what we need to do as far as the environmental controls like the limited disturbance."

7. Additional manufactured testimony can be found in the remaining PPL Rebuttal Statements. For example, on page 6 line 21 of the Thomas Eby Rebuttal Statement, "Eby" stated that none of the 179 landowners reportedly impacted by the project filed an informal or formal complaint against PPL Electric. Eby and PPL counsel knew that PPL had made cash payments to each of our Primrose and Linden Lane neighbors, to include Douglas Wech and Michael Rosewarne, for alleged damages to their property incident to the construction. Eby during cross examination admitted that he made no effort to corroborate the manufactured statement. Furthermore, on Page 23 Line 3 Mr. Eby swore that "PPL Electric has always engaged in good faith discussions with Mr. Hartman, including the mediation before the Commission." During cross examination Eby admitted that he was not present for the Mediation.

8. The Rebuttal Statement of Matthew Stutzman, Page 16 Line 21, included a materially false statement concerning the herbicides applied to our property. Stutzman swore under oath that the HV5 mixture, a combination of three different herbicides designed to kill multiple types of vegetation, was not designed to kill the root systems of native grasses. Two of the three HV5 herbicide labels make clear that the herbicide would kill grasses. The Nufarm Polaris label, PPL Exhibit MS – 11, Page 4, reports, "Herbicidal Activity: This product will control most annual and perennial grasses and broadleaf weeds..." and "In perennials, the

herbicide is translocated into, and kills, underground or submerged storage organs, which prevents regrowth." Please keep in mind that the words control, manage, and destroy are sometimes used in the vegetation management field. The fact is, however, that HV5 is formulated to kill vegetation. Vegetation sprayed with HV5 does not miraculously come back to life or "bounce back". I have presented dozens of photographs to prove our vegetation was killed.

9. Why didn't PPL identify and present credentials and testimony from the individual that applied herbicides and destroyed virtually all vegetation above Pole 75 and below Pole 76 on our property? Why did PPL present an employee witness, Matthew Stutzman, who has no credible herbicide application experience, and was not present when the herbicides were applied. What is the credibility and reliability of a "Forester" witness that described an area overrun by an invasive noxious weed as substantially regrown and green?

10. Why didn't Stutzman or PPL present any photographs to document Stutzman's purported investigation of the impact of the herbicide application above Pole 75, the Polé 75 and Pole 76 crane pads, and the area below Pole 76 near our house? Why did Stutzman present photographs of treated incompatible vegetation on Wech property, PPL Exhibit MS – 4, without identifying the property as Wech property? Why did Stutzman fail to present photographs to corroborate his testimony that he observed incompatible vegetation above Pole 75? Why did PPL and Stutzman present a redacted business record without notice of redaction, PPL Exhibit MS – 5, which concealed PPL's mistaken identification of the Hartman property as Michael Rosewarne property. We introduced the complete business record, Hartman Exhibit 34, which corroborated Hartman testimony that we were never given advance notice of the July 16, 2021, herbicide application, as promised. Hartman Exhibit 34 also disclosed PPL discriminatory

service. Rosewarne vegetation was scheduled to be "hand cut" and Hartman property was scheduled to be "sprayed" and killed.

11. Why has PPL chosen to spend tens, if not hundreds, of thousands of ratepayer monies to litigate this matter in the face of admitted mistakes and negligence that caused undisputed damage to our personal property to include the destruction of trees and native vegetation off the ROW, and the unwarranted removal of valuable topsoil and mountain stone from our property? PPL's apparent unlimited legal budget in this matter is especially ironic given the fact that each of the PPL employee witnesses defended PPL's decisions to abuse our property as cost saving measures that benefitted ratepayers. We submit that the ratepayer savings achieved by PPL's failure to restore our property pale in comparison to the PPL legal fees in this matter.

12. What's next? During 2018, PPL needlessly destroyed our vegetation, removed our topsoil and mountain stone, littered our property with unsafe rip-rap, Hartman Exhibit 37, and subjected our remaining property to unmitigated erosion and sediment. During 2019 and 2020, PPL, motivated by corporate greed, applied unreasonable, unsafe, and unreliable restoration methods, most notably the road claw back procedure, which further endangered our property. During 2021, unannounced, PPL applied dangerous herbicides to virtually all the natural vegetation that survived the 2018 – 2020 construction and failed restoration activity. During 2022, invasive noxious weeds overtook the core area of the 2021 herbicide application. The prolific noxious weeds are poised to overrun the rest of the ROW and our private property during 2023, and beyond. Every day our home and private property is threatened by PPL's absolute failure to establish vegetation with a density sufficient to resist accelerated erosion,

Hartman Testimony Exhibit A Paragraph 57, Photographs 19, 20, and 21 and Hartman Exhibit 52, in contradiction of PPL's own best practices.

Discriminatory Vegetation Management Practices

13. Why has the PUC, PA Department of Environmental Protection, Pennsylvania Legislature, and Office of Attorney General permitted PPL to openly discriminate among public and private landowners as documented in PPL's Specification for Transmission Vegetation Management, PPL Exhibit MS-2, Section 5.3? Undisputed proof of PPL Vegetation Management discrimination is documented in Hartman Exhibit A Paragraphs 92 and 116 – 121, and Photographs 60 – 71 which depict the impact of the July16, 2021 herbicide application on compatible vegetation on our property and the spared compatible and incompatible vegetation on neighboring NPS Lands and private property on the same powerline under the same ROW agreement.

Safety versus aesthetics

14. During cross examination, Devin Ryan asked me in sum and substance which was more important, safety or aesthetics. Without specifics, I refused to answer the question. My response today, however, is why do the two have to be mutually exclusive? We have not requested an aesthetically pleasing powerline, if such a thing is even possible. What we have requested repeatedly and to no avail is that our property, particularly the powerline vegetation, be restored to its natural or pre-construction state in a manner that protects our remaining property, including our dwelling, from erosion and stormwater runoff. We also requested that PPL apply the same vegetation management practices afforded our neighbors to include not only the National Park Service, but also private landowners on the north and south side of Peters Mountain and the north side of Stoney Mountain (Hartman Exhibits 50, 51, 53, and 56). Each

ROW property, private and public, has been re-vegetated and is devoid of unsafe vegetation smothering rip-rap. Please compare and contrast our neighbors' ROW property with our property besieged by invasive noxious weeds and rip-rap, Hartman Exhibit A Paragraph 22 and Hartman Photographs 4, 10, 11 and Hartman Exhibits 28, 29, 30 and 50. The comparison reflects that PPL vegetation management practices are discriminatory, unreasonable, unsafe, and unreliable service.

15. Our question for PPL; Which is more important, our safety or PPL profits?

Reasonable, Safe and Reliable Service

16. How does one define Reasonable, Safe and Reliable Service? In 1964, Supreme Court Associate Justice Potter Stewart famously wrote that he couldn't define obscenity, but "he knew it when he saw it". We submit that the same can be said about Reasonable, Safe and Reliable Service, or lack thereof. Unlike PPL, we have corroborated our testimony with dozens of photographs, none of which have been rebutted. We have documented, in color, the unwarranted excavation and destruction of compatible erosion deterrent vegetation off the ROW and Limit of Disturbance, Hartman Exhibit 47. We have likewise documented the destruction of compatible erosion deterrent vegetation caused by the careless July 2021 herbicide application. Our photographs document that PPL has failed to follow its own best management practices contained within PPL's E & S Plan. This protracted four-year-old case has allowed us to document the long-term and future impact of PPL's repeated unreasonable, unsafe, and unreliable service activity on our property.

PPL E & S Plan – Best Management Practices per Thomas Eby

17. Any reference to PPL's E & S Plan, Exhibit TE-1, within this Brief relates to PPL's failure to follow PPL's own vegetation management and restoration guidelines. The

evidence is not presented to argue or suggest a violation of any Permit, Municipal Order, Rule, or Statute, to include but not be limited to the jurisdiction of the Dauphin County Conservation District (DCCD) or Pennsylvania Department of Environmental Protection (PA DEP).

18. The Rebuttal Testimony of Thomas Eby, beginning on Line 13 of Page 10 described the E & S Plan narrative as "best management practices to minimize accelerated erosion and sedimentation before during and after earth disturbance activities". The Rebuttal Testimony of Thomas Eby, beginning on Line 7 of Page 11, reported that the PPL E & S Plan was developed with PPL Electric's consultants for the project, Louis Berger Group. It is undisputed that the E & S Plan was developed by Joseph C. Scott, P.E., a Pennsylvania Professional Engineer.

