

DATE OF DEPOSIT

SEP 03 2024

**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

Nieves Abad
747 Delaware St
Forest City, PA 18421
Martjua3@aol.com
631-575-2348

September 3, 2024

Rosemary Chiavetta
Secretary of The Commission
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O BOX 3265
Harrisburg, PA 17105-3265

**RE: Nieves Avad V, PPL Electric Utilities Corporation
Docket No. C-2024-3047163**

Dear Secretary Of Commission:

Attached for filing is Motion For Summary Judgement served Upon Respondent by Nieves Abad in the Above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

CC:

Alphonso Arnold III
Administrative Law Judge
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
Email- alphonarno@pa.gov

Peter J Kramer Esquire
Post & Schell
Three Logan Square
1717 Arch Street
24th Floor
Philadelphia, PA 19103



Nieves Abad
747 Delaware St
Forest City , PA 18421
Email- Martjua3@aol.com
Phone - 631-575-2348
Dated- September 3, 2024

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Nieves Abad
(Pro-Se)
Complainant
vs.
PPL Electric Utilities Corporation
Respondent

AFFIDAVIT

Docket No. C-2024-3047163

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

AFFIDAVIT

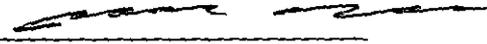
I, Nieves Abad, verify that I am the Complainant in the Complaint, and that the facts contained in the foregoing Summary Judgement are true and correct to the best of my knowledge, information and belief, and that this verification is subject to the penalties of 18 Pa. C.S A 4904 relative to unsworn falsification to authorities.

CC:

Alphonso Arnold III
Administrative Law Judge
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
Email- alphonarno@pa.gov

Peter J Kramer Esquire
Post & Schell
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Secretary of The Commission
Pennsylvania Public Utility Commission



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400 North Street, 2nd Floor North
P.O BOX 3265
Harrisburg, PA 17105-3265

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Nieves Abad
(Pro-Se)

Complainant

VS

PPL Electric Utilities Corporation

Respondent

NOTICE OF MOTION DATE OF DEPOSIT

SEP 03 2024

C-2024-3047163 PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

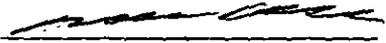
NOTICE OF MOTION

PLEASE TAKE NOTICE that the Motion For Summary Judgement will be presented to the Administrative Law Judge Alphonso Arnold III on a date to be identified by the court pursuant to the Commissions motions practice.

Certificate Of Service

I certify that the within Motion was served upon Respondent ,indicated above on this 3 Day Of September by certified mail.

Cc:
Alphonso Arnold III
Administrative Law Judge
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg PA 17120
Phone 717.787.3868
Email- alphonarno@pa.gov


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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Nieves Abad
(Pro-Se)

Complainant

DATE OF DEPOSIT

SEP 03 2024

VS

PA PUBLIC UTILITY COMMISSION

PPL Electric Utilities Corporation

C-2024-3047163

SECRETARY'S BUREAU

Respondent

Notice To Plead

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 Pa. CODE 5.101, YOU MAY FILE AN ANSWER TO THE ENCLOSED MOTION FOR SUMMARY JUDGEMENT WITHIN THIRTY (30) DAYS OF THE DATE OF SERVICE HEREOF. YOUR SUMMARY JUDGEMENT MUST BE FILED WITH THE SECRETARY ON PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O BOX 3265, HARRISBURG, PA 17105-3265. A COPY SHOULD ALSO BE SERVED ON THE UNDERSIGNED NIEVES ABAD (PRO-SE).

Respectfully Submitted,

Alphonso Arnold III
Administrative Law Judge
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg PA 17120
Phone 717.787.3868
Email- alphonarno@pa.gov



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747 Delaware St
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Dated- September 3 2024

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BEFORE THE PUBLIC UTILITY COMMISSION

DATE OF DEPOSIT

Nieves Abad
(Pro-Se)

SEP 03 2024

Complainant

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

MOTION FOR SUMMARY JUDGMENT

VS

C-2024-3047163

PPL Electric Utilities Corporation
Respondent

Motion For Summary Judgment of Nieves Abad, Complainant

TO THE PRESIDING ADMINISTRATIVE LAW JUDGE:

AND NOW, Complainant, Nieves Abad, hereinafter Complainant hereby files this Motion For Summary Judgement in the above referenced matter pursuant to Section 5.102 of this Commission's Regulations, Pa. Code s 5,102(b) and states as follows;

1. Statement Of Facts

- A. Complainant, Nieves Abad, owns property located at 837 Rear Capouse Ave Scranton, PA 18509. (See Exhibit 1 Property Deed)
- B. Respondent, PPL Electric Utilities Corporation, owns pole numbers 57334N42685, 57339N46273, 57327N46297, 57320N46302, and 57316N46296. (See Exhibit 3 Answers of PPL Electric Utilities Corporation to Complaint of Nieves Abad) Poles are located within the

boundaries of Complainants property. (See Exhibit 2 Property Survey and Exhibit 10 PPL Pole Design plan)

C. On March 27, 2024 Respondent, PPL Electric Utilities Corporation, admitted 3 poles numbers 57334 N42685, 57327N46297, and 57339N46273, are on Complainants property without Right Of Way agreement. (See Exhibit 3 Answers of PPL Electric Utilities Corporation to Complaint of Nieves Abad)

D. On March 27, 2024, Respondent, PPL Electric Utilities Company, admitted one pole number 57317N46297, is on Complainants property with an alleged Right of Way from Real Estate Technology Corporation. Real Estate Technology Corporation has not been an owner of 837 Rear Capouse for several years. Complainant purchased this property from the City Of Scranton. (See Exhibit 1 Property Deed) No transfer of Right Of Way is transferred to Complainants Deed. (See Exhibit 1 Property Deed) The right of way agreement PPL Electric Utilities Corporation has provided is for pole # 57317N46297 that does not exist on the property and is not a part of this complaint.

E. Plaintiff's original complaint states 5 pole numbers (See Exhibit 12 Formal Complaint). Pole numbers 57334N42685, 57339N46273, 57327N46297, 57320N46302, and 57316N46296. In PPL Answer to the complaint Of Nieves Abad, PPL answered to the following pole numbers 57327N46297, 57320N46302, 57317N46297, 57334N42685, 57339N46273, and 57317N46297. Pole # 57317N46297 is not a part of the complaint of Nieves Abad. Instead of answering the question PPL has submitted a Right Of Way document of a pole not related to this matter into evidence. Answers of PPL Electric Utilities Corporation of Nieves Abad did not contain an answer for pole # 57316N46296.

F. On March 27, 2024, PPL Electric Utilities Corporation stated that the pole # 57320N46302 was located in the Public Right Of Way. No Right of Way agreements or any other documents were submitted as proof of this. PPL did submit in discovery an engineered

pole design plan by Tom Kernoschak, a PPL employee. It clearly shows pole # 57320N46302 on the property belonging to the Complainant on all 3 designs. (See Exhibit 10 pole design plan)

G. On May 17, 2024, Public Utilities Commission found that Respondent admitted to having 3 poles on Complainant's property without a Right Of Way Agreement, (See Exhibit 4 Order Granting/Denying in part Respondents Preliminary Objections) And Determine Jurisdiction on pole relocation. In making this decision, the Administrative Law Judge Alphonso Arnold used information in PPL's Electric Utilities Corporation answer to the complaint of Nieves Abad, to make this decision granting part of PPL Electric Utility Corp Preliminary Objections. Two pieces of information were used to influence this decision . One was that there was a right of way for pole # 57317N46297. The second is that pole # 57320N46302 was in a public right of way. Both pieces of information are incorrect. Both pieces of information are stated in the decision in this proceeding.

H. On July 18, 2024, In the evidentiary hearing, PPL attorney Nicholas Strobbe, made a statement retracting their interest in collecting payment on billing invoice numbers 91130032-3, 91130033-3, in order to remove the poles in this complaint. (See Exhibit 9 Transcripts from pre trial hearing 7/18/24).

2. Argument

Legal Requirement for Motion For Summary Judgment:

The Commission's regulations provide that "... after the pleadings are closed, but within a time so that the hearing is not delayed, a participant may move for summary judgment based on pleadings and depositions, answers to interrogatories, admissions and supporting affidavits." 52 Pa. Code S 5.102 (b) and "(t)he judgment sought will be rendered if the pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show there is no genuine issue as to a material fact and that the moving participant is entitled to judgment as a matter of law." 52 PA. Code Section 5.102 When Deciding whether a Motion For Summary Judgment should be granted, the Commission must examine the record in the light

most favorable to the non-moving party and all doubts as to the existence of a genuine issue of a material fact must be resolved in favor of the non-moving party. Sanchez V. Philadelphia Housing Authority, 611 A.2d 346 (Pa.Cmwth. 1992). South River Power Partners, L.P. West Penn Power Company, 1996 Pa. PUC LEXIS 175. If no factual dispute exists, a hearing is unnecessary. Lehigh Valley Power Committee V. Pennsylvania Public Utility Commission, 563 A.2d 557 (Pa.Cmwth. 1989). In this instance and as will be discussed further below, there is a genuine issue of material fact in dispute. The evidence is so overwhelming that summary judgment should be granted in the Complainants favor. Respondents' omission in its Answers of PPL Electric Utility Corporation to Complaint of Nieves Abad is so overwhelming Summary Judgment should be granted. PPL Electric Utility Corporation, have openly admitted to the Commission that 3 poles in this matter are on The Complainant's property without a Right Of Way. (See Exhibit 3 Answer of PPL Electric Utility Corporation To Complaint Of Nieves Abad) PPL Electric Utility Corporation has admitted to either having no Right Of Way or an Easement for a pole that is not part of this Complaint. This is an outdated Right Of Way with the prior land owner. This pole does not exist on the property in the complaint.. The pole # 57317N46297 provided on this easement paperwork does not match the pole number on the property or the Complaint Of Nieves Abad. (See Exhibit 14-18 Pictures Of Pole Numbers), (See Exhibit 12 Formal Complaint), and (See Exhibit 11 PPL Right Of Way Agreement) Motion should be granted since the Complainant is entitled to relief as a matter of law. PPL Electric does not have a valid Right Of Way for the 5 poles in this complaint.

A. On 03/27/2024, Respondent admitted to ownering pole numbers 57334N42685, 57339N46273, 57327N46297, 57320N46302, and 57316N46296, located on 837 Rear Capouse Ave Scranton PA 18509 (See Exhibit 3 Answers To Complaint). This property is owned by Complainant Nieves Abad. Complainant has continually asked PPL Electric Utilities Corporation to relocate these poles from his property. Respondent admits that at least three of the poles, numbers 5731N46297, 5733N42685, and 5733N46273 are on the property without

a legal Right Of Way or any other legal Easements. (See Exhibit 3 Answer To the complaint of Nieves Abad) PPL has not submitted in their answer to the complaint of Nieves Abad any other reason not to remove these poles or any other evidence as to why they should stay on the property.

B. Respondent admits that one of the poles number 57317N46297 is on the property with an outdated Right Of Way agreement. There were 2 landowners after Real Estate Technology Corporation, The City of Scranton and Nieves Abad. The Right Of Way between Pennsylvania Power & Light Company Corporation and Real Estate Technology Corporation was for a pole that is not on the property. (See Exhibit 11 Right of way agreement with Real Estate Corp page 2 shows pole number) and (See Exhibit 14 - 18 Pictures Of Poles on the property). Since this pole does not exist on Complainants property and is not a part of this complaint, it makes this document null and void. This Right Of Way agreement was not transferable to The City Of Scranton or The Complainants Deed. (See Exhibit 1 Property Deed). Complainant is not legally bound by the outdated Right Of Way agreement. The Commission does not have jurisdiction to make a Right Of Way decision for a pole that does not exist on the property. The Commission can determine if there is a current Right Of Way agreement between parties for poles that do exist on the property. If there is no legal Right Of Way in place The Commission can determine if the poles can be relocated, See Barbara Gallagher V PECO Energy Company, Docket No C-2010-2201568 (Order entered September 22, 2011) at 2. PPL has not submitted in their answer to the complaint of Nieves Abad any other reason not to remove these poles or any other evidence as to why they should stay on the property.

