



FITZPATRICK  
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July 2, 2024

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**RE: Gadsden Ridge Holdings, LLC a/k/a Treval, LLC v. PPL Electric Utilities Corp.  
Docket No. C-2024-3049516**

Dear Secretary Chiavetta:

Enclosed for filing is Respondent PPL Electric Utilities Corporation's Preliminary Objections to the Complaint filed by Gadsden Ridge Holdings, LLC a/k/a Treval, LLC.

Copies of the Preliminary Objections are being provided as indicated on the Certificate of Service.

Respectfully submitted,

GRAIG M. SCHULTZ

Enclosure

cc: Donald W. Jensen, Esquire  
PPL Electric Utilities Corporation

**COMMONWEALTH OF PENNSYLVANIA  
BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GADSDEN RIDGE HOLDINGS, LLC  
a/k/a TREVAL LLC,

Complainant,

v.

PPL ELECTRIC UTILITIES  
CORPORATION,

Respondent.

Docket No. C-2024-3049516

**NOTICE TO PLEAD**

To: Gadsden Ridge Holdings, LLC a/k/a Treval, LLC  
c/o Trevor Walczak  
359 Route 106  
Greenfield Township, PA 18407

Pursuant to 52 Pa. Code § 5.101(b), you are hereby notified that an answer to Respondent PPL Electric Utilities Corporation's Preliminary Objections to the Complaint of Gadsden Rodge Holdings, LLC a/k/a Treval, LLC must be filed within 10 days of the date of service of Respondent's Preliminary Objections.

Dated: July 2, 2024

By: \_\_\_\_\_

  
Graig M. Schultz (I.D. No. 207123)  
FITZPATRICK LENTZ & BUBBA, P.C.  
645 West Hamilton Street, Suite 800  
Allentown, PA 18101  
Telephone: 610.797.9000  
Facsimile: 610.797.6663  
Email: gschultz@flblaw.com

*Attorneys for Respondent:  
PPL Electric Utilities Corporation*

**COMMONWEALTH OF PENNSYLVANIA  
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CORPORATION,

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Docket No. C-2024-3049516

**RESPONDENT PPL ELECTRIC UTILITIES CORPORATION'S PRELIMINARY  
OBJECTIONS TO THE COMPLAINT OF GADSDEN RIDGE HOLDINGS, LLC  
a/k/a TREVAL LLC**

Respondent PPL Electric Utilities Corporation ("PPL"), by and through its counsel, Fitzpatrick Lentz & Bubba, P.C., hereby objects to the Complaint of Gadsden Ridge Holdings, LLC a/k/a Treval LLC ("Complainant") as follows:

1. PPL hereby incorporates the averments set forth in its Answer to the Complaint with New Matter which has been contemporaneously filed in the above-captioned matter as if fully set forth herein.
2. On or about June 12, 2024, Complainant filed a Complaint against PPL. A true and correct copy of the Complaint is attached hereto as **Exhibit A** and incorporated herein by reference.
3. Complainant alleges that, in the course of performing work within its right-of-way on Complainant's property, PPL caused damages and destruction to improvements made to Complainant's property. *See Compl. at ¶ 4.*

4. More specifically, Complainant alleges that PPL ran bulldozers on his asphalt driveway, buried stone access roads, left garbage on his property, and left bare dirt on the property.

*See id.*

5. Complaint requests that his roads be replaced, that his property be contoured, and that his driveway be repaved. *See id.*

6. Complainant is also seeking over \$100,000 in monetary damages. *See id.* at ¶ 5.

7. PPL denies that it was negligent in performing any work within its right-of-way, that it exceed the scope of its right-of-way, and further denies that it caused any damage to Complainant's property. *See generally* PPL's Answer to the Complaint with New Matter.

8. The Rules of Administrative Practice and Procedure of the Pennsylvania Public Utility Commission (the "Commission") provide for the filing of preliminary objections. *See* 52 Pa. Code § 5.101.

9. Preliminary objections are properly filed when the Commission lacks jurisdiction over a complainant's claims. 52 Pa. Code § 5.101(a)(1).

10. Preliminary Objections are also properly filed by a respondent when the complaint is legally insufficient. 52 Pa. Code § 5.101(a)(4).

11. The provision at 52 Pa. Code § 5.101(a)(4) serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of a case exists, a hearing is unnecessary. *See Lehigh Valley Power Comm. v. Pennsylvania Pub. Util. Comm'n*, 563 A.2d 557, 564 (Pa. Cmwlth. 1989).