19. Hartman Exhibit A Paragraph 2 summarizes my 50, plus, years of vegetation management experience. Far greater experience than the individual or collective experience of the four PPL witnesses. It must also be noted that my wife and I have managed our 20-acre property, including the right of way, for the past 25 years. We share the engineer's opinion that the below listed E & S Plan excerpts reflect reasonable, safe, and reliable vegetation management practices. Vegetation management practices that were not followed by PPL. PPL's failure to follow each guideline/best practice resulted in the unwarranted destruction of existing vegetation and PPL's failure to re-establish erosion deterrent vegetation post-construction on our property.

TE-1 E & S Plan Excerpts (Blue Print) from Hartman Exhibit A Paragraph 33:

20. Section 1.3, page 1 -2, "To the extent practical, access routes have been selected by utilizing the existing ROW and existing roadways (paved and gravel).

21. It is undisputed that PPL failed to follow the existing access route between Pole 76 and Pole 75. PPL witness William Salisbury was unaware of the identity of the individual or contractor that made the decision to destroy vegetation and excavate and remove topsoil to construct a new access route over Hartman property, nor could he recall the specific justification for the departure, Salisbury cross-examination Page 100.

22. Section 1.3, page 1 – 2, "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."

23. It is undisputed that PPL failed to re-vegetate the access road constructed on our property despite repeated requests from us, the "specific property owner". Hartman Exhibit 52 photographs reflect that the unwarranted destruction of our erosion deterrent sod-covered logging road, Hartman Testimony Paragraph 7 and Photograph 1, and PPL's failure to re-vegetate the access road has endangered our property. The access road, as depicted, diverts stormwater off the Right of Way (ROW) onto our private property and home. The final photograph of Hartman Exhibit 28 and the testimony of Sharon Hartman document the collection of ROW stormwater perilously close, fifteen feet, to our house.

24. Section 2.2, page 2 – 1, "To ensure compliance with vegetation management requirements, vegetative growth within ROWs located in wooded areas will be maintained as brush areas or meadow areas. After construction is complete, construction pads and access roads will be fully restored or vegetated."

25. Hartman Exhibit B Photographs 41, 42, 43, 44, 45, 46, 47, 50, 53, 54, 56, 57, 61, 67, 68, 70, 78, 80 and Hartman Exhibits 28, 29, 30, and 31 reflect that PPL has not maintained

our vegetation as brush or meadow areas. It must be noted that on or about October 2020, eight months prior to Permit closing, PPL, in writing, planned to kill our vegetation, Hartman Exhibits 5 and 34.. The herbicide application that killed compatible and erosion deterrent vegetation on our property was completed on July 16, 2021, Rebuttal Statement of Matthew Stutzman, Page 12, twenty-nine (29) days after the E & S Permit was closed on June 17, 2021, Rebuttal Statement of Thomas Eby, Page 12.

26. Section 2.12, page 2 – 5, "Earthwork has been limited to only areas where construction access is needed to install the new structures or conductors. All areas within the project boundary but outside of the LOD shall be protected from disturbance."

27. Hartman Exhibit A Paragraph 9 Hartman Photograph 3 and Hartman Exhibit 47 Photographs depict the unnecessary destruction of native vegetation and excavation of topsoil and mountain stone on our property where construction access was NOT needed to install new structures or conductors. On page 16 of the Thomas Eby rebuttal statement, Eby stated that PPL excavated our property within the Limit of Disturbance except for two "small" areas outside of the ROW. On cross examination, however, Eby did not dispute Hartman Exhibit A Paragraph 67 testimony that PPL excavated and destroyed vegetation measuring 120 feet across at the Pole 75 crane pad, and 117 feet across at the Pole 76 crane pad. It is undisputed that the ROW and LOD is 100 feet wide. Eby acknowledged that PPL failed to restore or replace the native vegetation (huckleberries) and Norway Spruce destroyed by unwarranted PPL excavation off the ROW. During cross examination it was common for Salisbury and Eby to answer that PPL was entitled to excavate "anywhere" within the Limit of Disturbance (LOD) in contradiction of PPL's own reported best practices. I gather from the procedural history of this case that the PUC does not wish to determine whether PPL had the right to excavate "anywhere" within the LOD.

But we strenuously argue that PPL can't excavate "everywhere" or "everywhere plus" to include twelve to twenty feet outside of the LOD. In doing so, PPL unreasonably destroyed vegetation and accelerated erosion in contradiction to its own "best management practices" documented in PPL's E & S Plan, PPL Exhibit TE -1

28. Section 2.14, page 2 – 5, "By utilizing the existing ROW and access routes, soil compaction throughout the project area is minimized. PPL proposes to utilize and maintain these existing routes to the maximum extent possible. By using the existing routes, soil compaction within the ROW will be constrained to only proposed pads and any access roads required for construction."

29. As referenced above, PPL, without justification or attribution, did not utilize the existing 70-year access road between Pole 76 and Pole 75. In contradiction to its own best management practices, PPL constructed a new access road and compacted soil that greatly exceeded the necessary 15 feet, admittedly as wide as 24 feet, a 60% overage. To make matters worse, PPL did not conserve the topsoil that was excavated to construct the access road. When the DCCD instructed PPL to reduce the width of the access road to fifteen feet, PPL simply clawed back the road to 15 feet, and piled the excess rip-rap on top of the access road. Accordingly, an already deep and perilous shoulder, Hartman Exhibit A Photograph 8, was made more perilous, Hartman Exhibit A Photograph 13 (2) and Hartman Exhibit 49.

30. Section 2.17, page 2 – 6 "the overall project Site will be re-vegetated/restored to match existing cover conditions and drainage patterns. In most areas, the Site will be topsoiled and revegetated to meadow grass condition in accordance with the permanent stabilization BMP's specified in this Plan."

31. It is undisputed that PPL failed to cover excavated areas, including road shoulders, crane pads and the surplus excavated areas depicted in Hartman Exhibit 47 with topsoil. Hartman Exhibit A Photographs 15 and 16 and Hartman Exhibits 28, 29, 31 and 35 reflect that the Pole 75 and Pole 76 crane pads have not been covered with topsoil, but instead are littered with protruding rip-rap that will permanently prevent vegetation. During cross examination, Thomas Eby at page 294, acknowledged that the Pole 75 and Pole 76 crane pads were covered with rip-rap post-construction. During cross examination, Eby and Salisbury could not identify a single location on the 3.5-mile project, including the comparable north side of Peters Mountain, Hartman Exhibits 53 and 56, where PPL used rip-rap to cover or top a crane pad or access road. PPL stipulated, page 116 of the transcript, and Eby testified, page 240, that PPL did not bring-in any topsoil to cover any of the excavated areas on our property. Eby's Rebuttal Statement beginning on Line 12 of Page 12, below. "Additionally, the trucking-in of additional topsoil for the Pole 76 and Pole 75 crane pads proved to be unnecessary, given the company was able to achieve 70% vegetation coverage without the topsoil. Thus I believe it was a prudent decision not to incur unnecessary costs to truck-in additional topsoil for those crane pads." Hartman Exhibit B Photographs 41, 42, 43, 44, 45, 46, 47, 50, 53, 54, 56, 57, 61, 67, 68, 70, 78, 80 and Hartman Exhibits 28, 29, 30, 31 and 52 reflect that PPL has not maintained our vegetation as brush or meadow areas, and that topsoil is needed to vegetate the crane pads and compacted shoulders.

32. TE-1 E & S Attachment 002, PPL (Best Management Practices) formerly Hartman Exhibit 14, Plan Excerpts (Blue Print) from Hartman Testimony Exhibit A Paragraph 34:

33. 9. AT NO TIME SHALL CONSTRUCTION EQUIPMENT BE ALLOWED TO ENTER AREAS OUTSIDE THE LIMIT OF DISTURBANCE BOUNDARIES SHOWN ON THE PLAN MAPS. THESE AREAS MUST BE CLEARLY MARKED AND/OR FENCED OFF BY THE CONTRACTOR BEFORE CLEARING AND GRUBBING OPERATIONS BEGIN.