C. PPL Electric Utility Corp claim pole # 57320N46302 is in public right of way. The deed and survey provided in exhibits show this pole to be on Complainants property. Furthermore PPL Pole Design Plan designed by Tom Kernoschak shows pole # 57320N46302 is in fact on the property of 837 Rear Capouse Ave Scranton PA 18509 owned by Nieves Abad. (See Exhibit 10 PPL Design Plan). Tom Kernoschak is an engineer working for PPL Electric Utilities

Corporation and has designed several Maps showing pole # 57320N46302 on Complainants property not in a public right of way. (See Exhibit 17 Picture of pole # 57320N46302) PPL has not submitted in their answer to the complaint of Nieves Abad any other reason not to remove these poles or any other evidence as to why they should stay on the property.

D. PPL has reported two incidents where pole wires and several poles were damaged and wires fell on Complainant's property and Complainant's neighbors property. In addition to these incidents, these wires have fallen at least one other time since Complainant has owned this property. Pole 57334N42685 has been involved in three motor vehicle accidents, (See Exhibit 15 Pictures of Pole) where damage was done to the pole. This is because these poles are located in the middle of Complainants driveway. The pole location and design of this plan was never approved by the City Of Scranton or a property owner. This flawed design also further imposes a risk to my neighbors on Capouse ave, Amity Ct and Green Place in Scranton Pa 18509. Wires and poles are placed in disarray. The poles and wires are placed too close to the houses. Pay close attention to poles and wires that border my neighbors property located at 20 Amity Court Scranton Pa 18509. (See Exhibit 16 & 17 Pictures of Poles) These two poles and wires are too close to the residential structure and do not meet the required setbacks of city, state ordinances, International Electric Code, National Electrical Code or PPL's own rules and regulations. These electric wires are right outside the neighbors window at 20 Amity Court, Scranton PA 18509. This blocks their ways of egress if there is a fire on the second floor or if there needs to be an emergency exit, residents would be trapped in their bedrooms. (See Exhibit 16 and 17 pictures of poles and wires) Pole # 57316N46296 which sits on complainants property has low wires and is in a construction area. This will be a future parking area and will impede customer parking. (See Exhibit 18 pictures of pole) Both Pole # 57339N46273 and 57334N42685 are located in the middle of the complainant's roadway/driveway entrance. (See Exhibits 14 and 15 pictures of poles) Both of these poles have low wires and are in a construction area. Both poles impair the way of egress into and out of complainants property.

Future building plans have been put on hold because of these poles and wires. The poles and wires affect the placement of the structure of the new building. Poles run through the center of the property so that the wires split the property in two. The structure would not be able to be built under the wires with the way the wires are run overhead through the property. The placement of these two poles and wires are a flawed design not approved by the city of Scranton, a prior land owner, or the current landowner. They are not in compliance with local or state laws; PPL has provided no proof of a valid easement for these poles. Now PPL must take responsibility for these actions and remove these poles so that they can make it a safe place again for the community and the complainant to continue day to day operations at his place of business without risks to his safety or being held liable for damage or injury to a third party. The placement of poles on private property without the proper legal documentation in a manner that makes them a serious safety hazard, is a shocking violation of Public Utility Law Title 66 Chapter 15 Section 1501.

E. PPL has previously agreed to relocate at least 2 poles numbers 57334N42685 and 57339N46273. There was already a previous design made on at least 3 occasions. (See Exhibit 10 pole design) This was because the pole location was in the middle of the driveway and wires went over the center of the property where the new building was being placed. Pole relocation quote invoice number 81036584-3 Dated 06/07/23 in the amount of 4,128.00 was a result of this request, (See Exhibit 8 Quote Invoice and Exhibit 13 Text message with PPL Employees Tom Kernoschak and Daniel Walker). Complainant was Quoted a price to relocate poles that were illegally placed on property located at 837 Rear Capouse Ave Scranton pa 18509. Originally PPL stated this was the only thing stopping pole relocation. During the Informal Complaint and after Complainant challenged this Quote invoice, PPL then changed their stance on the issue, that they were willing to dismiss this quote, But now complainant needed to pay billing # 91130032-2 and 91130033-3. (See Exhibit 7 Informal Complaint Results and Exhibit 3 Answer to PPL Answers to complaint of Nieves Abad) Billing statement numbers 91130032-3 (See

Exhibit 5 billing), 91130032-3 (See Exhibit 6 billing), should not be allowed to stop pole relocation for pole numbers 57334N42685, 57339N46273, 57327N46297, 57320N46302, and 57316N46296 whether the bill is paid or unpaid. An unpaid bill for this matter should go through the proper legal channels such as a collections and/or civil court. This is a matter where there is a conflict between parties. PPL Electric Utilities Corporation, using this billing dispute to stop pole relocation is not warranted. (See Exhibit 7 Informal Complaint Results) and (See Exhibit 3 PPL Answers To The Complaint). There should be no charge to remove these poles since they have been placed without the consent of the land owner or any other legal channel. In a Hearing held on 7/18/24 PPL has changed their stance again. They are no longer interested in collecting on these bills and would go to the proper court to collect if they changed their mind. (See Exhibit 14 Hearing Transcripts 7/18/24) Since there is no longer a billing dispute for this evidentiary hearing, as per PPL's attorney Nicholas Stobbe, there is nothing holding the removal of pole number 57334N42685 and 57339N46273. There was no permit, plans, right of way, easement, eminent domain, or any other legal means to erect these poles. Complainant should not be liable for costs to move these poles. Complainant is also not liable for any power or utility upgrade needed to supply the property in this matter. This property is in an area where service is already provided. PPL's unsafe and lack of or outdated utility facilities in the area is not the complainant's responsibility. PPL has not submitted in their answer to the complaint of Nieves Abad any other reason not to remove these poles or any other evidence as to why they should stay on the property.

F. In PPL's answer to the complaint of Nieves Abad, it is mentioned there is a right of way document for pole 57317N46297. Also it is mentioned that pole # 57320N46302 is located in a public right of way. (See Exhibit 3 Answer of PPL Complaint of Nieves Abad). PPL was said to have these documents in their possession. Upon further investigation after these documents were disclosed, this right of way document was for a pole that was not a part of the original complaint. This pole does not exist on the property located at 837 Rear Capouse Scranton PA

18509. This information was also used in a decision made by Administrative Law Judge Alphonso Arnold in the response to PPL's Preliminary Objections (See Exhibit 4 Granting in part/Denying in part PPL Preliminary Objections to Nieves Abad's Complaint). This false information that was relied upon in this proceeding was "fruit from a poisonous tree", and has tainted this entire process. Complainant requests that mentions of this right of way and Public Right Of Way, be stricken from the records and summary judgment be granted because of this erroneous mention of incorrect right of way into evidence. PPL has not submitted in their answer to the complaint of Nieves Abad any other reason not to remove these poles or any other evidence as to why they should stay on the property.

G. IN PPL's answer to the complaint of Nieves Abad there is never a mention of pole # 57316N46296. (See Exhibit 3 PPL Answer To Complaint Of Nieves Abad) In the complaint of Nieves Abad pole # 57316N46296 is one of the poles listed in his formal complaint. (See Exhibit 12 Formal Complaint) Since no answer was made in regards to this pole, the Complainant asks for Summary Judgment to relocate this pole. PPL has not submitted in their answer to the complaint of Nieves Abad any other reason not to remove these poles or any other evidence as to why they should stay on the property.

3. Relief Sought

A. Throughout PPL Answers To The Complaint Of Nieves Abad, PPL failed to state a valid reason for poles to be placed on the property or a valid reason for the poles to remain on the property. The main argument in this complaint was for poles to be relocated so that safety and day to day business can continue on a property the complainant purchased. PPL has admitted 3 poles on the property without an easement. One pole was not mentioned in their answer at all. A final pole that was said to be in a Public Right Of Way but by PPL's own engineered plan and complainants survey and pictures shows clearly it is in the property lines of the property in this

matter. The evidence presented is so overwhelming, the PPL Answers to the Complaint of Nieves Abad is insufficient and lacks facts to support their claims, Summer Judgement is warranted.

B. Complainant asks that all mention of pole # 57317N46297 and the right of way for this pole stricken from the records. Complainant asks that all records indicating pole # 57320N46320 is in a public right of way, stricken from the record. Summary Judgment granted and poles to be relocated off Complainants property within 30 days.

C. Complainant asks that three poles PPL Electric Utilities Corporation admitted to having no current legal Right Of Way agreement be granted Summary Judgment. That The Commission Order Pole Numbers 57334N42685, 57339N46273, and 57327N46297 to be relocated off Complainants property within thirty days of Order.

D. Complainant asks for pole 57316N46296, that was not answered to in PPL Electric Utility Corporations Answers To Nieves Abad, be granted Summary Judgement and the poles be relocated off Complainants property within thirty days of Order.

E. Complainant asks that pole # 57320N46302 that was said to be in a Public Right Away by PPL but is in fact on the Complainants property be granted Summary Judgement. Pole ordered to be removed within 30 days of the Order. Any of a Public Right Away in the PPL Answers to the Complaint of Nieves Abad, stricken from the record.

F. Complainant asks that PPL Electric Utilities Corporation billing invoice numbers 91130032-3 and 91130033-3, used by PPL Electric Utilities Corporation to stop pole relocation, not be allowed. Any mention of a billing invoices or damage to PPL property in the PPL Answers to the Complaint of Nieves Abad, stricken from the record.

G. Complainant seeks that PPL Electric Utilities Corporation quote invoice # 81036584-3, for pole relocation be dismissed. Complainants should not be held liable for a fee to relocate poles that were placed without plans, permits, Right Of Way, Easement or any necessary documents to erect poles.

Wherefore, the Complainant, Nieves Abad, Respectfully requests that the Commission grant this Motion For Summary Judgment, ordering PPL Electric Utilities Corporation to relocate all poles and grant to The Complainant such other relief as is just and reasonable under the circumstances .

Cc:

Alphonso Arnold III
Administrative Law Judge
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
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Harrisburg PA 17120
Phone 717.787.3868
Email- alphonarno@pa.gov

By 

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747 Delaware St
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Dated-September 3, 2024

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PPL Evidence For Summary Judgement

1. Exhibit 1- Property Deed
2. Exhibit 2-Property Survey'
3. Exhibit 3-Answer of PPL Electric Utility Corporation to the Complaint of Nieves Abad
4. Exhibit 4-Order Granting/Denying In Part Respondents Preliminary Objections
5. Exhibit 5-Billing Invoice 91130032-3
6. Exhibit 6-Billing Invoice 91130033-3
7. Exhibit 7-Informal Complaint Results
8. Exhibit 8-Quote Invoice
9. Exhibit 9-Transcripts from Pre Trial Hearing 07/18/2024
10. Exhibit 10-PPL Pole Design Plan
11. Exhibit 11-Right Of Way agreement with Real Estate Corporation provided by PPL
12. Exhibit 12-Formal Complaint
13. Exhibit 13-Text message with PPL Employee Daniel Walker
14. Exhibits14- Picture of Pole #,, 57316N46296
15. Exhibit 15- Picture of pole # 57334N42685
16. Exhibit 16-Picture of pole # 57327N46297,
17. Exhibit 17- Picture of pole # 57320N46302 ,
18. Exhibit 18- Pictures of pole # 57339N46273

Quitclaim Deed

THIS DEED, made the 25th day of April, 2023, between the LACKAWANNA COUNTY LAND BANK, a body corporate and politic, as authorized under the provisions of 68 Pa.C.S.A. § 2101 et.seq., of 123 Wyoming Avenue, 5th Floor, Scranton PA 18503.

