

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

Lindi Turgeon

Public Meeting May 9, 2024

3026390-OSA

v.

Docket No. C-2021-3026390

Verizon Pennsylvania LLC

Verizon North LLC

STATEMENT OF COMMISSIONER JOHN F. COLEMAN, JR.

Before the Pennsylvania Public Utility Commission (Commission) are the Exceptions of Verizon North, LLC to the Initial Decision (ID) issued on November 29, 2023, in the above-captioned Formal Complaint proceeding. The ID sustains the Complaint and orders Verizon North to remove its facilities from the Complainant's property. No replies to the Exceptions were filed.

I do not support the Motion because Verizon North's Exceptions should be granted in full, and the Complaint should be dismissed with prejudice. According to Verizon North in its Exceptions, the ID exceeded the Commission's jurisdiction by adjudicating a property rights controversy that is exclusively reserved for the jurisdiction of the courts. I agree.

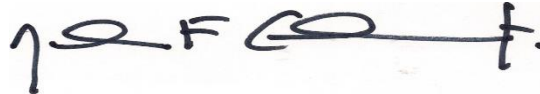
The Commission does not have jurisdiction to decide a substantive property dispute, which includes deciding whether Verizon North's facilities are situated within a valid easement on the Complainant's property.¹ To that end, the ID finds the language in the Complainant's deed does not support Verizon North has an easement to place its facilities on the property, and the Motion notes that Verizon North did not provide proof of a written easement. However, this finding that a valid easement does not exist is a substantive determination of the parties' property rights that is outside our jurisdiction.

Also, I do not agree with the Motion that there is a potential service issue that remains here. The Motion alleges that a finding of a violation of Section 1501 of the Public Utility Code (Code), 66 Pa. C.S. § 1501, is premature due to the outstanding property dispute, which presumably is whether Verizon North has a prescriptive easement to place its facilities on the Complainant's property. The Motion continues that if the Complainant goes to court to resolve

¹ It is well-settled that the Commission lacks jurisdiction over substantive property disputes, including questions of trespass, the scope and validity of a utility's easement, or determining whether a utility's facilities are situated within a valid easement. *Petition of Librandi Machine Shop, Inc. For Declaratory Order*, P-2018-3000047 (Opinion and Order entered February 25, 2021), citing *Fairview Water Co. v. Pa. PUC*, 509 Pa. 384, 502 A.2d 162 (1985); *Fiorillo v. PECO Energy Company*, Docket No. C-00971088 (Order entered September 14, 1999); *Lou Amati/Amati Service Station v. West Penn Power Co.*, Docket No. C-00945872 (Order entered October 24, 1996); *Edward Boczar v. PPL Electric Utilities Corporation*, Docket No. C-20016332 (Order entered February 10, 2003); *Messina v. Bell Atlantic-Pa.*, Docket No. C-00968225 (Order entered September 23, 1998). The Commission also lacks jurisdiction to determine whether a prescriptive easement exists. *Nigro v. PPL Electric Utilities Corp.*, C-00003242 (Opinion and Order entered October 26, 2004).

the outstanding property dispute and is successful, she can return to the Commission and continue her Section 1501 allegations. In my view, however, the prescriptive easement issue is a substantive property dispute that does not implicate Section 1501 of the Code. Rather, the only Section 1501 issue implicated in this proceeding is a safety issue that was properly dismissed by the ID for the Complainant's failure to meet the burden of proof.²

For these reasons, I do not support the Motion.



Date: May 9, 2024

JOHN F. COLEMAN, JR.
COMMISSIONER

² Based on the evidence provided, the ID finds the Complainant did not prove that Verizon North's lines failed to comply with the National Electric Safety Code or violated Section 1501 of the Code.