34. On page 16 of the Thomas Eby rebuttal statement, Eby stated that PPL excavated our property within the Limit of Disturbance except for two "small" areas outside of the ROW. On cross examination, however, Eby did not dispute Hartman Exhibit A Paragraph 67 testimony that PPL excavated and destroyed vegetation measuring 120 feet across at the Pole 75 crane pad, and 117 feet across at the Pole 76 crane pad. Hartman Exhibit A Photographs 5 and 7 depict PPL's entry of areas outside the LOD and corresponding un-restored damage to pre-existing vegetation. During cross examination, Eby, page 213, acknowledged to Your Honor that PPL did not replant huckleberry bushes or necessarily replant the type of bushes that were destroyed. Likewise, PPL has never restored the Norway Spruce that was destroyed off the ROW adjacent to the Pole 76 access road and crane pad, Hartman Testimony Exhibit A Paragraphs 16 and 17 and Photograph 7.

35. 20. AREAS WHICH ARE TO BE TOPSOILED SHALL BE SCARIFIED TO A MINIMUM DEPTH OF 3 TO 5 INCHES – 6 TO 12 INCHES ON COMPACTED SOILS – PRIOR TO PLACEMENT OF TOPSOIL. AREAS TO BE VEGETATED SHALL HAVE A MINIMUM 4 INCHES OF TOPSOIL IN PLACE PRIOR TO SEEDING AND MULCHING. FILL OUTSLOPES SHALL HAVE A MINIMUM OF 2 INCHES OF TOPSOIL.

36. It is undisputed that PPL failed to cover excavated areas, including road shoulders, crane pads and the surplus excavated areas depicted in Hartman Exhibit 47 with

topsoil. Hartman Exhibit A Photographs 15 and 16 and Hartman Exhibits 28, 29, 31, and 35 reflect that the crane pads have not been covered with topsoil, but instead are littered with protruding rip-rap that will permanently prevent vegetation. On cross examination, Eby, page 239, was asked if areas to be top-soiled were scarified to a minimum depth of three to five inches, 6 to 12 inches on compacted soil, prior to placement of the topsoil, and whether areas to be vegetated had a minimum four inches of topsoil in place prior to seeding and mulching on the Hartman property consistent with PPL's own purported best management practice, above. Eby answered, "No". Eby, who never visited our property pre-construction, testified on cross-examination at page 286 that from what he recalled there was little or no topsoil on the mountainside. There is little or no topsoil on the mountainside, particularly on our property, because PPL excavated it all to construct the Pole 75 and Pole 76 crane pads primarily situated on Wech property. And PPL buried the topsoil under rip-rap as admitted by Eby during cross-examination, page 294. At page 290, Eby admitted that he did not witness any topsoil being placed on top of the crane pads.

37. 29. PERMANENT STABILIZATION IS DEFINED AS A MINIMUM UNIFORM, PERENNIAL 70% VEGETATIVE COVER OR OTHER PERMANENT NON-VEGETATIVE COVER WITH A DENSITY SUFFICIENT TO RESIST ACCELERATED EROSION.

38. Hartman Exhibit B Photographs 41, 42,43, 44, 45, 46, 47, 50, 53, 54, 56, 57, 61, 67, 68, 70, 78, 80 and Hartman Exhibits 28, 29, 30, 31 and 52 reflect that PPL has not achieved permanent stabilization., i.e., vegetative cover with a density sufficient to resist accelerated erosion. During cross-examination, Eby, page 176, admitted that he/PPL sought closure of the permit at a time PPL had not achieved 70% vegetative cover on our property, specifically the

Pole 75 and Pole 76 crane pads and road shoulders. Eby appeared to defend that action by testifying that PPL was required to achieve 70% on the entire project, but not required to achieve 70% on our property, or any individual property. Since our property is a "small" component of the Project, as testified by Eby, then if follows that Eby did not believe that PPL had to vegetate our property to the 70% standard. A belief that contributed to the discriminatory destructive activity on our property.

39. As reported herein, the grossly negligent herbicide application that destroyed compatible and erosion deterrent vegetation on our property was completed on July 16, 2021, twenty-nine (29) days after the E & S Permit was closed on June 17, 2021. On cross examination, Page 228, Eby testified that he did not observe mile-a-minute, an admitted invasive noxious weed that does little to deter erosion, on our property post construction or during restoration.

40. PPL, post construction and restoration, did not vegetate our property with a density sufficient to resist accelerated erosion in a reasonable, safe, and reliable manner in accordance with PPL best management practices. Hartman Testimony Exhibit A and Hartman Exhibits 28, 29, 30, 31, and 52 establish beyond any doubt that our property has not been vegetated with a density sufficient to resist accelerated erosion post construction and restoration.

41. B) STONE ACCESS ROADS:

42. B)B) STRIP TOPSOIL FROM DISTURBED AREAS AND STOCKPILE IN DESIGNATED LOCATIONS, TEMPORALLY SEED AND STABILIZE STOCKPILES.

43. During cross examination, Eby, Page 248, admitted that PPL did not strip and stockpile topsoil during construction of the access road. During cross examination, however, Eby, Page 286, testified that he witnessed topsoil stockpiles on or adjacent to our property. Eby

indicated that the stockpiles were small and were situated east of the crane pads. Both crane pads are situated on the far eastern border of the ROW. Accordingly, east of the crane pads would be an area off the ROW on the Wech's wooded property. The location identified by Eby makes no sense. Eby/PPL failed to mention the purported stockpiles in Eby's Rebuttal Statement. Eby, Page 290, acknowledged that Eby did not personally witness the topsoil being placed back on top of the crane pads. Finally, Hartman Exhibit B, Photograph 12 depicts the Pole 76 and Pole 75 access road and crane pads post construction. The crane pads are topped with rip-rap as testified by Eby, Page 294. There are no stockpiles of topsoil depicted in this photograph taken during January 2019.

44. B)F) RESTORE ANY GRADED AREAS TO PRE-CONSTRUCTION ELEVATIONS AND DECOMPACT SOILS NOT REGRADED.

45. When the DCCD instructed PPL to reduce the width of the access road to fifteen feet, PPL simply clawed back the road to 15 feet, and piled the excess rip-rap on top of the access road. PPL did not restore the excavated area to grade consistent with its own best practices. Accordingly, an already deep and perilous shoulder depicted in Hartman Exhibit A Photograph 8, was made more perilous as depicted in Hartman Exhibit A Photograph 13 (2) and Hartman Exhibit 49. During cross examination, Page 285, Eby acknowledged that any overage in the width of the access road resulted in the destruction of vegetation, compaction of additional topsoil, and the displacement and removal of additional topsoil. Hartman Testimony Exhibit A Paragraphs 46 and 47 and Hartman Exhibits 49 and 52 demonstrate that PPL failed to follow PPL's own best practice to restore graded areas to pre-construction elevations, de-compact soils and establish vegetation with a density sufficient to resist accelerated erosion.

46. TOPSOIL APPLICATION

47. 1. GRADED AREAS SHOULD BE SCARIFIED OR OTHERWISE LOOSENED TO A DEPTH OF 3 TO 5 INCHES TO PERMIT BONDING OF THE TOPSOIL TO THE SURFACE AREAS AND TO PROVIDE A ROUGHENED SURFACE TO PREVENT TOPSOIL FROM SLIDING DOWN SLOPE.

48. During cross examination, Page 239, Eby acknowledged that PPL failed to scarify compacted soils on our property. I personally witnessed PPL's failure to scarify the compacted access road shoulder, as reported in Hartman Testimony Exhibit A Paragraphs 46 and 47 and Hartman Exhibits 49 and 52.

49. 2. TOPSOIL SHOULD BE UNIFORMLY DISTRIBUTED ACROSS THE DISTURBED AREA TO A DEPTH OF 4 TO 8 INCHES (2 INCHES ON FILL OUTSLOPES). SPREADING SHOULD BE DONE IN SUCH A MANNER THAT SODDING OR SEEDING CAN PROCEED WITH A MINIMUM OF ADDITIONAL PREPARATION OR TILLAGE.

50. Hartman Exhibit A Photographs 15 and 16 and Hartman Exhibits 28, 29, 31 and 35 reflect that the crane pads have not been covered with topsoil to the depth of 4 to 8 inches as prescribed in PPL's own best practices, but instead are littered with protruding rip-rap that will permanently prevent vegetation. During cross examination at Page 239, Eby was asked whether areas to be vegetated had a minimum four inches of topsoil in place prior to seeding and mulching on the Hartman property consistent with PPL's own purported best management practice, above. Eby answered, "No". During cross examination, Page 296, Eby agreed that rip-rap was protruding above the Pole 76 and Pole 75 crane pad surfaces.