GRANTOR

AND

NIEVES ABAD, of 747 Delaware Street, Forest City PA 18443.

GRANTEE

WITNESSETH, that in the consideration of Five Hundred Dollars (\$500.00), in hand paid, the receipt whereof is hereby acknowledged, the said Grantor does hereby release and quit claim to the said Grantee:

ALL THOSE CERTAIN lots, pieces or parcels of land situate in Scranton, County of Lackawanna, and State of Pennsylvania, described in Schedule 'A' attached hereto.

SUBJECT to the same exceptions and reservations as are contained in former deeds in the line of title, including the following: FOR A PERIOD OF FIVE (5) YEARS FROM THE DATE OF THIS DEED, THE GRANTEE(S), THEIR AND ASSIGNS MAY NOT SELL, TRANSFER OR CONVEY THIS PROPERTY WITHOUT WRITTEN APPROVAL OF THE LACKAWANNA COUNTY LAND BANK BOARD OF DIRECTORS.

BEING the same premises transferred from the Tax Claim Bureau of Lackawanna County to The Lackawanna County Land Bank by deed dated April 13, 2023 and recorded in the Office of the Recorder of Deeds of Lackawanna County on April 19, 2023 as Instrument Number 202305383.

This property is also known as 837 Rear Capouse Avenue, Scranton, PA Lackawanna County Tax Map # 14516-030-048.

THIS DOCUMENT MAY NOT/DOES NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE, CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT.

Exhibit 1

IN WITNESS WHEREOF said Grantors have hereunto caused this Deed to be executed by the Chairman of the Lackawanna County Land Bank the day and year first above written.

LACKAWANNA COUNTY LAND BANK

[Signature]
Debi Domenick, Esq., Chairwoman

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF LACKAWANNA :

On this 11 day of Aug, 2023 personally appeared before me, the Clerk of Judicial Records of Lackawanna County, Pennsylvania, Debi Domenick, Esq, known to me to be the person whose signature is affixed to the foregoing deed, and acknowledged to be the Chairman of the Lackawanna County Land Bank, and that as such Chairwoman, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Lackawanna County Land Bank as Chairwoman.

Witness my hand and official seal the day and year aforesaid.

My Commission Expires:

[Signature]
Mauri B. Kelly, Clerk of Judicial Records

RECORDED
INDEXED
LACKAWANNA COUNTY
JUL 11 2023

CERTIFICATE OF RESIDENCE

It is hereby certified that the precise address of the Grantee named in the foregoing Deed is:

747 DELAWARE STREET
FORDIST CITY, PA 18443

[Signature]
Grantee

SCHEDULE A

DEED DESCRIPTION

837 Rear Capouse Avenue., Scranton, PA, 18509, Tax Map # 14516030048

All that certain piece or parcel of land comprising approximately one and four one hundredths (1.04) acres in block No. Twenty-three (23), in the 7th Ward of the City of Scranton;

Beginning at a section of steel rail set for a corner in the division line of lands of the so-called "Phelps & Winton" and "Quick & Sively" tracts (which tracts are subdivisions of certified Providence lot No. Thirty-three (33), said corner being distant along said division line in a northwesterly direction one hundred ninety-eight (198) feet from the fence line on the northwesterly side of Capouse Avenue; thence southwesterly along the rear of a lot now or late owned by J. Ryan, Sixty (60) Feet to a section of steel rail set for a corner; thence southeasterly along a side line of said Ryan's lot eighteen (18) feet to a section of steel rail set for a corner; thence southwesterly along the rear line of lots now or late owned by M. Simon, S. Hagen, B. Nealon and A. Turnbull, Two Hundred Eight (208) Feet to its intersection with the right of way line on the northeasterly side of the Diamond Mine branch of the Delaware, Lackawanna & Western Railroad; thence northwesterly along said right of way line to its intersection with the right of way line on the southeasterly side of the Delaware & Hudson Canal Company's Railroad; thence northeasterly along said right of way line, Forty-eight

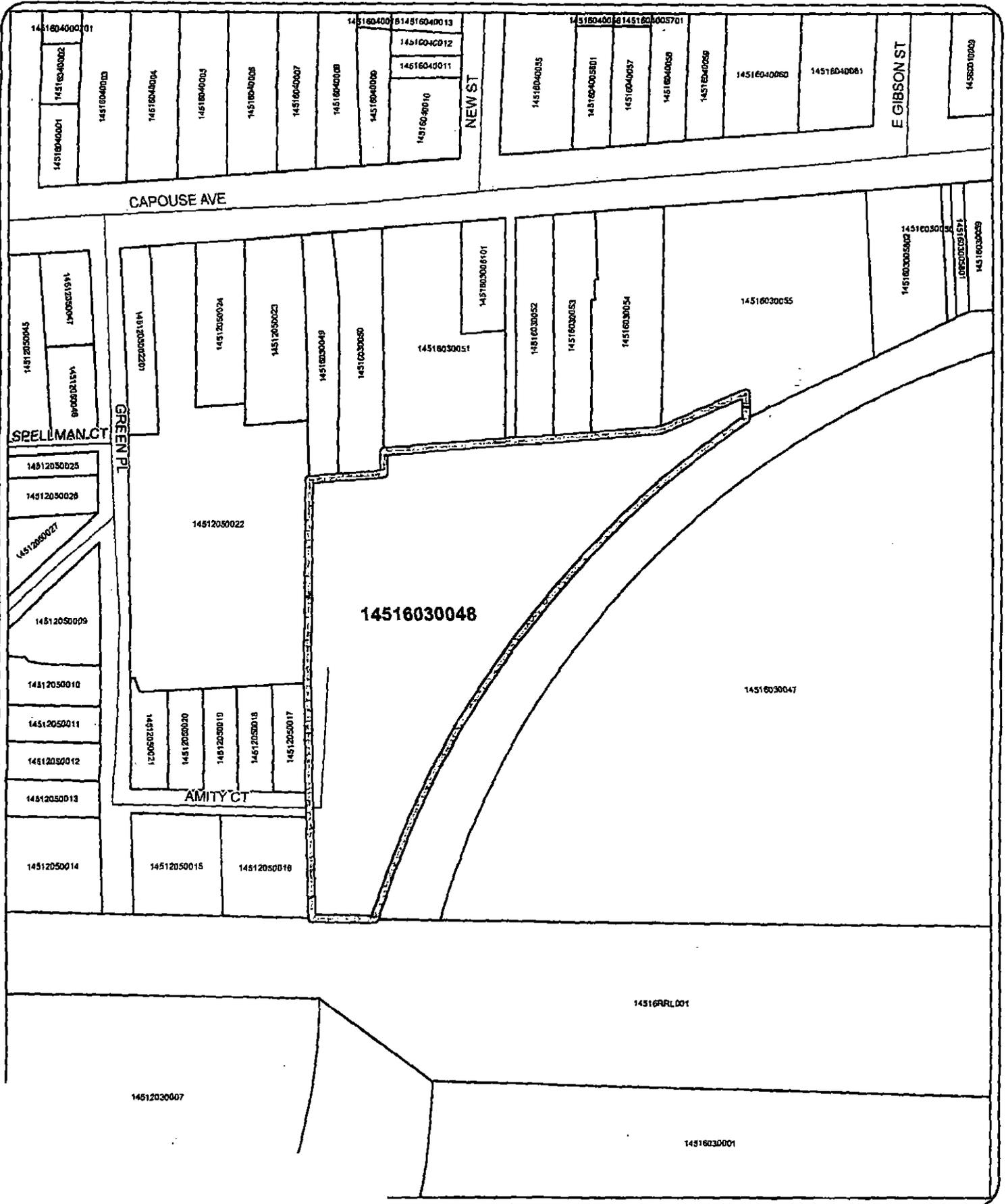
(48) Feet to its intersection with the division land line first above mentioned; thence southeasterly along said line Three Hundred Fifty-three (353) Feet to the place of beginning. Containing One and Four one-hundredths (1.04) Acres of land, be the same more or less.

This conveyance is made subject to all the covenants, conditions, exceptions, restrictions and reservations contained in or referred to in prior deeds in line of title.

SCHEDULE "A"

**Tax Map # 14516-030-048
837 Rear Capouse Avenue
Scranton, PA**

SCHEDULE A MAP
Pin #14516030048
837 Rear Capouse Avenue, Scranton PA



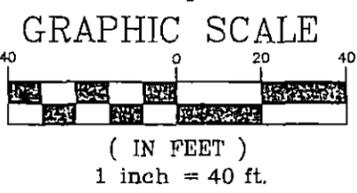
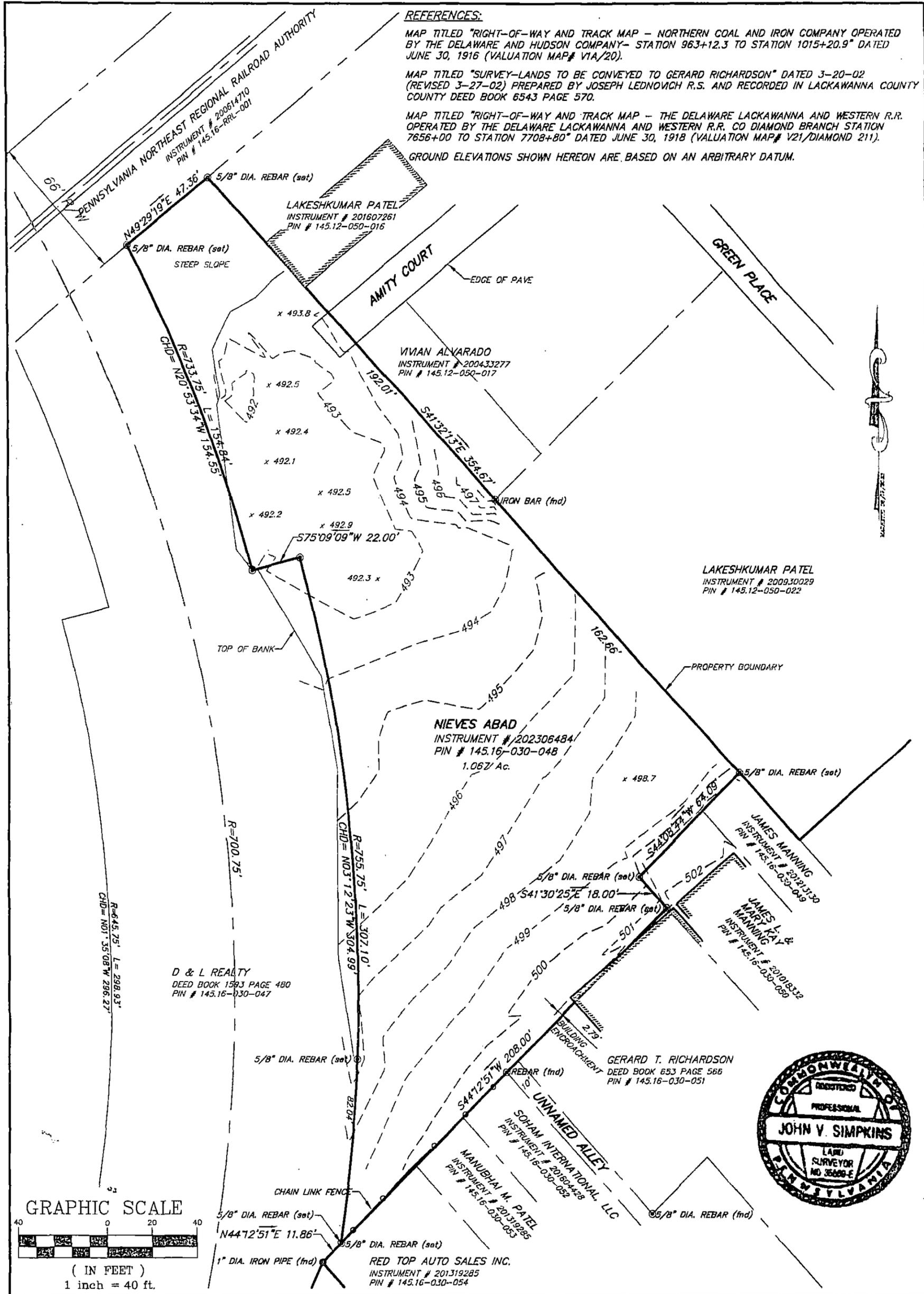
REFERENCES:

MAP TITLED "RIGHT-OF-WAY AND TRACK MAP - NORTHERN COAL AND IRON COMPANY OPERATED BY THE DELAWARE AND HUDSON COMPANY- STATION 963+12.3 TO STATION 1015+20.9" DATED JUNE 30, 1916 (VALUATION MAP # VIA/20).