12. Preliminary objection practice before the Commission is analogous to Pennsylvania civil practice regarding preliminary objections. *Equitable Small Transp. Intervenors v. Equitable Gas Co.*, No. C-00935435, 1994 WL 932315, at \*1 (Pa. P.U.C. July 18, 1994) (citation omitted).

13. Preliminary objections in civil practice requesting dismissal of a pleading will be granted only where the right to relief is clearly warranted and free from doubt. *Interstate Traveller Servs., Inc. v. Com., Dep't of Env't Res.*, 406 A.2d 1020, 1022 (Pa. 1979) (citing *Baker v. Brennan*, 213 A.2d 362 (Pa. 1965)). The Commission follows this standard. *Montague v. Philadelphia Elec. Co.*, No. C-871540, 0088 WL 1534888 (Pa. P.U.C. Jan. 6, 1988).

14. Additionally, the Commission may not rely upon the factual assertions of the moving party but must accept as true for purposes of disposing of the motion all well pleaded, material facts of the nonmoving party, as well as every inference from those facts. *Commonwealth of Pennsylvania v. Bell Telephone Co. of Pa.*, 551 A.2d 602, 604 (Pa. Cmwlth. 1988).

15. Given this, the Commission must view the complaint in this case in the light most favorable to the Complainant and should dismiss the complaint only if it appears that the complainant would not be entitled to relief under any circumstances as a matter of law. *Moses v. Philadelphia Gas Works*, No. C-2017-2635927, 2018 WL 937080, at \* 2 (Pa. P.U.C. Feb. 5, 2018) (citations omitted).

16. The Commission regulations state that a person may file a formal complaint claiming a violation of a statute that the Commission has jurisdiction to Administer. *See* 52 Pa. Code § 5.21(a) (in order to be legally sufficient, a complaint must set forth "...an act done or omitted to be done by a person subject to the jurisdiction of the Commission, in violation, or claimed violation of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission...").

17. Additionally, the Commission regulations authorize the Commission to dismiss a complaint if a hearing is not necessary and authorizes preliminary objections to be filed in response to a complaint. 52 Pa. Code § 5.21(d). *See also* 66 Pa.C.S. § 703(b) ("The Commission may

dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest.”).

18. Importantly, the commission does not have jurisdiction to adjudicate every dispute that involves a utility. A generous reading of the Complaint plainly reveals that Complainant’s claims are based upon two theories: (1) that PPL was negligent in the performance of the work within its right-of-way on Complainant’s property; and/or (2) that PPL exceeded the scope of its right-of-way of the property. However, the Commission does not have the authority to hear Complainant’s claims.

19. Also, Complainant requests monetary damages for which the Commission cannot award. Therefore, when accepting as true all well pleaded averments in the complaint, as well as every reasonable inference from those averments, and viewing the complaint in the light most favorable to Complainant, it is clear that Complainant is not entitled to relief under any circumstances as a matter of law.

20. More specifically, the Commission is a creature of statute and may exercise only those powers that are expressly conferred upon it by the Legislature. *Feingold v. Bell of Pennsylvania*, 383 A.2d 791, 794 (Pa. 1978) (citations omitted).

21. In this case, Complainant alleges that he suffered damages in excess of \$100,000. To the extent that Complainant argues that it is entitled to monetary damages as a result of PPL’s alleged actions, the Commission does not have the authority to award it monetary damages. *Heffner v. PPL Elec. Util. Co.*, No. C-2016-2547516, 2017 WL 660609, at \*4 (Pa. P.U.C. Jan. 17, 2017) (citing *Terminato v. Pa. National Insurance Co.*, 645 A.2d 1287 (Pa. 1994); *Elkin v. Bell Tel. Co. of Pa.*, 420 A.2d 371 (Pa. 1980); *Feingold, supra*; *Ostrov v. I.F.T., Inc.*, 586 A.2d 409 (Pa. Super. 1991); and *Poorbaugh v. Pa. Pub. Util. Comm’n.*, 666 A.2d 744 (Pa. Cmwlth. 1995)).

22. Further, Complainant alleges that PPL caused damage and destruction to his property. To the extent that the Complainant is requesting that the Commission determine that PPL was negligent in performing work within its right-of-way on Complainant's property, the Commission lacks the authority to make such a determination, *Id.* (citing *DeFrancesco v. W. Pennsylvania Water Co.*, 453 A.2d 595, 597 (Pa. 1982)).