Testimony of Thomas Eby

51. Most of the Eby's Rebuttal Statement is devoted to two equally invalid arguments. One, that if the government, in this case DCCD and PA DEP, did not cite you with

any violation you must not have done anything wrong. Based on my 43 years in Federal Law Enforcement, and numerous contacts with DCCD and the PA DEP related to this matter I strenuously disagree. Second, that the DCCD and PA DEP have jurisdiction to determine whether PPL provided non-discriminatory, reasonable, safe, and reliable service. During cross examination, Page 351, Eby acknowledged that no-one at DCCD or PA-DEP told him that PPL's vegetation management practices on our property were reasonable. Eby further testified that he never observed anyone from PA-DEP visit our property.

52. Eby's Rebuttal Statement, top of Page 7, reported that Eby was responsible for PPL's environmental permitting compliance and that he managed interactions with regulatory agencies to include DCCD, PA DEP and NPS for the project. Eby accompanied PPL counsel on two site visits that included Your Honor, Judge Haas. Remarkably, however, Eby did not accompany PPL contractors Bush, Crossley, and Scott on behalf of PPL during our April 25, 2019, meeting at our property. Also on Page 7, Eby stated that the project was completed in accordance with the E & S Plans. Accordingly, it is helpful for Your Honor to consider our evidence to the contrary to evaluate Eby's credibility. Eby admitted during cross examination that he was not present at the site until December 18, 2018. Hartman Exhibit A and B Photographs 1, 5, and 7 reflect that the access road and crane pads were constructed prior to December 15, 2018.

53. Eby Rebuttal Statement Page 9 reported that PPL used the "same stone" to construct the access road on Hartman property on at least 10 miles of the other access roads constructed as part of the project and that PPL routinely used this type of stone when constructing access roads that traverse steep or mountainous properties. On cross examination, however, Pages 193 – 195, Eby could not recall or identify any other access road on the project,

to include the north and south sides of Peters Mountain, that was topped/covered with rip-rap, as depicted in Hartman Testimony Exhibit A Photographs 10 and 11, and Hartman Exhibit 36. During cross, Page 358, I asked Eby "is there any section of this project, the 3.5 mile project, other than the Hartman-Wech property access road 75 and 76 where PPL intentionally applied riprap to the road cover - top of the road?" Eby answered "No". During cross, Page 359, Eby testified that there were many sections of this project that were steeper than ours.

54. Eby's Rebuttal Statement, Page 11, was utilized to introduce the E & S Plans, Exhibit TE-1, including E & S Attachments 114 and 115. TE-1 E & S Attachments 114 and 115 indicated that the Pole 76 to Pole 75 access road would be constructed entirely on the eastern half of the ROW, the site of the original access road, as designed by Joseph Scott, a Licensed Professional Engineer. E & S Attachments 114 and 115 mistakenly listed us as the owners of the entire 100 feet ROW, including the Pole 76 and Pole 75 crane pads in their entirety. E & S Plans 114 and 115 mistakenly listed additional property to the east of the ROW as ours. This additional property was in fact owned by Douglas Wech.

55. The Eby Rebuttal statement reported that the original E & S Plan was developed during December 2017 and was revised during 2018 and 2019. Eby's Rebuttal Statement reported that during December 2019 PPL revised and filed E & S Attachments 114 and 115 to reflect the new access road constructed in part on our property. PPL waited one year to re-file Attachments 114 and 115 to accurately report the location of the access road. Remarkably, the December 2019 re-filing continued to inaccurately report the Hartman and Wech property lines as discussed above.

56. The Rebuttal Testimony of Austin Weseloah, Page 7, reported that our property line as represented in the E & S Plan was inaccurate. Weseloh's Rebuttal Statement, Lines 21 –

23, reported that our property line was at the center of the ROW. The same property line I reported to PPL contractors during April 2019, and to PPL Counsel on numerous occasions since that date. Weseloah reported that the inaccurate property line was based on publicly available tax parcel data. Weseloh reported tax parcel data is readily available and did not require the time and expense of a formal survey. Weseloh defended PPL's reliance on the tax parcel data because PPL's expenses are recovered from ratepayers. No-one represented by PPL, however, has apologized to us for removing topsoil and mountain stone from our property to aid PPL construction efforts on neighboring property, again purportedly to benefit PPL ratepayers. The primary significance to this case, however, is that the removal of topsoil from our property left us with compacted subsoil that is not sufficient to achieve and maintain vegetation with a density sufficient to resist accelerated erosion. The topsoil must be returned.

57. The Eby Rebuttal Statement, Page 6 Line 7, reported that DCCD closed the E & S Permit on June 17, 2021. The sum and substance of the Rebuttal Statement of Thomas Eby is that DCCD's closure of the Permit absolves PPL's abuse of our property and duty to restore our property. What the Rebuttal Statement fails to address is the fact that on or about October 2020, eight months prior to Permit closing, PPL, in writing, planned to kill erosion deterrent vegetation, Hartman Exhibits 5 and 34. The herbicide application that destroyed compatible and erosion deterrent vegetation on our property was completed on July 16, 2021, twenty-nine (29) days after the E & S Permit was closed. The July 16, 2021, negligent, unreasonable, unsafe, and indiscriminate herbicide application, in contradiction of PPL's own vegetation management specifications, Hartman Exhibits 7 and 7A and PPL Electric Exhibit MS - 2, indiscriminately destroyed the majority of compatible and erosion deterrent vegetation that escaped PPL's over-zealous December 2018 construction activity, particularly the spared vegetation above Pole 75

and below Pole 76, Hartman Exhibit A Photographs 41 - 45, 49, 50, 53, 54, 56, 57, 61, 66, 70, 73, 74, 76, 77,78 and Hartman Exhibits 28, 29, 30, 31, and 52, and the already sparse and vulnerable grasses that existed on the Pole 75 Crane Pad, Hartman Exhibit A Photographs 46, 47, 66, 79 and 80 and Hartman Exhibits 28, 29, 31, and 55.

58. The Rebuttal Statement of Thomas Eby included PPL Exhibit TE – 5, described as two June 19, 2022, aerial photograph taken over the portion of the Project traversing the Hartman property. We submit that it is remarkable that PPL, with all its resources, including drones, employees, and contractors, each armed with a cell phone, failed to present a single photograph depicting the status of our property during the pre-construction, construction, restoration, and post restoration stages from November 2018 through May 2022. During cross examination, Eby, Page 255, could not confirm whether the green areas depicted on TE – 5, the drone photograph, were grass or some other form of vegetation. Hartman Exhibits 28 and 29, a series of photographs taken by me on June 6, 2022, and June 29, 2022, depict green invasive noxious weeds and destroyed vegetation that had not, and will never, rebound from the July 2021 herbicide application. Rebuttal Statement of Matthew Stutzman, Page 17 Line 10 stated the following: "As you can see in the aerial photographs dated June 19, 2022, set forth in PPL Electric Exhibit TE – 5 attached to Mr. Eby's rebuttal testimony, the Company's right-of-way on Mr. Hartman's property is substantially regrown and green." Stutzman's misrepresentation to the Commission is more remarkable given the fact that he visited the property, himself, on June 19, 2022, and presented photographs MS – 4, MS – 9, and MS – 10. What is the credibility and reliability of a "Forester" that described an area overrun by invasive noxious weeds as substantially regrown and green, and presented photographs that misrepresented the current condition of our property?

William Salisbury

59. Salisbury, like Eby, could not recall or identify any location on the north or south side of Peters Mountain where PPL placed rip-rap on the top of an access road, Salisbury cross examination Page 102. Salisbury failed to describe with any specificity why rip-rap was a necessary component for the access road on our property. And he certainly could not explain the necessity for the rip-rap that was carelessly scattered across our property off the access road, Hartman Exhibit A Paragraph 72 Photograph 31.

60. The Salisbury Rebuttal Statement, Lines 18 – 21 of Page 13, include the following manufactured excuse for the PPL litter discarded on our property. Salisbury reported, "additionally, many hikers and locals frequent this spot on the Appalachian Trail, as I saw them accessing the property during the course of the Project. Any refuse was likely deposited by other persons accessing the property, not PPL Electric's employees or contractors." Your Honor, during the 25 years we have owned this property we have never seen an Appalachian Trail hiker descend 300 yards down the mountain to access our property. I doubt that Mr. Salisbury did. Mr. Salisbury, cross examination Page 157, abandoned the manufactured "hiker" defense when I confronted him with Hartman Exhibit 26, a photograph of admitted construction material packaging that littered our property. The Appalachian Trail hiker story is another example of PPL manufactured testimony.