MAP TITLED "SURVEY-LANDS TO BE CONVEYED TO GERARD RICHARDSON" DATED 3-20-02 (REVISED 3-27-02) PREPARED BY JOSEPH LEDNOVICH R.S. AND RECORDED IN LACKAWANNA COUNTY DEED BOOK 6543 PAGE 570.

MAP TITLED "RIGHT-OF-WAY AND TRACK MAP - THE DELAWARE LACKAWANNA AND WESTERN R.R. OPERATED BY THE DELAWARE LACKAWANNA AND WESTERN R.R. CO DIAMOND BRANCH STATION 7656+00 TO STATION 7708+80" DATED JUNE 30, 1918 (VALUATION MAP # V21/DIAMOND 211).

GROUND ELEVATIONS SHOWN HEREON ARE BASED ON AN ARBITRARY DATUM.



CAD FILE: C-1 1 OF 1	DWN BY: JVS	TITLE: PROPERTY BOUNDARY/TOPO SURVEY MAP	KBA Engineering, p.c. engineers - architects - construction managers 25 South Washington Avenue Jermyn, Pennsylvania 18433 (570) 876-5744 www.kbapc.net
	APP BY: JJM	SCALE: AS SHOWN	
	JOB NO: 6448	CITY OF SCRANTON - LACKAWANNA COUNTY, PA	
	DATE: 09/05/2023		

Exhibit 2

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION STATE OF DEPOSIT**

Nieves Abad,

:
:
:
:
:
:
:
:
:
:

Complainant,

v.

PPL Electric Utilities Corporation,

Respondent.

SEP 03 2024

PA PUBLIC UTILITY COMMISSION

SECRETARY'S BUREAU

Docket No. C-2024-3047163

**ANSWER OF PPL ELECTRIC UTILITIES
CORPORATION TO THE COMPLAINT OF NIEVES ABAD**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

PPL Electric Utilities Corporation ("PPL Electric" or the "Company") files this Answer to the Complaint of Nieves Abad ("Complainant") pursuant to Section 5.61 of the Pennsylvania Public Utility Commission's ("Commission") regulations, 52 Pa. Code § 5.61, and responds to each of the separately-numbered paragraphs as follows:

ANSWER

1. Admitted.
2. Denied as stated. The Company's full name is PPL Electric Utilities Corporation.
3. Admitted.
4. Admitted in part and denied in part. It is admitted that the Company's records

indicate five utility poles are on or near the Complainant's property at 837 Rear Capouse Avenue, Scranton, Pennsylvania 18509. The utility poles are Pole 57327N46297, Pole 57320N46302, Pole 57317N46297, Pole 57334N42685, and Pole 57339N46273. Under information and belief, Pole

57320N46302 is in the public Right-of-Way. It is admitted the other four poles are located on the Complainant's property. It is further admitted the other three poles are on the Complainant's property without a signed Right-of-Way Agreement. PPL Electric is without sufficient knowledge as to the "future building space" that the Complainant references, and, therefore, denies the same. It is denied that PPL Electric has "refused to move these two poles." It is further denied that PPL Electric "wants to charge \$4,128 for the removal of the poles." It is also denied that PPL Electric is required "to pay any fees associated with keeping the poles on property." It is further denied that PPL Electric refused to "obtain a legal right of way with land owner."

By way of further response, the Complainant contacted the Company on April 21, 2023, to request Pole 7334N42685 and Pole 57339N46273 be relocated. The Company assigned that request work order # 12952883. While the Company was evaluating the Complainant's request, the Company became aware that the Complainant was performing tree removal on his property. On April 13, 2023, the Complainant's tree removal actions resulted in disruptions to the Company's electric service and damage to its facilities, requiring the Company to respond to the area to restore power. Shortly thereafter, a PPL Electric Design Technician spoke to the Complainant to advise him to conduct any tree removal carefully to avoid damage to the Company's equipment and facilities. On May 25, 2023, the Complainant's further tree removal actions resulted in disruptions to the Company's electric service and damage to its facilities, requiring the Company to respond to the area to restore power. On August 15, 2023, the Company sent the Complainant two invoices totaling \$4,861.45 for the damage caused by the Complainant's tree removal actions.

By way of further response, in April 2023 the Company's right-of-way agent spoke to the Complainant and advised the Complainant that if he wanted the poles in question moved, he

would have to pay for the relocation. On April 28, 2023, the Complainant met with the Company, and the Company stated it would be willing to move the poles at the Complainant's expense. On August 25, 2023, the Company sent the Complainant a Grant of Right-of-Way for signature for the redesign and relocation of the two poles to a different portion of the Complainant's property. The Company is willing and able to proceed with the pole relocation project when it receives payment for the \$4,861.45 invoices sent to the Complainant on August 15, 2023. Lastly, PPL Electric notes that Pole 57317N46297 is the subject of a Right-of-Way Agreement, dated June 28, 1979, between PPL Electric and Real Estate Technology Corporation.

In further response, PPL Electric incorporates Paragraph 5, *infra*, as though fully set forth herein.

5. Admitted in part and denied in part. The averments contained in Paragraph 5 of the Complaint are requests for relief to which no responsive pleading is required. To the extent a response is deemed necessary, PPL Electric denies that the Complainant is entitled to the relief requested. It is denied the Company is required to pay "compensation in the amount of \$100 per pole, per week since May 1, 2023." Indeed, the Commission is without jurisdiction to award damages. It is denied that Pole 57327N46297, Pole 57320N46302, Pole 57317N46297, Pole 57334N42685, and Pole 57339N46273 should "be removed from the property immediately." It is admitted that the Complainant seeks "resolution in regards to a fair right of way with [PPL Electric]". It is denied that "all future upgrades needed to build . . . new wires be full responsibility of [PPL Electric]." It is denied that the invoice rendered by PPL Electric to the Complainant due to the damage to the Company's facilities caused by the Complainant's tree removal actions between April 13, 2023 and May 25, 2023 should "be dismissed." It is admitted the Complainant contacted the Company to discuss moving the poles, and it is admitted the Company created

associated work orders for the proposed relocation. The Company is without sufficient knowledge to admit whether the Complainant contacted the Company's forestry department. It is denied that "no damage" occurred to the poles or to the Company's equipment or facilities as a result of the Complainant's tree removal activity.

In further response, PPL Electric incorporates Paragraph 4, *supra*, as though fully set forth herein.

6. Paragraph 6 of the Complaint relates to Protection from Abuse orders, to which no responsive pleading is required.

7. Admitted in part and denied in part. Specifically, it is denied that the Complaint is a timely appeal of a decision by the Commission's Bureau of Consumer Services ("BCS"). It is admitted the Complainant has spoken to the Company about the subject of his Complaint. PPL Electric has attempted to be responsive to all contacts and communications from the Complainant in order to find a mutually acceptable resolution of the subject of the Complaint. PPL Electric lacks sufficient knowledge or information as to the Complainant's contacts with other government entities and, therefore, denies the same.

By way of further response, on January 8, 2024, the Complainant filed an informal complaint with the Commission's BCS at BCS Case No. 3960946 about the same subject of this Formal Complaint. The Commission's BCS dismissed the informal complaint on February 5, 2024.

In further response, PPL Electric incorporates Paragraphs 4 and 5, *supra*, as though fully set forth herein.

8. Paragraph 8 relates to methods for filing the Complaint, to which no responsive pleading is required.

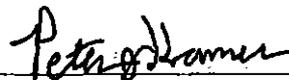
9. Paragraph 9 relates to the Complainant's preferred methods of service, to which no responsive pleading is required.

10. Paragraph 10 pertains to the Complainant's legal representation, to which no responsive pleading is required.

11. Paragraph 11 sets forth the verification and signature, to which no responsive pleading is required.

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the Complaint of Nieves Abad be denied in its entirety and with prejudice as against PPL Electric Utilities Corporation.

Respectfully submitted,



Kimberly A. Klock (ID # 89716)
Michael J. Shafer (ID # 205681)
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18101
Phone: 610-774-2599
Fax: 610-774-4102
E-mail: kklock@pplweb.com
mjshafer@pplweb.com

Devin T. Ryan (ID # 316602)
Peter J. Kramer (ID # 331797)
Nicholas A. Stobbe (ID # 329583)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: dryan@postschell.com
pkramer@postschell.com
nstobbe@postschell.com

Date: March 27, 2024

Attorneys for PPL Electric Utilities Corporation

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE OF DEPOSIT

SEP 03 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Nieves Abad

v.

PPL Electric Utilities Corporation

C-2024-3047163

ORDER
GRANTING IN PART, AND DENYING IN PART,
RESPONDENT'S PRELIMINARY OBJECTIONS

HISTORY OF THE PROCEEDING

On February 12, 2024, Nieves Abad ("Complainant") filed a Formal Complaint against PPL Electric Utilities Corporation ("Respondent") with the Pennsylvania Public Utility Commission ("Commission"). In his Complaint, Complainant argued that five Respondent utility poles are located on his property without a legal right-of-way. Complainant claimed that two of these utility poles are located in the middle of his driveway and that Respondent refused to remove these two utility poles at his request.

For relief, Complainant requested that the Commission: (1) order Complainant to be compensated in the amount of \$100 per pole, per week since May 1, 2023; (2) order Respondent to remove the five utility poles from his property; (3) come to a resolution in regards to a fair right of way with Respondent; (4) order that all future upgrades to poles, transformers, and the running of new wires be the full responsibility of Respondent; and (5) dismiss two invoices rendered by Respondent to Complainant for damage that Complainant allegedly caused to utility poles. The Complaint was served on Respondent on March 7, 2024.

On March 27, 2024, Respondent filed an Answer to the Formal Complaint. In its Answer, Respondent admitted that it had five utility poles located on or near Complainant's

Exhibit 4

property. Respondent asserted that one of the five utility poles is in the public right of way, and that another of the utility poles is the subject of a right of way agreement between Respondent and Real Estate Technology Corporation. Respondent further admitted that three of the utility poles are located on Complainant's property without a signed right of way agreement. Regarding the two utility poles located on Complainant's driveway, Respondent admitted that it spoke with Complainant concerning their relocation to a different portion of Complainant's property. Respondent sent Complainant two invoices concerning damage done to these two poles after Complainant damaged the poles through his tree removal actions. Respondent requested that the Commission deny the Complaint.

Also on March 27, 2024, Respondent filed Preliminary Objections to the Formal Complaint, properly endorsed with a Notice to Plead. In its Preliminary Objections, Respondent requested that the Commission dismiss the portion of the Formal Complaint seeking monetary damages as impertinent matter pursuant to 52 Pa. Code § 5.101(a)(2), arguing that the Commission lacks authority to award damages. Respondent additionally requested that the Commission dismiss the Formal Complaint in its entirety, pursuant to 52 Pa. Code § 5.101(a)(1), arguing that the Commission lacks subject matter jurisdiction over the Complaint. Specifically, Respondent argued that the Complaint raises private contractual and real property issues to which the Commission has no jurisdiction over.