23. Finally, the Commission has determined that it is not the proper forum for resolving property rights controversies. Rather, such controversies are a matter for a court of general jurisdiction. *Id.* (citing *Perrige v. Metropolitan Edison Co.*, Docket No. C-00004110 (Opinion and Order entered July 3, 2003); and *Fiorillo v. PECO Energy Co.*, Docket No. C-00971088 (Opinion and Order entered September 15, 1999)).

24. To the extent that Complainant requests the Commission to determine the scope and validity of PPL's easement and whether PPL exceeded the scope of its right-of-way, the Commission also lacks the authority to do so. *See Fairview Water Co. v. Pa. Pub. Util. Comm'n.*, 502 A.2d 162, 167 (Pa. 1985) (Pennsylvania Supreme Court holding that the Commission does not have jurisdiction to determine the scope and validity of an easement); and *Shedlosky v. Pennsylvania Electric Co.*, No. C-20066937, 2008 WL 8014593, at \*3 (Pa. P.U.C. May 22, 2008) (real property issues such as easements are within the exclusive jurisdiction of the Court of Common Pleas) (citations omitted).

25. Based upon all the foregoing reasons, the Commission does not have jurisdiction over Complainant's claims and cannot award the relief sought by Complainant. AS such, the Complaint should be dismissed with prejudice.

**WHEREFORE**, PPL Electric Utilities Corporation respectfully requests that the Complaint of Gadsden Ridge Holdings, LLC a/k/a Treval LLC be denied and dismissed.

Dated: July 2, 2024

Respectfully submitted,



By: \_\_\_\_\_

Graig M. Schultz (I.D. No. 207123)  
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*Attorneys for Respondent:  
PPL Electric Utilities Corporation*

**COMMONWEALTH OF PENNSYLVANIA  
BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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PPL ELECTRIC UTILITIES  
CORPORATION,

Respondent.

Docket No. C-2024-3049516

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Preliminary Objections to the Complaint of Gadsden Ridge Holdings, LLC a/k/a Treval LLC have been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 relating to service by a party.

**Via Email and First-Class Mail**

Donald W. Jensen, Esquire  
538 Biden Street, Suite 730  
Scranton, PA 18503

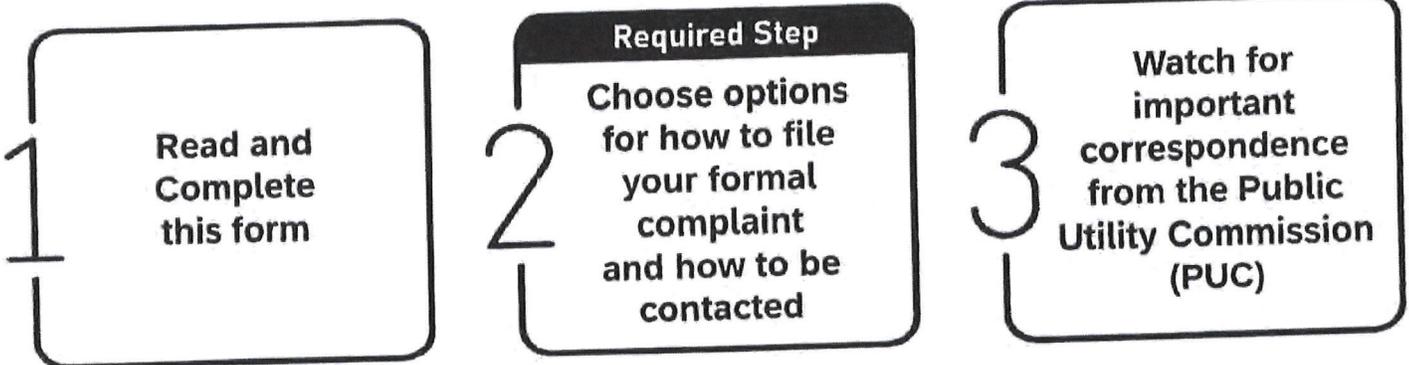
*On behalf of Complainant:  
Gadsden Ridge Holdings, LLC a/k/a Treval, LLC*

Dated: July 2, 2024

  
By: \_\_\_\_\_  
Graig M. Schultz

**FORMAL COMPLAINT - PRINTABLE FORM**

Filing this form begins a legal proceeding and you will be a party to the case. If you do not wish to be a party to the case, consider filing an informal complaint.