61. The Rebuttal Statement of William Salisbury referenced professional designations which include the word "Safety". Salisbury's rebuttal statement and testimony, however, are devoid of any documented or corroborative "safety" standard for PPL's decision to destroy vegetation, remove topsoil, and compact subsoil incident to the construction of a new Pole 75 access road on our property. The existing Pole 75 access road on Wech property satisfied PPL's

access requirements for 70 years. Salisbury, on cross examination, testified that the E & S Plans, referred to as PPL best management practices, were ambiguous, and added, "as long as we stayed in the LOD, (Limit of Disturbance) we were good". It is undisputed, however, that PPL did not limit its excavation activity to the LOD. Eby, Page 268, did not find the E & S Plan to be ambiguous.

62. The Salisbury Rebuttal Statement, Page 6, cites a 27-ton concrete truck, but no testimony or underlying conditions, weather, or otherwise, to indicate that a 27-ton concrete truck could not navigate the existing Pole 75 access road deemed appropriate by a Licensed Professional Engineer. Salisbury did not explain the necessity for utilizing a 27-ton concrete truck. Did PPL destroy our vegetation, excavate, and remove our topsoil, and compact subsoil to save ratepayers the expense of utilizing two (2) 13.5-ton concrete trucks? Salisbury Rebuttal Statement, Page 14, introduced PPL's necessity to construct a "switchback". It is common knowledge that most heavy motorized equipment accidents occur on winding roads. It stands to reason that a 27-ton concrete truck is much more likely to topple-over on a "switchback" than on a straight access road like the original Pole 75 access road on the Wech property, PPL Exhibit TE – 4, Attachment 115. Equally persuasive is the fact that no other "switchbacks" were constructed for the project. During their respective Cross Examinations, Eby and Salisbury, Salisbury Page 111, could not identify any other "switchbacks" constructed on the north or south sides of Peters Mountain or Stoney Mountain across Clarks Valley, Hartman Exhibit 53. Please consider Eby's cross examination testimony, Page 359, that there were many steeper slopes on the Project than the slopes found on the Hartman property.

63. Finally, Salisbury, on cross examination, could not identify the individual, employee, or contractor, that made the decision to depart from PPL's E & S Plans and best

management practices to construct a new unplanned access road on Hartman property. He could not recall the credentials of said individual and could not recall with any specificity the reason given, if any, for the departure from PPL best management practices.

64. More significant than PPL's undocumented and unsupported basis for construction of a new unplanned access road on our property was the manner of construction. Construction that failed to follow PPL's best practices. It is undisputed that the new Pole 75 access road constructed on our property was unreasonably wide, substantially wider than the standard 15 feet width, Eby cross examination Page 270. The new access road construction included the unreasonable destruction of erosion deterrent native vegetation, and compaction of an unreasonably wide swath of soil. Vegetation that was never replaced or restored, and compacted soil that was not scarified before or after the indefensible caw back procedure, Eby cross examination Pages 239 and 285. PPL, however, did not stop at constructing an unreasonably wide access road. PPL, again in contradiction to PPL's best management practices, excavated additional property to the west of the access road, Hartman Exhibit A Paragraphs 9, 12, and 67 and Photographs 3, 5, 28, 29 and 30, and Hartman Exhibit 47.

65. Salisbury Rebuttal Statement, Page 9, corroborated Eby's testimony that PPL admittedly excavated two "small", their word, areas outside of the ROW. Undisputed Hartman Exhibit A Paragraph 67, however, documented that PPL excavated a 120-feet and 117-feet swath of vegetation and topsoil in the vicinity of the Pole 75 and Pole 76 crane pads, respectively. An area that we do not agree is "small" when one considers the excessively large Pole 75 and Pole 76 crane pads. Please note that PPL did not construct excessively large, or even noticeable, crane pads on NPS lands or private property on the north and south sides of Peters Mountain or the north side of Stoney Mountain, Hartman Exhibits 53 and 56. The excessively large Pole 75

and Pole 76 crane pads were built with topsoil that should have been returned to our property to establish vegetation with a density sufficient to resist accelerated erosion.

66. The most troubling aspect of the Salisbury testimony, however, appears on Page 7 of the Salisbury Rebuttal Statement. Salisbury purportedly answered a question posed by PPL counsel beginning on line six (6) in response to our allegation that PPL excavated and removed topsoil and mountain stone from the Hartman property to construct the Pole 75 crane pad situated primarily on Wech property. "Salisbury" answered, "I disagree with Mr. Hartman's conclusions. As a courtesy to Mr. Hartman, PPL Electric marked the property lines for Mr. Hartman's property and the Wech property within the transmission line right-of-way, and PPL required its contractors not to transfer "topsoil," "mountain stone," or other materials between the two properties." The statement is blatantly false, and its falsity is well known to Thomas Eby and PPL counsel that reviewed the E & S Plans and visited our property in my presence. At the time of construction, December 2018, through April 2019 when I advised PPL otherwise, PPL mistakenly believed that we owned the entire ROW as represented by PPL in the E& S Plans, particularly Attachments 114 and 115, PPL Exhibit TE -1. There is no reason to believe that Salisbury knew the actual Hartman/Wech property line when the misappropriation of Hartman topsoil and mountain stone occurred. Furthermore, there is doubt that Salisbury was even present given Salisbury's inability to identify a single witness or participant and his admitted contemporaneous assignment to multiple jobs, Page 94.

67. Your Honor's attention is invited to the Hartman Exhibit 19 photograph which depicts the real-time excavation of the Hartman/Wech logging road and the construction of the Pole 76 crane pad. PPL did not lightly excavate the formerly sod covered logging road. PPL excavated an approximate 8 feet deep interruption of the mountain slope and created high walls

(cliffs) to the left (north) and ahead (east) on the edge of the ROW. The displaced soil and mountain stone were used to build the Pole 76 crane pad situated primarily on Wech property. The logging road which formerly facilitated motorized traffic between our property and the Wech property was destroyed and never restored. Clearly, PPL did not "mark" the Hartman/Wech border as represented, and there is no evidence that PPL segregated Hartman and Wech topsoil and mountain stone. Furthermore, the segregation of our and Wech soil as represented would have been virtually impossible given the deep excavation.

68. I am the only witness that documented the excavation, Hartman Exhibit A Paragraphs 7, 8, 9, and 10, Photographs 1, 2, and 3, and Hartman Exhibits 19 and 47 which document and depict the real-time excavation of Hartman topsoil and mountain stone, including the Hartman/Wech logging road, to construct the Pole 75 and Pole 76 crane pads. I am the only reliable witness that described the area pre-construction and during construction. In the Salisbury Rebuttal Statement Page 19 Line 1, PPL facetiously described our sod covered logging road that I personally seeded and maintained as a "dirt path".

69. On December 8, 2018, I noticed that our iconic landscape quality boulder that was originally situated on the left side of the ROW above the logging road and original Pole 76 and Pole 76 access road was no longer on our property. PPL either removed the boulder from the mountain or buried it under the Pole 76 crane pad on Wech property. PPL later unearthed another boulder, but never recovered and restored ours, Hartman Exhibit A Paragraph 7 and Hartman Exhibit 20.

70. The falsity of Salisbury's representation, whether knowing or from a faulty memory, can be gleaned from the Salisbury cross examination, Page 128. Question: "At the time that you were on the property doing the construction, did you believe that we - the Hartman's

owned the entire wide of right-of-way in the limit of destruction?" Salisbury's Answer: I'll be honest, your honor, you know, I don't often consider the names, sir, anything of the people that, you know, own these property lines, that is something that's more of a right-of-way issue. You know, in construction we stay focused on safety, reliability and falling in line with what we need to do as far as the environmental controls like the limited disturbance."

71. Salisbury cross examination, Page 94, Question: "Mr. Salisbury, were you present when the road was constructed? Answer: I was present at certain times. I was running a lot of jobs at the time throughout the entire project so I was not always present every minute of the workday. But I was there at your property when the road was being built and throughout that project."