On April 4, 2024, Complainant filed an Answer to the Preliminary Objections, wherein Complainant repeated his assertions from his Complaint and asked that the Preliminary Objections be denied. Complainant also attached multiple documents to his Answer, including what appears to be pictures of the five utility poles in question, letters Complainant sent to Respondent requesting that the utility poles be removed, and the invoices Respondent sent to Complainant concerning damage done to Respondent's utility poles.

On April 23, 2024, the undersigned was assigned as Motion Judge to this proceeding.

Respondent's Preliminary Objections are procedurally ready to be ruled upon. For the reasons discussed below, the Preliminary Objections will be granted in part, and denied in part. This matter will proceed towards an evidentiary hearing.

DISCUSSION

Respondent in this matter filed Preliminary Objections to the Formal Complaint. The Commission's regulations provide that preliminary objections are available to parties and may be filed in response to a pleading. 52 Pa. Code § 5.101(a). The grounds for preliminary objections are limited to those set forth as follows:

(1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.

(2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.

(3) Insufficient specificity of a pleading.

(4) Legal insufficiency of a pleading.

(5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.

(6) Pendency of a prior proceeding or agreement for alternative dispute resolution.

(7) Standing of a party to participate in the proceeding.

52 Pa. Code § 5.101(a).

Here, Respondent's Preliminary Objections assert lack of Commission jurisdiction pursuant to 52 Pa. Code § 5.101(a)(1) and inclusion of impertinent matter pursuant to 52 Pa. Code § 5.101(a)(2).

Commission procedure regarding the disposition of preliminary objections is similar to the procedure utilized in Pennsylvania civil practice. A preliminary objection in civil

practice seeking dismissal of a pleading will be granted only where relief is clearly warranted and free from doubt. *Pennsylvania State Lodge, Fraternal Order of Police v. Dept. of Conservation & Natural Resources*, 909 A.2d 413 (Pa. Cmwlth. 2006), *aff'd*, 592 Pa. 304, 924 A.2d 1203 (2007).

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. *County of Allegheny v. Commonwealth of Pennsylvania*, 490 A. 2d 402 (Pa. 1985); *Commonwealth of Pennsylvania v. Bell Telephone Co. of Pa.*, 551 A.2d 602 (Pa. Cmwlth. 1988). 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. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

The preliminary objection may be granted only if the moving party prevails as a matter of law. *Rok v. Flaherty*, 527 A.2d 211 (Pa. Cmwlth. 1987). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Dep't of Auditor General, et al. v. State Employees' Retirement System, et al.*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003) (citing *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002)).

Having explained the standards for granting preliminary objections, I will first discuss Respondent's Preliminary Objection that the Commission lacks jurisdiction over the Complaint, pursuant to 52 Pa. Code § 5.101(a)(1).

The Commission regulation at 52 Pa. Code § 5.21(a) states that a person may file a formal complaint claiming violation of a statute that the Commission has jurisdiction to administer. The regulation at 52 Pa. Code § 5.21(d) authorizes the Commission to dismiss a complaint if a hearing is not necessary and authorizes preliminary objections to be filed in response to a complaint.

The regulation at 52 Pa. Code § 5.101(a)(1) permits the filing of a preliminary objection to dismiss a pleading for lack of Commission jurisdiction. The provision at 52 Pa. Code § 5.101(a)(1) 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. 66 Pa.C.S. § 703(a); *Lehigh Valley Power Committee v. Pa. Pub. Util. Comm'n*, 563 A.2d 557 (Pa.Cmwlth. 1989); *Lehigh Valley Power Committee v. Pa. Pub. Util. Comm'n*, 563 A.2d 548 (Pa.Cmwlth. 1989); *S.M.E. Bessemer Cement, Inc. v. Pa. Pub. Util. Comm'n*, 540 A.2d 1006 (Pa.Cmwlth. 1988); *White Oak Borough Authority v. Pa. Pub. Util. Comm'n*, 103 A.2d 502 (Pa. Super. 1954).

The Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly contained in the Public Utility Code. *Tod and Lisa Shedlosky v. Pennsylvania Electric Co.*, Docket No. C-20066937 (Opinion and Order entered May 28, 2008); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). The Commission must act within, and cannot exceed, its jurisdiction. *City of Pittsburgh v. Pa. Pub. Util. Comm'n*, 43 A.2d 348 (Pa.Super. 1945). Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967). Subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy. *Hughes v. Pennsylvania State Police*, 619 A.2d 390 (Pa.Cmwlth. 1992) *alloc. denied* 637 A.2d 293 (Pa. 1993).

Viewing the Complaint in the light most favorable to Complainant and accepting all of the factual assertions in the Complaint as true for the purposes of disposing of the Preliminary Objections, Respondent has five utility poles located on Complainant's property. Respondent has refused to relocate two of these poles that are located on the driveway of the property. Respondent has no easement or right of way agreement that would authorize the placement of these utility poles on Complainant's property.

Respondent argued that the Complaint raises issues surrounding the scope and validity of a right of way and that the Commission has no jurisdiction over issues involving the scope and validity of easements, or rights of way. Respondent is correct in that the Commission lacks jurisdiction to interpret an easement or rights of way agreement. In *Fairview Water Co. v.*

Pa. Pub. Util. Comm'n., 502 A.2d 162 (Pa. 1985), the Pennsylvania Supreme Court held that the Commission lacks jurisdiction to determine the scope and validity of an easement. 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. *Anne E. Perrige v. Metropolitan Edison Co.*, Docket No. C-00004110 (Opinion and Order entered July 3, 2003); *Fiorillo v. PECO Energy Co.*, Docket No. C-00971088 (Opinion and Order entered September 15, 1999).

Here, however, the Commission is not being asked to determine the scope and validity of an easement or right of way agreement. Complainant did not in his Complaint admit to the existence of an easement or right of way, but in fact asserted that an easement or right of way for Respondent to utilize his property **does not exist**. As the Complaint denies the existence of any easement or right of way, I cannot conclude that the Commission is being asked to determine the scope and validity of an easement in this matter.¹ I will also note that, in its Answer to the Complaint, Respondent admits that three of the five utility poles in question are not subject to a right of way agreement.

In addition, the Commission has held that the relocation of utility facilities at a customer's request falls within the statutory definition of service and that the Public Utility Code defines service in its broadest and most inclusive sense. *See Barbara Gallagher v. PECO Energy Company*, Docket No. C-2010-2201568 (Order entered September 22, 2011) at 21. Taking the averments and any reasonable inferences from the Complaint to be true, it could reasonably be construed that Complainant may have asserted an unreasonable service allegation in relation to Respondent's refusal to move its utility poles from Complainant's property.

Therefore, for the above reasons, Respondent's Preliminary Objection made pursuant to 52 Pa. Code § 5.101(a)(1) will be denied.

¹ To the extent however, that Complainant asks that the Commission assist the parties in "coming to a resolution in regards to a fair right of way with Respondent," this is a private contractual matter that must be resolved between the parties.

Having discussed Respondent's Preliminary Objection made pursuant to 52 Pa. Code § 5.101(a)(1), I will now discuss Respondent's Preliminary Objection that the Complaint includes impertinent matter, made pursuant to 52 Pa. Code § 5.101(a)(2). In his Complaint, Complainant asked that the Commission compensate Complainant in the amount of \$100 per pole, per week since May 1, 2023. Respondent argued that this portion of the Complaint should be dismissed as the Commission does not have the authority to award damages.

Respondent is correct in that the Commission lacks jurisdiction to award monetary damages to a Complainant in adjudicating a complaint properly brought before this Commission. *See, Poorbaugh v. Pa. PUC*, 666 A.2d 744 (Pa. Cmwlth. 1995). To the extent Complainant wishes to seek compensation from Respondent for the presence of the utility poles on his property, he must pursue such action before a different forum.

For the above reasons, I will grant Respondent's Preliminary Objection made pursuant to 52 Pa. Code § 5.101(a)(2) and dismiss the portion of the Complaint seeking monetary damages.

ORDER

THEREFORE,

IT IS ORDERED:

1. That PPL Electric Utilities Corporation's Preliminary Objections filed in the matter of Nieves Abad v. PPL Electric Utilities Corporation, Docket No. C-2024-3047163, are granted in part, and denied in part.

2. That the portion of PPL Electric Utilities Corporation's Preliminary Objections that seek dismissal of a portion of the Complaint, pursuant to 52 Pa. Code § 5.101(a)(2), is granted.

3. That the portion of the Complaint in the matter of Nieves Abad v. PPL Electric Utilities Corporation, Docket No. C-2024-3047163, seeking monetary damages is stricken.

4. That the portion of PPL Electric Utilities Corporation's Preliminary Objections that seek dismissal of the Complaint in its entirety, pursuant to 52 Pa. Code § 5.101(a)(1), is denied.

5. That an evidentiary hearing will be scheduled in this matter.

Date: May 17, 2024

_____/s/
Alphonso Arnold III
Administrative Law Judge

C-2024-3047163 - NIEVES ABAD v. PPL ELECTRIC UTILITIES CORPORATION

NIEVES ABAD
747 DELAWARE STREET
FOREST CITY PA 18421
631.575.2348
martjua3@aol.com
Served by USPS First-Class Mail

PETER J KRAMER ESQUIRE
POST & SCHELL
THREE LOGAN SQUARE
1717 ARCH STREET 24TH FLOOR
PHILADELPHIA PA 19103
215.587.1075
215.587.1444
pkramer@postschell.com
Accepts and served by eService

DEVIN T RYAN ESQUIRE
POST AND SCHELL PC
17 N.2ND ST 12TH FL
HARRISBURG PA 17101-1601
717.612.6052
717.612.6033
717.731.1970
dryan@postschell.com
nstobbe@postschell.com
Accepts and served by eService
(Counsel represents PPL Electric Utilities Corporation)



INVOICE NUMBER
91130032-3

INVOICE DATE
08/15/23

TOTAL AMOUNT
3,176.24

NIEVES P. ABAD
747 DELAWARE ST.
FOREST CITY, PA 18421

PPL CONTROL ACCOUNT: 014350

MAKE CHECKS PAYABLE TO:
PPL Electric Utilities Corp

--- 3 3900031762490003176249 9113003200

AMOUNT PAID

TO INSURE PROPER CREDIT, PLEASE RETURN THIS PORTION WITH PAYMENT IN ENCLOSED ENVELOPE TO: PPL CORPORATION PO BOX 25222 LEBIGH VALLEY, PA 18002-5222

NIEVES P. ABAD
747 DELAWARE ST.
FOREST CITY, PA 18421

REFER ALL INQUIRIES TO:
CGC Claims Office 800-748-7104

PLEASE REFER TO THIS NUMBER WHEN
CALLING OR WRITING: 91130032-3

ITEM	DESCRIPTION	AMOUNT
1	Property Damage Cost of repairing damage to our property located at Amity Court, Scranton, PA Incident date: April 13, 2023 WR # 59718837 Claim # 2023-00453	0.00
2	Labor	1,755.21
3	Vehicle Usage Charges	253.36
4	Materials	1,167.67

DATE OF DEPOSIT

SEP 03 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Payment Due: Net 30

91130032-3
INVOICE NUMBER

08/15/23
INVOICE DATE

3,176.24
TOTAL AMOUNT

PPL Electric Utilities Corp
TWO NORTH NINTH STREET, ALLENTOWN, PA 18101-1179
097136000000035

Business Use

Exhibit 5

EXHIBIT 2



INVOICE NUMBER
91130033-3

INVOICE DATE
08/15/23

TOTAL AMOUNT
1,685.21

NIEVES P. ABAD
747 DELAWARE ST.
FOREST CITY, PA 18421

PPL CONTROL ACCOUNT: 014350

MAKE CHECKS PAYABLE TO:
PPL Electric Utilities Corp

--- 3 4100016852110001685218 9113003300

AMOUNT PAID

TO INSURE PROPER CREDIT, PLEASE RETURN THIS PORTION WITH PAYMENT IN ENCLOSED ENVELOPE
TO: PPL CORPORATION PO BOX 25222 LEHIGH VALLEY, PA 18002-5222

NIEVES P. ABAD
747 DELAWARE ST.
FOREST CITY, PA 18421

REFER ALL INQUIRIES TO:
CGC Claims Office 600-748-7104

PLEASE REFER TO THIS NUMBER WHEN
CALLING OR WRITING: 91130033-3

ITEM	DESCRIPTION	AMOUNT
1	Property Damage Cost of repairing damage to our property located at Amity Court, Scranton, PA Incident date: May 25, 2023 WR # 58724132 Claim # 2023-00661	0.00
2	Labor	1,863.00
3	Vehicle Usage Charges	122.21
Payment Due: Net 30		

DATE OF DEPOSIT

SEP 03 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

91130033-3
INVOICE NUMBER

08/15/23
INVOICE DATE

1,685.21
TOTAL AMOUNT

PPL Electric Utilities Corp
TWO NORTH NINTH STREET, ALLENTOWN, PA 18101-1179
037120000000036

Business Use

Exhibit 6

© 1994 E. J. Brannan



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
BUREAU OF CONSUMER SERVICES
400 NORTH STREET, HARRISBURG, PA 17120

IN REPLY PLEASE
REFER TO OUR FILE

Date: 2/5/2024

DATE OF DEPOSIT

Case #: 3960946

Nieves Abad
837 Capouse Ave
Rear
Scranton PA 18509

SEP 03 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dear Nieves Abad:

On 1/8/2024 you contacted the Public Utility Commission's Bureau of Consumer Services and filed an informal complaint against PPL Utilities. You stated that there are five utility poles located on your property and you would like them removed in order make improvements/develop a parcel of land. You said that you have contacted PPL multiple times since you bought the property and the company states they don't have the right-of-way paperwork for any of the poles on the property. You are seeking to have the utility poles removed from the property as soon as possible.