Please legibly complete this form in ink.

**1. CUSTOMER (COMPLAINANT) INFORMATION**

Provide your contact information and utility account number. It is your responsibility to update the PUC with any changes to your address and to where you want documents sent to you.

Name GADSDEN RIDGE HOLDINGS LLC / TREVAK LLC % TREVOR WALCZAK  
 Street/P.O. Box 359 ROUTE 106 Apt# \_\_\_\_\_  
 City GREENFIELD TWP State PA Zip 18407  
 County LACKAWANNA

Telephone Number(s) Where We Can Contact You During the Day:

Home: (570) 267-4083 Mobile: (570) 510-3952

Email Address INDEPENDENTTIMBER@yahoo.com

Utility Account Number (from your bill) N/A

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name \_\_\_\_\_  
 Street/P.O. Box \_\_\_\_\_ Apt# \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

## 2. NAME OF UTILITY OR COMPANY (RESPONDENT)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

PPL

## 3. TYPE OF UTILITY SERVICE

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Electric | <input type="checkbox"/> Storm Water   |
| <input type="checkbox"/> Gas                 | <input type="checkbox"/> Steam Heat  |
| <input type="checkbox"/> Water               | <input type="checkbox"/> Motor Carrier (taxi, moving company, limo)          |
| <input type="checkbox"/> Wastewater/Sewer    | <input type="checkbox"/> Telephone/Telecommunications (local, long distance) |

Note: The PUC does not regulate high-speed internet service, cell phones or cable TV.

## 4. REASON FOR COMPLAINT

What kind of problem are you having with the utility or company?

Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. **Your complaint may be dismissed without a hearing if you do not provide specific information.**

- The utility is threatening to shut off my service or has already shut off my service.
- I would like a payment agreement.
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have them.
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.
- Other (explain) THE UTILITY HAS A RIGHT OF WAY ON MY  
PROPERTY BUT HAS DAMAGED / DESTROYED IMPROVEMENTS  
MADE TO MY PROPERTY. THEY RAN BULLDOZERS UP AND  
DOWN MY ASPHALT DRIVEWAY; THEY BURIED OVER 2,000  
FEET OF STONE ACCESS ROADS THAT I CONSTRUCTED; THEY  
LEFT GARBAGE EVERYWHERE; LEFT BARE DIRT ALL OVER  
ALLOWING EROSION TO OCCUR.

## 5. REQUESTED RELIEF

How do you want your complaint to be resolved?

Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

I WANT MY ROADS REPLACED BACK WITH STONE.

I WANT THE TOPSOIL PILES RETURNED TO A CONTOUR

THAT I CAN MOW. I WANT THE GARBAGE CLEANED-UP.

I NEED THE DRIVEWAY REPAVED. CURRENT DAMAGES

TOTAL OVER \$100,000.- PPL HAS NOT RETURNED

DOZENS OF PHONE CALLS, DETAILED EMAILS, AND REQUESTS  
FOR MEETINGS.

**Note:** The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

## 6. PROTECTION FROM ABUSE (PFA)/DOMESTIC VIOLENCE

Has a court granted you a PFA order or any other order which provides clear evidence of domestic violence against you that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Has a court granted a PFA order or any other order for your personal safety or welfare?

Yes If your answer is "yes," attach a copy of the current PFA order to this Formal Complaint form. Due to the confidential nature of the PFA, you cannot eFile your Formal Complaint. You will need to print out this form and mail it to the Secretary of the Commission.

No

**Note:** You **MUST** answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

EXHIBIT A

## 7. PRIOR UTILITY CONTACT

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

Yes

No

**Note:** If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

Yes

No

**Note:** You **MUST** contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

I HAVE SPOKE TO NUMEROUS PPL REPRESENTATIVES. THEY  
RESPOND THAT THEY CAN DO WHATEVER THEY WANT  
IN THEIR RIGHT OF WAY, EVEN IF THAT MEANS  
DESTROYING ROADS I BUILT TO IMPROVE ACCESS.

**Note:** Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

## 8. TWO OPTIONS TO FILE YOUR FORMAL COMPLAINT — CHOOSE ONE

### OPTION 1

#### Electronically by eFile

One option is to create an account on the PUC's eFiling system, or, use your existing eFiling account. **This is the quickest and easiest way to receive, file and submit documents.**

eFiling permits consumers, utilities and attorneys to file certain documents electronically with the PUC without filing paper copies, serve documents electronically on other parties if they agree to such service, and to receive electronic service of documents from the PUC.