72. On Page 114, Salisbury doubled down with an additional false statement: "And as I recall, sir, we came to your property and tried to put down topsoil but appeared not enough to appease the needs that you had. I mean, that was an additional cost, you know, that was incurred on the project to try to, you know, help remedy with the landowner." On Page 116, PPL counsel stipulated that no topsoil was ever delivered to the Hartman property. Salisbury misremembered.

73. Finally, Your Honor, since December 2018, I repeatedly confronted PPL employees, including Thomas Eby, PPL Contractors, and PPL counsel, orally and in writing, with my finding that PPL excavated vegetation, topsoil, and mountain stone from our property, and transferred same to Wech property to construct the Pole 75 and Pole 76 crane pads. I included the allegation in our original formal complaint, March 2019, and reported same to ALJ Calvelli, the PUC Mediator and Your Honor in the presence of Thomas Eby, Michael Shafer, Kimberly Krupka and Devin Ryan. I included the topic in Discovery Requests and Interrogatories. At no time and in no instance did PPL employees, contractors or counsel allude

to or even suggest the "story" presented by Salisbury in the Salisbury Rebuttal Statement. We'll give Salisbury the benefit of the doubt, for now, that the false statements were the product of a faulty recollection. Why hasn't PPL counsel withdrawn the statement, or at least stipulated to its inaccuracy?

Pole 75 and Pole 76 Crane Pads

74. From the outset of this matter, we have reported that the crane pads constructed on our and Wech property are exceedingly large, particularly when compared to the Pole 74 and Pole 73 crane pads on NPS Lands. After I submitted my testimony, Hartman Exhibit A, I had an opportunity to hike private property on the north side of Peters Mountain. Incident to that hike I took photographs which were admitted as Hartman Exhibits 53 and 56. I observed, and the photographs corroborate, that Pole 75 and Pole 76 crane pads are exceedingly larger than all other public and private property crane pads constructed on Peters and Stoney Mountains. The other private property crane pads are in fact barely noticeable. There are no unnatural high walls like those excavated for the Pole 75 and Pole 76 crane pads depicted in Hartman Testimony Exhibit A Paragraphs 7 and 8 and Photographs 1 and 2. There was no rip-rap present on the north side of Peters Mountain.

75. Your attention is respectfully invited to Hartman Exhibit 54, an April 3, 2019, email I sent to PPL contractors Jonathan Scott and Kimberly Nettles, and PPL ROW Specialist employee Jeffry Eberwein. I copied then PPL counsel Kimberly Krupka. I placed PPL on notice, again, that virtually all our topsoil was removed by PPL to construct the crane pads. I also placed PPL on notice, again, that PPL failed to trim the size of the crane pads post-construction and return our topsoil as promised. The exceedingly large and unnatural slope of the Pole 75 and Pole 76 crane pads represent living proof that our topsoil has not been returned

and our property has not been restored. All other neighboring private property on Peters and Stoney Mountain has been restored, and rip rap, had it ever existed, has been removed. PPL's restoration failure on our property represents discriminatory, unreasonable, unsafe, and unreliable service.

Austin Weseloh

76. Austin Weseloh, PPL's Real Estate/ROW witness never visited the Hartman property. Weseloh testified that PPL made a mistake when it drew the Hartman property line on the construction project and E & S Plans. We argue that PPL's mistake was reckless and careless, and resulted in the destruction of vegetation and removal of topsoil from our property that contributed to PPL's inability to achieve and maintain vegetation with a density sufficient to resist accelerated erosion. Please note that at the time PPL obliterated the sod covered logging road and constructed an impassable high wall on the east side of the ROW, PPL, according to their inaccurate drawings intended to destroy our only motorized access to what PPL believed was our property east of the ROW. PPL had repeatedly demonstrated that it had no remorse for abusing our property in their purported zeal to benefit ratepayers. I argue, however, that the motive was corporate greed, or more palpable, the zeal to complete the project on-time and under budget.

77. Weseloh testified in his Rebuttal Statement that the property line mistake was caused by PPL's reliance on tax parcel data. Weseloh proposed that PPL was entitled to rely on tax parcel data because it saved time and PPL resources, Weseloh Rebuttal Statement, Page 12. PPL could have easily avoided the mistake, however, through reasonable communications with landowners as referenced in its own best practices, PPL Electric Exhibit TE – 1, Attachment 002, below,

4. AT LEAST 7 DAYS PRIOR TO STARTING ANY EARTH DISTURBANCE ACTIVITIES, INCLUDING, BUT NOT LIMITED TO, CLEARING AND GRUBBING, THE OWNER AND/OR OPERATOR SHALL INVITE ALL CONTRACTORS, THE LANDOWNER, APPROPRIATE MUNICIPAL OFFICIALS, THE E&S PLAN PREPARER, THE RESTORATION PLAN PREPARER, THE LICENSED PROFESSIONAL RESPONSIBLE FOR OVERSIGHT OF CRITICAL STAGES OF IMPLEMENTATION OF THE RESTORATION PLAN, AND A REPRESENTATIVE FROM THE LOCAL CONSERVATION DISTRICT TO AN ON-SITE PRECONSTRUCTION MEETING.

78. We were never invited to any pre-construction, construction, or restoration meeting with PPL or PPL contractors. Weseloh testified that our ROW agreement was identical to the ROW agreements of our Linden and Primrose Lane neighbors. Accordingly, PPL vegetation management practices on each of our properties, to include the NPS, should be identical.

Matthew Stutzman

79. During my 43-year law enforcement career devoted primarily to the investigation of fraud, waste, and abuse I encountered hundreds of witnesses employed by the subject of my investigation. Most were loyal and reluctant to concede wrongdoing, particularly in areas open for interpretation. Stutzman, however, has taken partisanship to the highest level, and refused to acknowledge the simplest of truths. For example, Stutzman on cross examination, Page 602, argued that the herbicides applied to destroy vegetation on our property were not harmful to humans.

80. Stutzman mis-identified a huckleberry bush as mountain laurel, cross examination Page 463 and Hartman Exhibit B Photograph 40, mis-identified destroyed blackberry stems as a poplar sapling, cross examination Page 566 and Exhibit B Photograph 56, and mis-identified destroyed blackberry stems as oak saplings, cross examination Page 472 and Hartman Exhibit B Photograph, 50, and mis-diagnosed destroyed Pole 75 crane pad grasses as "dormant" Page 468 and Hartman Exhibit B Photographs 45 – 47 and Hartman Exhibit 55. Please trust that as an

individual that was raised on a farm, worked on a farm, and managed farm and forest property for 60 years, I can identify mountain laurel, huckleberry bushes, blackberry stems, birch, oak maple, and poplar saplings. Particularly vegetation that I personally took photographs of and examined on our own property. I know when the vegetation is alive and growing, alive and dormant, and dead. Stutzman, a purported Forester, has done nothing but promote and defend deforestation in a failed effort to justify an unannounced, unwarranted, discriminatory, and unsafe herbicide application. Unlike Stutzman and PPL, I presented the photographs to corroborate my testimony.

81. Stutzman testified in sum and substance that PPL's vegetation management/herbicide applicator could not have sprayed and destroyed grasses on crane pad 75 because "our" specifications doesn't allow it, "we're not a turf grass treatment company", cross examination Page 469. Similarly, Stutzman, during cross examination, Page 531, testified that the equipment he claimed was used on our property was based on his knowledge of the right equipment to be used for the high-volume foliar application.

82. The Rebuttal Statement of Michael Stutzman and Stutzman's purported investigation was crafted to cover-up PPL, Penn Line and ECI's discriminatory, unreasonable, unsafe, and unreliable vegetation management activity, not to enlighten the PUC. Stutzman testified that he failed to memorialize any aspect of his original winter 2021/2022 field visit and investigation. No notes, no memoranda, no reports and remarkably no photographs of the purported pre-existing incompatible vegetation above Pole 75. No photographs of the alleged "dormant" grasses on the Pole 75 crane pad, and the unmistakable evidence that the herbicide was applied fire hose style.

83. Stutzman testified on cross examination that he failed to identify the individual or individuals that completed the herbicide application, and failed to confirm whether the applicator was licensed to perform the task. Stutzman failed to interview the applicator and failed to identify the spray equipment or confirm the method of application. Stutzman testified on cross examination that he failed to ask Penn Line and ECI representatives, William Ruch and Drew Gradwell, respectively, whether they afforded us 24-hour notice of the herbicide application. Stutzman and PPL doubled down on the cover-up when Stutzman presented a redacted business record, MS – 5, without disclosing the redaction. The redacted exhibit concealed the fact that PPL's business records mistakenly identified our neighbor, Michael Rosewarne, and not us, as the party to be notified prior to the herbicide application. Stutzman and PPL concealed from the PUC that we notified PPL counsel in advance, October 2020, that we would control incompatible vegetation and objected to any herbicide application on our property. PPL, MS – 5, concealed the fact that PPL planned to hand cut comparable Rosewarne vegetation at the same time it applied herbicide to ours. PPL, MS – 5, concealed that Wech property adjacent to ours above Pole 75 was scheduled for herbicide application, but the application was not completed.