We contacted the Company in an effort to resolve your complaint.

PPL Utilities reported that due to the length of time the facilities have been erected, the company's Right-of-Way Department has been unable to locate the right-of-way documents.

PPL stated that the company has the rights to keep the poles in the present location; however, they are willing to move/remove the poles in question once they receive payment of \$4,300.00 for damage that resulted from tree removal on the property that knocked out electric service on two separate occasions. PPL said that this created two separate jobs that their crews had to address and restore power.

PPL also said they agree to waive the relocation charges that would normally be billed to the customer as a good faith gesture.

Please note, at the informal level, the Bureau of Consumer Services has limited authority to resolve your service issue, and we have closed your informal complaint. However, you do have the right to file a formal complaint where your service issue may be further addressed. You do not need a lawyer to file a formal complaint if you have a residential service account. The formal complaint process involves a legal proceeding before a PUC Administrative Law Judge (ALJ), similar to a trial. This means that you and the utility must present facts on the issues raised in your complaint to the ALJ. You must participate in a hearing, respond to questions from the utility, and prove why the judge should uphold your position.

If you would like formal complaint forms, visit our website at www.puc.pa.gov or call 717-772-7777. If you need to contact our office, please call 1-800-692-7380. Please reference the case number listed above. Thank you for contacting the Public Utility Commission.

Sincerely,

Tom Harding
Bureau of Consumer Services

Exhibit 7



TWO NORTH NINTH STREET
ALLENTOWN PA 18101-1179

QUOTE NUMBER
81036584-3

QUOTE DATE
06/07/23

TOTAL AMOUNT
4,128.00

NIEVES ABAD
747 DELAWARE
FOREST CITY, PA 18421

MAKE CHECKS PAYABLE TO: PPL Electric Utilities Corp OR please see attached
ACH Enrollment Form to pay electronically through your Banking Institution.

--- 3 2000041280000004128008 8103658400

AMOUNT PAID

TO INSURE PROPER CREDIT, PLEASE RETURN THIS PORTION WITH PAYMENT IN ENCLOSED ENVELOPE
TO: PPL CORPORATION PO BOX 25222 LEHIGH VALLEY, PA 18002-5222

NIEVES ABAD
747 DELAWARE
FOREST CITY, PA 18421

REFER ALL INQUIRIES TO:
Customer Care Center 800-342-5775

PLEASE REFER TO THIS NUMBER WHEN
CALLING OR WRITING: 81036584-3

ITEM	DESCRIPTION	AMOUNT
1	RELOCATION COSTS PPL cost to relocate 2 poles and 1PH overhead secondary	4,128.00
<p>DATE OF DEPOSIT</p> <p>SEP 03 2024</p> <p>PA PUBLIC UTILITY COMMISSION SECRETARY'S BUREAU</p>		
<p>12952883-10 Relocate 2 poles and overhead secondary.</p> <p>Payment Due: Upon Receipt</p>		

81036584-3
QUOTE NUMBER

06/07/23
QUOTE DATE

4,128.00
TOTAL AMOUNT

PPL Electric Utilities Corp
TWO NORTH NINTH STREET, ALLENTOWN, PA 18101-1179
08616000000004

Exhibit 8

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COMMONWEALTH OF PENNSYLVANIA

(Public Utility Commission)

-----*

NIEVES ABAD, :
 Complainant, : Case No.:
 vs. : C-2024-3047163

PPL ELECTRIC UTILITIES : DATE OF DEPOSIT
 CORPORATION, :
 Respondent. : SEP 03 2024
 PA PUBLIC UTILITY COMMISSION
 SECRETARY'S BUREAU

-----*

Pages 1 through 18 TELEPHONIC HEARING
 Judge's Chambers
 Commonwealth Keystone Bldg.
 400 North Street
 Harrisburg, PA 17120

Thursday, July 18, 2024
 Met, pursuant to notice, at 10:02 a.m.

BEFORE: THE HONORABLE ALPHONSO ARNOLD III
 Administrative Law Judge

Exhibit 9

1 APPEARANCES:

2 NIEVES ABAD (Pro Se)

3 747 Delaware Street

4 Forest City, PA 18421

5 631-575-2348

6 martjua3@aol.com

7 (On Behalf of Complainant)

8

9 PETER J. KRAMER, ESQUIRE

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12 1717 Arch Street, 24th Floor

13 Philadelphia, PA 19103

14 215-587-1075

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17 (On Behalf of Respondent)

18

19 NICHOLAS STOBBE, ESQUIRE

20 Post and Schell

21 17 North 2nd Street, 12th Floor

22 Harrisburg, PA 17101

23 717-612-6052

24 nstobbe@postschell.com

1 P R O C E E D I N G S

2 - - - - -

3 COURT REPORTER: Time is 10:02 a.m. Today's
4 date is July 18, 2024. Case name, Nieves Abad vs. PPL
5 Electric Utilities Corporation, Cause Number C-2024-
6 3047163. And this is a remote telephone conference
7 hearing with the Honorable Judge Arnold, and we're on the
8 record.

9 JUDGE ARNOLD: Yes, good morning, everyone.
10 And as the Court Reporter noted, this is the case for
11 Nieves Abad vs. PPL Electric Utilities Corporation. The
12 Docket Number is C-2024-3047163.

13 My name is Alphonso Arnold III. I am an
14 Administrative Law Judge. This matter was initially
15 scheduled for an Administrative Hearing to take place for
16 this date. I converted to a Pre-Hearing Conference.

17 So I'll allow the parties to introduce
18 themselves at this time starting with the Complainant,
19 Mr. Abad, please.

20 MR. ABAD: How are you doing, Your Honor? My
21 name is Nieves Abad.

22 JUDGE ARNOLD: And could you just spell your
23 name for the record, please?

24 MR. ABAD: Yeah, first name is N-i-e-v-e-s,

1 JUDGE ARNOLD: All right. Thank you, sir. And
2 representatives for PPL, please introduce yourself for
3 the record.

4 MR. KRAMER: Yes, good morning. This is
5 attorney Peter Kramer. That is spelled P-e-t-e-r, last
6 name, K-r-a-m-e-r.

7 JUDGE ARNOLD: Okay. Thank you, Attorney
8 Kramer.

9 MR. STOBBE: And Your Honor -- Your Honor, also
10 on the line with Attorney Kramer on behalf of PPL
11 Electric Utilities Corporation is Attorney Nicholas
12 Stobbe, Nicholas spelled N-i-c-h-o-l-a-s, Stobbe spelled
13 S-t-o-b as in bravo-b as in bravo-e.

14 JUDGE ARNOLD: All right, thank you. So as I
15 just mentioned, this case was initially scheduled for a
16 hearing. I converted it to a conference. I did not feel
17 that this case was right for a hearing at this time
18 insight of the light of a outstanding motion to compel
19 that I have not yet ruled on.

20 And in addition, Mr. Abad served in advance of
21 the hearing approximately 41 proposed exhibits that I had
22 not yet had the opportunity to review in their entirety
23 prior to the hearing. So I wanted to make sure that I
24 could review everything prior to having me hearing this

1 Let me just start off in this way. Mr. Abad,
2 if you could briefly explain the issues that are present
3 in your complaint, and this is not a hearing. So you're
4 -- this is not testimony that you'll be providing, but if
5 you could just briefly provide the issues that you feel
6 that are present here regarding this proceeding.

7 MR. ABAD: Yes, sir, Your Honor. Well, the two
8 bills that PPL had billed me for, I guess, damage to
9 their equipment, also the removal or relocation of five
10 telephone poles that are power poles that are on --
11 located on my property, and also the upgrading of needed
12 to be done or as I was -- as I was told by the PPL
13 employee that I spoke to that needed to be done to build
14 my building that I had planned to build when I purchased
15 the property.

16 So mainly, those four issues. There was a
17 quote number that they also gave me like the bill, but I
18 think they said they took it back. But if they didn't,
19 that's the -- that's the fourth issue, the quote invoice
20 that they gave me to -- for the cost of moving the
21 utility poles on my property. And those are the five
22 main issues.

23 JUDGE ARNOLD: All right, thank you. And --

24 MR. ABAD: So --

1 MR. ABAD: No, that's all.

2 JUDGE ARNOLD: Okay. Attorney Kramer, do you -
3 - the position of PPL in this matter, if you could just
4 briefly go over that, please?

5 MR. KRAMER: Yes, Your Honor. So as Mr. Abad
6 had stated, he had contacted PPL inquiring about the
7 relocation of power poles on his property. After those
8 communications took place, PPL had evaluated the poles on
9 Mr. Abad's property and had come up with a work order.

10 In between the time that the work order was
11 issued and work had been agreed to begin or any further
12 right-of-way documents be negotiated, PPL suffered
13 damages to its facilities and property. And so at that
14 time, under information and belief, Mr. Abad was invoiced
15 for those, as he had stated. And instead of a quote for
16 the removal -- for moving of the poles at that time, PPL
17 had then discussed potentially paying the invoice for the
18 damages instead for the removal of the -- or relocation
19 of the poles.

20 So that summarizes up until the end of last
21 summer, Your Honor, and that -- and this description is
22 consistent with the answer PPL Electric has filed back in
23 March.

24 JUDGE ARNOLD: Okay. Thank you, Attorney

1 So I did -- all right, so in this matter, PPL
2 did file preliminary objections, which I granted in part
3 and denied in part. I bring it up to say that there does
4 appear to be issues in this proceeding that the
5 Commission does not have jurisdiction over, and I just
6 want to, you know, state this on the record and make this
7 clear for Mr. Abad that, you know, the Commission does
8 not have jurisdiction, which is just, you know, a legal
9 term meaning that the Commission cannot decide issues
10 regarding property disputes.

11 So for matters that might be involving any --
12 the scope or validity of right-of-ways or easements, of
13 matters that might involve trump paths over Mr. Abad's
14 property, the Commission does not -- does not have any
15 jurisdiction to determine those issues. And I also noted
16 that the Commission does not have the jurisdiction to
17 resolve disputes over monetary damages.

18 So and it explains Mr. Abad was seeking
19 monetary damages for these poles that he mentioned are --
20 that he alleges are on his property. The Commission does
21 not have any jurisdiction to award monetary damages
22 concerning that.