You agree to open and use an eFiling account - free of charge through the PUC's website. By selecting this method, you will electronically receive documents.

Visit <https://efiling.puc.pa.gov/> to learn more and create an eFiling account.

You will automatically receive eService with your eFiling account.

### OPTION 2

#### Mail

Mail the completed form with your original signature and any attachments to this address and retain the tracking information as proof of submission:

**Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, Pennsylvania 17120**

If you select the option to mail your formal complaint, you are required to select the method by which you would like the PUC to communicate with you. You must choose one of the three options on the next page for ways you would like to receive documents.

**9. THREE OPTIONS TO RECEIVE DOCUMENTS — CHOOSE ONE**

It is **REQUIRED** to select **ONE** of the following options for receiving all hearing notices, orders and related documents from the PUC:

**OPTION 1**

**eFILING:** This is the quickest and easiest way to receive all documents. You agree to open and use an eFiling account - free of charge through the PUC's website. By selecting this method you will electronically receive documents. To create an eFiling account, visit <https://efiling.puc.pa.gov/>.

You will automatically receive eService with your eFiling account.

**OPTION 2**

**FIRST CLASS MAIL:** You agree to receive all documents by First Class Mail (using the address you provided on Page 1).

Check the box and initial here TL if you are selecting **FIRST CLASS MAIL** service.

**OPTION 3**

**EMAIL:** You agree to receive all documents by email (using the email address you provided on page 1). Keep in mind, you will only be able to receive documents by email from the PUC. You will not be able to email documents to the Commission.

To file documents, you must submit them through an eFiling account or mail them. To create an eFiling account, visit <https://efiling.puc.pa.gov/>.

Check the box and initial here \_\_\_\_\_ if you are selecting **EMAIL** service.

**Please Note:** It is important to select **ONE** of the three options above.  
IF AN OPTION IS NOT SELECTED, THIS MAY DELAY THE PROCESSING OF YOUR COMPLAINT.

## 10. LEGAL REPRESENTATION

If you are filing a Formal Complaint as an individual on your own behalf, you are NOT required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer in this matter, provide your lawyer's contact information, which is required. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name Don Jensen  
Street/P.O. Box 538 Spruce St. Apt# \_\_\_\_\_  
City Scranton State PA Zip 18503  
Area Code/Phone Number (570) 344-8723  
Email Address JENSENANDJENSEN@AOL.COM

**Note:** Corporations, associations, partnerships, limited liability companies and political subdivisions are **required** to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

## 11. VERIFICATION AND SIGNATURE

You **MUST** sign and date your complaint. If you file by mail, you must sign your name in ink on the line provided below. Date the form. If you do not sign with your original signature and date, the PUC will not accept your complaint.

Verification:

I, TREVOR WKLEZAK, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Trevor Wklezak  
(Signature of Complainant)

6/11/2024  
(Date)

President  
Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

**Note:** If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification **must** be signed by an authorized officer or authorized employee. If the Formal Complaint is **not** signed by one of these individuals, the PUC will not accept it.

## APPEALING A BCS DECISION?

If you are appealing a BCS decision: follow the directions in the cover letter you received from the PUC Secretary's Bureau with the formal complaint form. **ONLY** formal complaints appealing a BCS decision can be filed by fax, email or overnight delivery to meet filing deadlines. All other formal complaints **MUST** be eFiled or mailed.

## QUESTIONS?

If you have any questions about filling out this form, please contact the Secretary's Bureau at **717-772-7777**.

## REMINDERS

- Keep a copy of your Formal Complaint for your records.
- If you are electronically filing your Formal Complaint through eFiling, you will need to scan the document and save it as a PDF.
- You may add any additional information, such as copies of bills, as one (1) separate attachment to your complaint.
- To protect your personal information, please know that your complaint form and the utility's answer will not be published to the PUC's website.
- Check the Consumer Complaints Procedures Guide for checklists and tips to help you successfully follow the complaint-filing process.  
(<https://www.puc.pa.gov/media/1492/consumer-complaints-procedures-guide-2021.pdf>)
- Once your complaint case moves to the PUC's Office of Administrative Law Judge, any filings you make should be marked confidential if you do not want them published to the website.