84. Stutzman and PPL purportedly failed to take any photographs until on or about June 19, 2022. The photographs were taken and presented in a manner that concealed the proliferation of invasive noxious weeds on our property, PPL Exhibits TE – 5 and MS – 4. Evidence of PPL and Stutzman bad faith is the fact that MS – 4 depicted sprayed incompatible vegetation on Wech property below Pole 76 without identifying same as Wech property. PPL failed to present a single photograph that depicted incompatible vegetation on our property prior to the herbicide application. Stutzman and PPL failed to present a single photograph that depicted the return of any meaningful vegetation to our property post application. Stutzman

testified 14 months after the July 2021 application, yet failed to identify a single fern, blackberry or huckleberry that regenerated in the area sprayed. Likewise, Stutzman failed to present any evidence that the Pole 75 crane pad grasses he testified were dormant during August and September 2021, had regenerated during the spring or summer of 2022. With good reason, they had not, Hartman Exhibits 28, 29 and 31.

85. The Rebuttal Statement of Matthew Stutzman, Page 10, includes the question, "Are herbicides safe to use?" Stutzman answered, "Yes, when they are used in accordance with the specifications set forth in their labels...." Stutzman and PPL have no idea whether the herbicide application on our property was applied in accordance with the labels, PPL Exhibit MS -11. Neither Stutzman nor anyone at PPL either witnessed the herbicide application, confirmed the applicator's credentials, or spoke with the applicator. At Line 22, Stutzman misled the PUC when he reported that he "interviewed the contractor who performed the work (i.e., Penn Line)." You can't interview a corporation; therefore, we were falsely led to believe that Stutzman interviewed the applicator. He had not.

86. I testified that PPL, the PPL contractor representatives, and herbicide applicator failed to notify us of the imminent and actual herbicide application on our property. Accordingly, PPL failed to heed the most basic and important label warning, this product is hazardous to humans. Particularly a herbicide that was applied to edible fruit, the blackberries above Pole 75, Hartman Exhibit A Photograph 49. The herbicide labels dictate that the individuals that apply the product must wear protective clothing. The Polaris label, page 3, prohibited entry into the treated area by agricultural workers for 48 hours. Remarkably Stutzman and PPL counsel suggested that this safety measure did not apply to me or my family. Your Honor, this is common sense. No individual without warning and protective gear should be

permitted to access vegetation treated with harmful chemicals within 48 hours, particularly vegetation that contains edible fruit. The PPL herbicide application was fundamentally unsafe.

87. The Rebuttal Statement of Matthew Stutzman, Page 12, Vegetation Management Execution, is now known to be third party hearsay, at best. In addition to not being present for the "Execution", Stutzman failed to confirm any of its detail with the applicator. Stutzman failed to properly identify or confirm the equipment used or the application method. Stutzman's Rebuttal Statement and cross examination was simply based on how the "Execution" should have been completed, not how it was completed.

88. Stutzman, during cross examination, held onto his "should have been" beliefs despite contradictory photographic evidence. Hartman Exhibit A Photograph 114 Photographs 56 and 57 describe and depict a swath of destroyed grasses inconsistent with the hand-held "wand" application method reported by Stutzman. Instead, the path of destruction depicts a fire hose application from the Pole 76 access road below the crane pad. Why did the applicator spray a small group of blackberry stems on the edge of the Pole 76 crane pad? Likely because he didn't walk close enough to properly identify the vegetation. Hartman Exhibit A Paragraphs 104, 108, 118, and 120 and Photographs 45, 50, 66, and 70 reflect that the spray application was applied in a blanketed and indiscriminate (fire hose) manner to kill all vegetation above the Pole 75 crane pad on our property. There is no doubt that a trained applicator carrying a wand could have avoided killing the blackberry and huckleberry bushes depicted in Hartman Exhibit A Photographs 48, 51, 52 and 55.

89. PPL's Specification for Transmission Vegetation Management, PPL Exhibit MS – 2, particularly Section 6.3.2 Selective Clearing states, "All compatible species shall be preserved to the greatest extent possible", and 6.3.3 Restricted Clearing states, "All compatible species

shall be preserved, wherever possible". The unidentified applicator, who may or may not have been registered or licensed to apply herbicides, certainly did not follow PPL Specifications. Stutzman's investigation and testimony, however, was not designed to determine whether the contractor complied with PPL Vegetation Management Specifications. Stutzman's investigation and testimony was crafted to justify PPL's actions in the face of overwhelming evidence that the actions were unjustified, discriminatory, unreasonable, unsafe, and unreliable.

90. The Rebuttal Statement of Matthew Stutzman, Page 16 Line 21 falsely reported that the HV5 mixture was not designed to kill the root systems of native grasses. The herbicide labels, MS – 11, Nufarm Polaris page 4, however, reported the opposite. "Herbicidal Activity: This product will control most annual and perennial grasses and broadleaf weeds..." and "In perennials, the herbicide is translocated into, and kills, underground or submerged storage organs, which prevents regrowth." The Excort XP label reported the following: "The active ingredient in Excort XP is metsulfuron – methyl, which works to inhibit a plant enzyme involved in the synthesis of key amino acids used by plants for growth and development. Once susceptible plants are treated, growth stops in the growing points of both roots and shoots, leading to plant death." Stutzman cross examination page 551, Question: "Simply, can you answer the question? Do the labels --- is it correct that two of the three herbicides are reported as destructive to grasses and particularly unestablished grasses of less than two years old, what the labels say?" Stutzman answer, "Yes, I can confirm that that is a statement in the label. I would agree." Hartman Exhibit A Photographs 45 - 47 and Hartman Exhibits 28, 29, 31 and 55 demonstrate that the herbicides destroyed grasses, roots and all, on the Pole 75 crane pad. Otherwise, the grasses would have returned during the autumn of 2021 or the spring of 2022.

The same is true for our blackberries, huckleberries, and ferns and other native compatible vegetation. They're dead, and they're not coming back.

91. The Rebuttal Statement of Stutzman Page 17 Line 10 included the following misrepresentation concerning the vegetation on our property: "As you can see in the aerial photographs dated June 19, 2022, set forth in PPL Electric Exhibit TE – 5 attached to Mr. Eby's rebuttal testimony, the Company's right-of-way on Mr. Hartman's property is substantially regrown and green." Stutzman repeated the false statement on Page 19 in more glowing terms, "As one can see, the transmission line right-of-way is relatively green, and the vegetation appears to be healthy and growing. I believe this constitutes the area "bouncing back" from the herbicide application."

92. Both Eby, Page 255, and Stutzman, Page 553, testified that one could not confirm the nature of the green vegetation depicted in TE – 5. Hartman Exhibits 28, 29, 30 and 31, photographs taken by me during the period June 6, 2022, through July 25, 2022, after submission of Hartman Testimony Exhibit A during May 2022, depicted the proliferation of mile a minute, an invasive noxious weed on our property. The Pennsylvania Department of Transportation, in a publication entitled Invasive Species Best Management Practices, reported that "Invasive species represent one of the most significant ecological threats of the 21st Century". Hartman Exhibit 33, a paper written by J. Mehrhoff of the University of Connecticut, described the mile a minute weed as a vigorous, barbed vine that smothers other herbaceous plants, shrubs and even trees by growing over them. Hartman Exhibit 31 depicts the proliferation of mile a minute over vegetation destroyed by the July 2021 herbicide application, and the advancement of the weed over beneficial erosion deterrent vegetation. In Exhibit 33, Mehrhoff, accurately reported that "Areas that are regularly disturbed, such as powerline and utility right-of-ways where openings

are created through regular herbicide use are prime locations for mile-a-minute weed establishment."