23 And in addition, these issues concerning the
24 damages that Mr. Abad allegedly caused to these poles,

1 is that the Commission does not really have any
2 jurisdiction to resolve that issue as well. If you are
3 challenging the -- those invoices, that's a matter for a
4 Court of Common Pleas, not the Commission.

5 So I just wanted to make those things clear,
6 that the Commission's jurisdiction over this matter does
7 seem to be limited, despite the fact that I did decide in
8 my order that it would proceed to an Evidentiary Hearing.

9 All that being said, we've got a motion to
10 compel that is still outstanding. I just want to clarify
11 something. So this motion to compel, Mr. Abad, he
12 indicated that he served the motion on PPL on June the
13 14th, and I see that on June the 17th, PPL submitted
14 responses to Mr. Abad's discovery request.

15 So Attorney Kramer, this question is for you.
16 When you submitted responses to Mr. Abad, did those
17 responses make the motion to compel moot, or did PPL just
18 submit responses to the discovery that PPL did not object
19 to, if that question makes sense?

20 MR. KRAMER: Sure, Your Honor. I think the
21 answer to that question is yes. I received a motion to
22 compel almost at the same exact time that I sent out our
23 answers to discovery. So to the extent that there were
24 remaining issues, PPL did provide quite a lot of

1 Your Honor, I did not review the motion to compel until
2 the answers were already sent out.

3 JUDGE ARNOLD: Okay. Mr. Abad, what I'm
4 getting at here is -- and this is based on Attorney
5 Kramer's response there -- it seems like PPL responded to
6 your discovery that you produced and served upon PPL,
7 your interrogatories and your request for production. Is
8 your motion to compel still -- I use the word -- valid?
9 Are there still interrogatories that you are still
10 seeking answers to?

11 MR. ABAD: Yes, Your Honor. Every issue I've
12 brought up in the motion to compel is still valid and
13 continuing. When PPL made their answer to me, they only
14 answered the parts that were not objected to. There was
15 over a dozen questions not answered because they were
16 objected to.

17 And also -- I also had a question as far as the
18 two invoices that we -- that you said were not being able
19 to resolve with you guys because you guys don't have
20 jurisdiction. You guys do have jurisdiction for those
21 invoices to be used against me to not relocate the
22 telephone poles on the property at all. Am I correct in
23 saying that?

24 JUDGE ARNOLD: Okay. So all right. So mainly,

1 my understanding at this time is that if there is an
2 underlying -- for example, if there's an underlying issue
3 in this proceeding that implicates the Public Utility
4 Code, then I can review that issue.

5 So for example, Section 1501 of the
6 Pennsylvania Public utility Code states in sum -- and
7 this is a brief restatement of 1501 -- but it basically
8 says that the utility companies -- public utilities have
9 to provide safe and reasonable service to their
10 customers.

11 MR. ABAD: Yes.

12 JUDGE ARNOLD: So if I were to determine that
13 placement of these poles would in some way be in
14 violation of that section, then it would be my
15 understanding that I could and the Commission could order
16 those poles to be moved to some other location on the
17 property. That is my understanding at this time. Like I
18 had to state, admittedly, that I am still looking into
19 this, I'm still looking at case law concerning this, but
20 that is my understanding. Is that clear to you?

21 MR. ABAD: Yes, Your Honor. Yes, I did read
22 Section 1501 myself. I'm trying to catch up, too, being
23 pro se. I've never done this before. So I have a lot of
24 catching up to do. But yeah.

1 damages that you've allegedly done to these poles and PPL
2 providing invoices to you for that alleged damage, it's
3 my understanding that that is not within the Commission's
4 jurisdiction to review.

5 MR. ABAD: But if they're using the two
6 invoices in order to note relocate the poles on the
7 property, that's what is -- would that make the bills
8 reviewable by you?

9 JUDGE ARNOLD: So if I were to determine -- if
10 I were to determine that the placement of these poles
11 would be in some way violative of the law that the
12 Commission has jurisdiction over, then the order would
13 likely order that PPL move these poles with no cost to
14 you. The --

15 MR. ABAD: Okay.

16 JUDGE ARNOLD: -- the issue regarding the
17 invoices would still exist, but it would be -- it would
18 have to be resolved by another court, not the Commission.

19 MR. ABAD: Okay. Yes, sir. Understood.

20 MR. STOBBE: Your Honor, this is Attorney
21 Stobbe, if I may, just in an attempt to maybe focus the
22 issues here. I think it's worth noting PPL's general
23 position here is kind of three-pronged.

24 Prong one is PPL's position that the Commission

1 of that restriction and as noted in Your Honor's order on
2 the Company's preliminary objection, Mr. Abad is not in a
3 court of competent jurisdiction to receive damages in
4 this proceeding before the PUC.

5 Prong two, it's also PPL Electric's position
6 that the Commission is without jurisdiction to determine
7 the scope and validity of the right-of-way agreement,
8 which I think constitutes the heart of the dispute, i.e.
9 the placement of the poles on or near Mr. Abad's
10 property. So I think that's kind of at least from PPL's
11 perspective restricts what the Commission is able to do
12 here.

13 And then prong three, as to the invoices that
14 PPL Electric has provided to the Complainant as a result
15 of the damages caused by the Complainant to the PPL
16 Electric facilities on or near the Complainant's
17 property, it is certainly not PPL Electric's position in
18 this proceeding that it is seeking payment of those
19 invoices, i.e. damages, from the Complainant through a
20 PUC proceeding.

21 If and when PPL Electric and the Complainant
22 are unable to resolve this dispute, it is certainly PPL's
23 prerogative, if it wants to pursue payment of those
24 invoices in a Court of Common -- that has jurisdiction

1 the damages claims against Mr. Abad is this proceeding.

2 So I think that issue kind of muddies the
3 jurisdictional waters, but I just want to make very clear
4 what PPL Electric's position is here. And again that
5 position is, one, the Commission does not have power to
6 award Mr. Abad damages on the part of PPL Electric;
7 position two, any dispute that's to the scope and
8 validity of the right-of-way agreement is also extra-
9 jurisdictional and not appropriate for litigation in this
10 proceeding; and position three, which is more of a
11 general statement, PPL Electric is not seeking damages
12 from Mr. Abad in this proceeding.

13 Although he may have received invoices from PPL
14 Electric, candidly, Your Honor, I think that's well
15 outside the scope of this proceeding, although it may
16 sort of color PPL Electric's private and confidential
17 settlement discussions with Mr. Abad, PPL Electric is not
18 the Complainant in this proceeding nor is it seeking as
19 the Respondent to recover damages from Mr. Abad.

20 MR. KRAMER: And I would also Honor -- add,
21 Your Honor, as -- this is Attorney Kramer -- that this
22 issue of these invoices and the damages might help clear
23 up a lot of the motion to compel discovery, as much of
24 the interrogatories and requests for documents relate to

1 JUDGE ARNOLD: All right. Thank you, everyone.
2 All right. So I will -- following today's conference, I
3 will issue an order regarding the motion to compel.

4 Attorney Kramer's point that he made at the end
5 there is well-taken. Any of the -- any of the
6 interrogatories or requests for production of documents
7 that (inaudible) --

8 COURT REPORTER: Your Honor, you're -- Your
9 Honor, you're -- Your Honor, you're breaking up a bit on
10 my end.

11 JUDGE ARNOLD: -- (inaudible) invoice damages -
12 -

13 MR. ABAD: Hello?

14 COURT REPORTER: Hello?

15 MR. ABAD: You know, the phone was breaking up.
16 I couldn't really hear.

17 COURT REPORTER: Yeah. Your Honor, are you
18 there, sir?

19 JUDGE ARNOLD: Hello? Can everyone hear me?

20 COURT REPORTER: Yes, Your Honor, but you're
21 breaking up, sir.

22 JUDGE ARNOLD: Okay.

23 MR. ABAD: Hello?

24 JUDGE ARNOLD: Yes. And I do not know what the

1 COURT REPORTER: Sounds good -- sounds good
2 now, sir.

3 MR. ABAD: Yes, I could hear you.

4 JUDGE ARNOLD: Okay. I apologize for the --

5 MR. KRAMER: Yes, Your Honor.

6 JUDGE ARNOLD: Attorney Kramer --

7 MR. KRAMER: Your Honor, you were -- you were
8 just-- we caught the very beginning of you discussing the
9 motion to compel. You were gonna issue an order, and you
10 had stated that my point on the issue of the motion to
11 compel regard to the invoices, we just caught the very
12 beginning of that.

13 JUDGE ARNOLD: Okay. Thank you, Attorney
14 Kramer.

15 So yes, I was stating that I will issue an
16 order regarding the motion to compel following today's
17 conference. Attorney Kramer's point about a number of
18 these interrogatories, a number of these production --
19 request for production of documents that concern issues
20 that the Commission does not have jurisdiction over, I
21 understand that point, and I will resolve the motion to
22 compel in my order.

23 MR. ABAD: Okay, so --

24 JUDGE ARNOLD: Okay. Okay, so the next -- all

1 admittedly very busy this following month. However, if
2 the parties can do this, I would like for them to
3 communicate between one or another and provide dates for
4 an evidentiary hearing in September. So can the parties
5 get back to me with a hearing date for the month of
6 September?

7 MR. KRAMER: Yes, Your Honor. Mr. Abad, I will
8 reach out to you via email to coordinate that, if that's
9 okay.

10 MR. ABAD: Okay, sounds good.

11 JUDGE ARNOLD: And this could be -- and the
12 dates could be provided to me through email as well. I
13 don't need a -- I don't need for a letter or anything of
14 that nature to be filed with the Commission.

15 MR. ABAD: Understood.

16 JUDGE ARNOLD: Okay. All right. So at this
17 point, I address the things that I had meant to address.
18 Does anyone have anything that they would like to address
19 at this time or any questions or comments?

20 MR. ABAD: Let's see. Just about -- I have a
21 question, I guess, before we leave. I was planning on
22 putting in a request for a deposition on several
23 employees from PPL, and based on your ruling, I guess I
24 will supply the questions to you. Am I still allowed to

1 about this matter? A written deposition, that is.

2 JUDGE ARNOLD: Yes, you can continue to engage
3 in that discovery process with PPL informally, and you
4 can involve me if there are issues concerning discovery,
5 but generally, I would like for the parties to handle
6 discovery on their own.

7 MR. ABAD: Okay. Yeah. I'll wait 'til your
8 ruling to see, I guess, my limitations, and then I'll --
9 depositions will be coming, I guess, following that, and
10 then I also had a summary judgment to put in when I was
11 done with discovery. So I don't -- September, I mean, I
12 should have everything done by then, hopefully.

13 JUDGE ARNOLD: Okay. If you -- if you file any
14 motion, I will review the motion and rule on it.

15 MR. ABAD: Okay.

16 JUDGE ARNOLD: All right, does anyone have any
17 -- does anyone else have any questions or comments at
18 this time?

19 MR. KRAMER: No, Your Honor.

20 MR. ABAD: No, sir.

21 JUDGE ARNOLD: Okay. Hearing none, the
22 conference is adjourned, and we are off the record.

23 COURT REPORTER: Thank you, Judge Arnold. Time
24 is --

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COURT REPORTER: -- 10:32 a.m. Off record.

(Whereupon, at 10:32, the Proceedings were
adjourned.)

C E R T I F I C A T E

I hereby certify, as the reporter, that the
foregoing proceedings were taken by me, and thereafter
reduced to typewriting by me or under my direction; and
that this transcript is a true and accurate record to
the best of my ability.