93. During cross examination of Thomas Eby, Page 228, I asked Eby, "And to clarify, Mr. Eby, you didn't see it (mile-a-minute) on the Hartman property until after the herbicide application of July of 2021. Correct?", Answer: "I'm trying to recall when, specifically. So no, I didn't see it specifically during construction or restoration, no." During cross examination of Matthew Stutzman, Page 636, Judge Haas asked, "Let me ask you this, Mr. Stutzman, could clearing out everything else in a section of ground result in mile-a-minute being able to grow a lot faster than it otherwise would've been able to?" Answer, "Yes, it could." The proliferation of mile-a-minute endangers our erosion deterrent vegetation, on and off the ROW, and the ability to establish vegetation with a density sufficient to resist accelerated erosion in contradiction of PPL's own best practices.

94. As discussed herein, Stutzman never documented the purported incompatible vegetation situated on our property at the time of the July 2021 herbicide application. During the Stutzman cross examination, Page 585, I asked, "The saplings above Pole 75 were approximately how tall, the birch saplings you say you found?", Answer, "They varied from one and a half to roughly four feet." Stutzman could not estimate how many years it would take for those saplings to threaten PPL equipment. Hartman Exhibit A, Paragraphs 117 – 121 and Photographs 60 - 71 describe and depict birch saplings on NPS and private Wech property, many of which greatly exceeded four feet, that weren't cut or treated during July 2021. During cross examination Salisbury, Page 590, testified that the NPS and Wech private property incompatible vegetation was not cut or sprayed during 2022. Your Honor, there was apparently no need or no urgency to

control incompatible vegetation on neighboring public and private property. Why did PPL spray compatible vegetation on our property?

95. It is undisputed that I volunteered to control incompatible brush on our property and did so during October 2020. I would have done so indefinitely. PPL and Stutzman, Page 527, have not disputed my willingness and ability to control incompatible vegetation on our property.

96. There is overwhelming evidence that PPL's July 2021 vegetation management activity, particularly the herbicide application, was discriminatory, unreasonable, unsafe, and unreliable. PPL presented no credible evidence that our pre-existing vegetation posed any danger to PPL equipment, assets, and distribution capability.

Proposed Order

We respectfully request that the PUC Order PPL to:

a. Return topsoil removed from our property to construct the Pole 75 and Pole 76 crane pads.

b. Replace native vegetation (huckleberry, blackberry, ferns, honeysuckle, mountain laurel, a Norway Spruce and white oak) destroyed by excavation activity beyond the prescribed excavation activity detailed in the original PPL E & S Plans Attachments 114 and 115, to include vegetation destroyed by excavation activity off the ROW.

c. Remove rip-rap and revegetate the new Pole 75 access road, and re-establish the access road as depicted on the original PPL E & S Plans Attachments 114 and 115.

d. Remove rip-rap dumped on top of the Pole 76 access road during the April 2020 claw-back procedure, and remove stone that has washed off the road as depicted in Hartman Exhibit 52.

e. Construct a swale or water bar that prevents higher elevation neighboring property stormwater runoff from entering our property off the ROW as depicted in Hartman Testimony Exhibit A Paragraph 57, Photographs 19, 20, and 21 and Hartman Exhibit 52.

f. Scarify the existing Pole 76 access road shoulder and add topsoil to return the shoulder to grade.

g. Destroy the mile-a-minute that has overtaken our property above Pole 75 following the July 2021 herbicide application.

h. Replace native vegetation (huckleberry, blackberry, and ferns) above Pole 75 and below Pole 76, and re-seed Pole 75 and Pole 76 grasses that were destroyed by the July 2021 herbicide application.

i. Remove the rip-rap that is unsafe to walk or ride on, litters our property, and smothers and prevents vegetation necessary to protect our property from accelerated erosion.

j. All disturbed areas must be restored consistent with PPL's own Restoration Standards as detailed in the E & S Plans, below:

AREAS WHICH ARE TO BE TOPSOILED SHALL BE SCARIFIED TO A MINIMUM DEPTH OF 3 TO 5 INCHES – 6 TO 12 INCHES ON COMPACTED SOILS – PRIOR TO PLACEMENT OF TOPSOIL. AREAS TO BE VEGETATED SHALL HAVE A MINIMUM 4 INCHES OF TOPSOIL IN PLACE PRIOR TO SEEDING AND MULCHING. FILL OUTSLOPES SHALL HAVE A MINIMUM OF 2 INCHES OF TOPSOIL.

C-2019-3008272 - MICHAEL AND SHARON HARTMAN v. PPL ELECTRIC UTILITIES CORPORATION
COMPLAINANT

MICHAEL HARTMAN
SHARON HARTMAN
1650 PRIMROSE LANE
DAUPHIN PA 17018
(717) 315-9473

angelgah@comcast.net

PENNSYLVANIA PUBLIC UTILITY COMMISSION

HONORABLE STEVEN K. HAAS

ADMINISTRATIVE LAW JUDGE

PENNSYVANIA PUBLIC UTILITY COMMISSION

skhaas@pa.gov

SECRETARY'S BUREAU

PENNSYLVANIA PUBLIC UTILITY COMMISSION

COMMONWEALTH KEYSTONE BUILDING

2ND FLOOR, ROOM N201

400 NORTH STREET

HARRISBURG, PA 17120

RESPONDENT PPL
DEVIN T RYAN ESQUIRE
NICHOLAS A STOBBE ESQUIRE
POST AND SCHELL
17 NORTH 2ND STREET
12TH FLOOR
HARRISBURG PA 17101-1601
717.612.6052
717.612.6033
dryan@postschell.com
nstobbe@postschell.com

FSC MIX Paper FSC® C114918

PAPER POUCH RecyclePA.info

PRESS FI...

Retail

UNITED STATES POSTAL SERVICE®

17120

RDC 07

...ME 1-Day
NORTH MYRTLE BEACH
SC 29582
MAR 08, 2023
$28.75
R2304M111588-02

UNITED STATES POSTAL SERVICE®

PRIORITY MAIL EXPRESS®

SCANNED

EI 634 317 522 US

CUSTOMER USE ONLY

FROM: (PLEASE PRINT) PHONE (717) 315-9473

Michael Hartman
1650 Primrose Lane
Dauphin, PA 17018

DELIVERY OPTIONS (Customer Use Only)

☐ **SIGNATURE REQUIRED** *Note:* The mailer must check the "Signature Required" box if the mailer: 1) Requires the addressee's signature; OR 2) Purchases additional insurance; OR 3) Purchases COD service; OR 4) Purchases Return Receipt service. If the box is not checked, the Postal Service will leave the item in the addressee's mail receptacle or other secure location without attempting to obtain the addressee's signature on delivery.

Delivery Options

☐ No Saturday Delivery (delivered next business day)

☐ Sunday/Holiday Delivery Required (additional fee, where available*)
"Refer to USPS.com® or local Post Office™ for availability.

TO: (PLEASE PRINT) PHONE (717) 787-1399

PA PUC 400 NORTH ST
Commonwealth Keystone Bldg
2nd Floor, Room - N201
Harrisburg, PA 17120

ZIP + 4® (U.S. ADDRESSES ONLY)

17120 - ____

- For pickup or USPS Tracking™, visit USPS.com or call 800-222-1811.
- $100.00 insurance included.

PEEL FROM THIS CORNER

PAYMENT BY ACCOUNT (if applicable)

USPS® Corporate Acct. No.	Federal Agency Acct. No. or Postal Service™ Acct. No.

RECEIVED
MAR 10 2023
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

ORIGIN (POSTAL SERVICE USE ONLY)

☐ 1-Day ☐ 2-Day ☑ Military

PO ZIP Code	Scheduled Delivery Date (MM/DD/YY)	$ 28.75
29582	3/9/23	
Date Accepted (MM/DD/YY)	Scheduled Delivery Time	Insurance Fee / COD Fee
3/8/23	☑ 6:00 PM	$ / $
Time Accepted		Return Receipt Fee / Live Animal Transportation Fee
8:32 ☐ AM ☑ PM		$ / $
Special Handling/Fragile	Sunday/Holiday Premium Fee	Total Postage & Fees
$	$	$ 28.75
Weight ☐ Flat Rate	Acceptance Employee Initials	
lbs. ozs.	MJB	

DELIVERY (POSTAL SERVICE USE ONLY)

Delivery Attempt (MM/DD/YY)	Time	Employee Signature
	☐ AM ☐ PM	
Delivery Attempt (MM/DD/YY)	Time	Employee Signature
	☐ AM ☐ PM	

LABEL 11-B, MAY 2021 PSN 7690-02-000-9996