CRC SALOMON COURT REPORTING
2201 Old Court Road
Baltimore, Maryland 21208

BY: *Ernie Magness*
Ernie Magness *Magness*
Court Reporter

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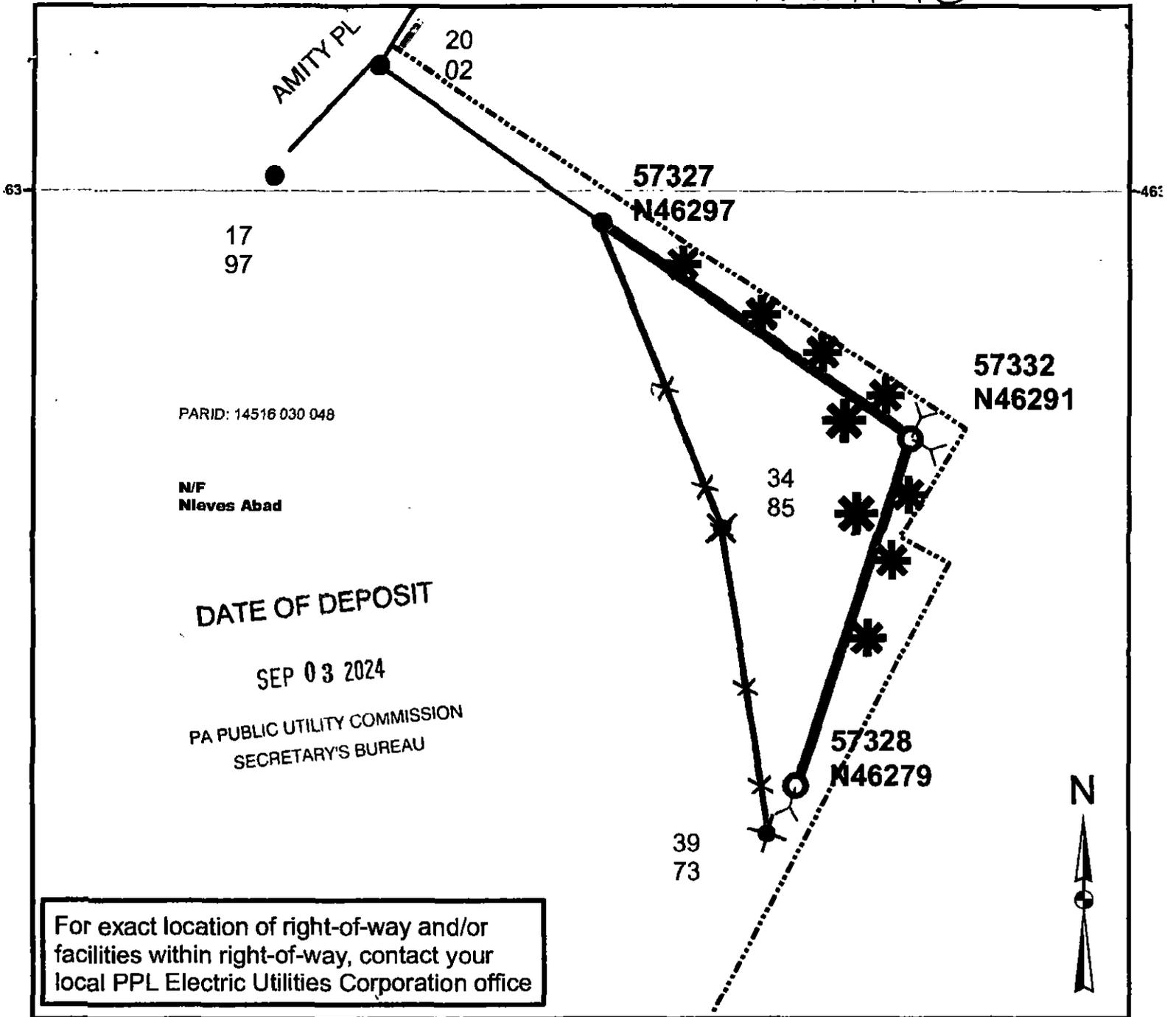
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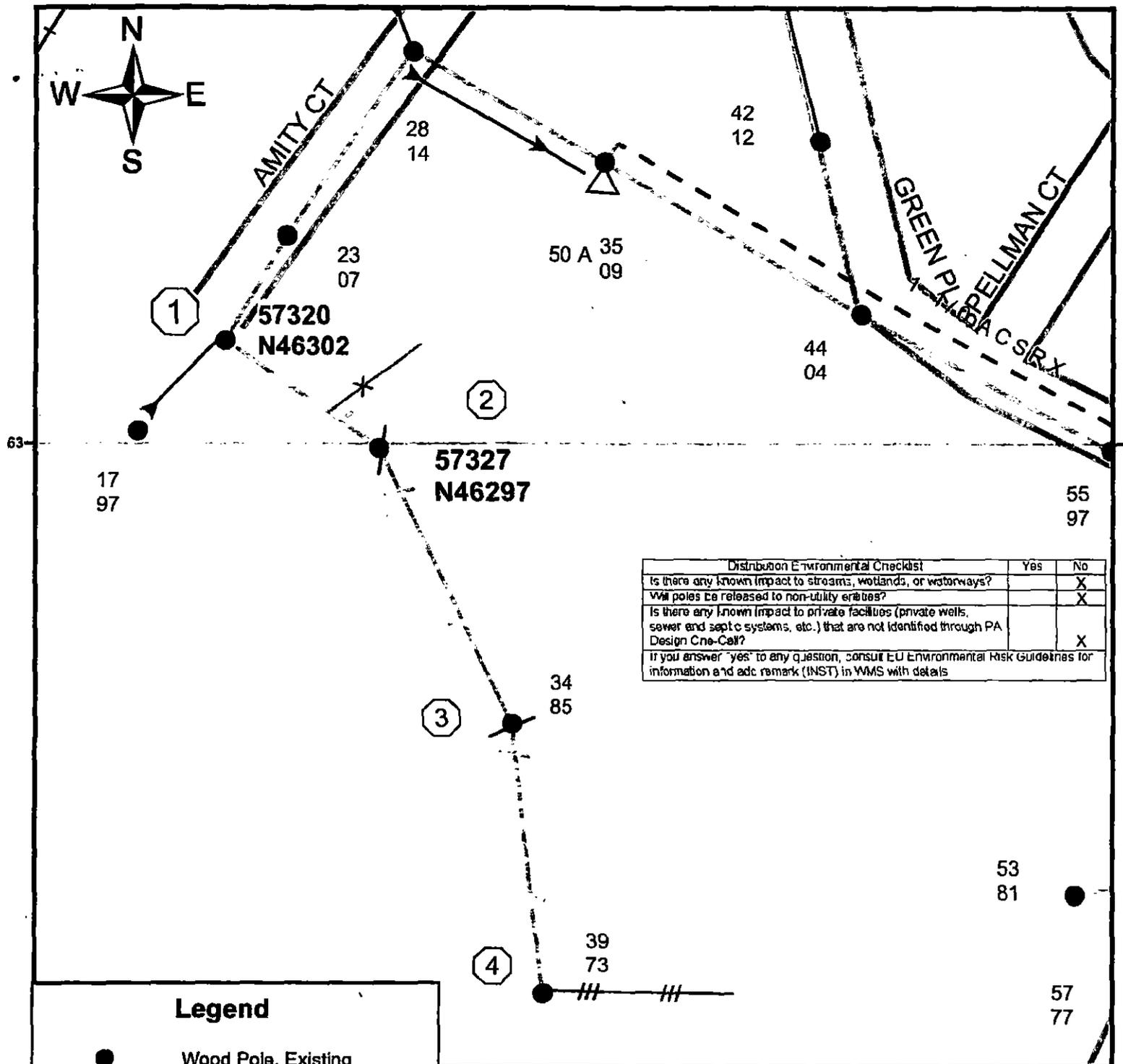
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For exact location of right-of-way and/or facilities within right-of-way, contact your local PPL Electric Utilities Corporation office

Legend	
	Anchor Guy, Proposed
	Pole, Remove
	Pole, Proposed
	Pole, Existing
	Overhead Wires, Existing
	Overhead Wires, Proposed
	Overhead Wires, Remove
	Treework, By Customer
	Approximate Property Line

Not for Construction	
WO/Design: 12952883/309256	PLAN SHOWING FACILITIES ON PROPERTY OF:
ER: 289122	
REGION: NORTHEAST	CITY OF SCRANTON LACKAWANNA COUNTY
SCALE: N.T.S.	PPL Electric Utilities Corporation ALLENTOWN, PENNA.
DATE: 6/6/2023	SIGNATURE: DATE:
ENGR: Kernoschak, T.M.	DWG. NO.: 12952883-309256-R/W-0



Distribution Environmental Checklist		Yes	No
Is there any known impact to streams, wetlands, or waterways?			X
Will poles be released to non-utility entities?			X
Is there any known impact to private facilities (private wells, sewer and septic systems, etc.) that are not identified through PA Design One-Call?			X
If you answer "yes" to any question, consult E.U. Environmental Risk Guidelines for information and add remark (INST) in WMS with details			

Legend

- Wood Pole, Existing
- Wood Pole, Replace
- ▽ OH Transformer, Existing
- ★ Streetlight, Existing
- Primary OH, 1, Existing
- - - Secondary OH, Replace
- - - Secondary OH, Existing
- /// Service OH, Existing
- × Service OH, Removal
- Span/Guy, Single, Existing

WO/Design: 12951338/307480	PPL Electric Utilities Corporation Allentown, PA
ER: 12951338	Scope of Work / Construction Details For:
SCALE N.T.S.	BJO 57327N46297 2 POLES, 3 SPANS SECONDARY, CONFIRMING AMITY COURT OFF GREEN PLACE CITY OF SCRANTON LACKAWANNA COUNTY
REGION: NORTHEAST	
DATE: 4/17/2023	
ENGR: Kernoschak, Thomas M	DWG. NO.: 12951338/307480-C-00

Exhibit 10

SCRANTON DISTRIBUTION SYSTEM
BETTERMENT

2182

KNOW ALL MEN BY THESE PRESENTS, THAT REAL ESTATE TECHNOLOGY
CORP., a corporation of PENNA., having its
principal office at SCRANTON, in consideration of the
sum of ONE Dollar (\$1.00) to it paid at the date
hereof by PENNSYLVANIA POWER & LIGHT COMPANY, hereinafter called "Electric Company", the
receipt whereof is hereby acknowledged, does hereby grant unto the said Electric Company,
its successors, assigns and lessees, the right, privilege and authority to construct,
reconstruct, maintain and operate its electric lines consisting of ONE (1)
POLE AND OVERHEAD

wires, cables, fixtures and apparatus upon, across, over, under and along the property
which it owns or in which it has an interest, situate in the CITY
of SCRANTON, County of LACKAWANNA, Commonwealth

of Pennsylvania; and along the public highways adjoining the said property, including
the right of ingress and egress to and from the said line for any of the aforesaid
purposes; also the right to cut down NO trees and the right to trim
AND NECESSARY trees and to remove brush along the said lines which
in judgment of the said Company menace the said lines; and also the right to permit the
attachments of wires and cables of any other person or company to said poles. Any poles
or facilities erected hereunder along a highway, whether within or outside the highway
limits, may, without the payment of further consideration, be relocated to conform to
new or relocated highway limits.

IN WITNESS WHEREOF the said REAL ESTATE TECHNOLOGY CORP.
has caused these presents to be executed by its President and its seal to be hereunto
affixed, duly attested by its Secretary, this 28th day of JUNE,
1979.

ATTEST:

[Signature]
ASST. SECRETARY

REAL ESTATE TECHNOLOGY CORP.
BY: ANTHONY GREGAS
[Signature]
PRESIDENT

DATE OF DEPOSIT

SEP 03 2024



PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Exhibit 11

Pole Relocation
Amity Court
Scranton Lacka Co
ER 288789

Joe B. ...

573

574 VOLTAGE
BUCKS TO W.L.C.C.

JAUNTY FEEDER

SANDERSON

573-463 N1

11L2

N

GREEN PL.

SPELLMAN CT

JAUNTY FEEDER

LANDS OF
ANTHONY GRIGAS

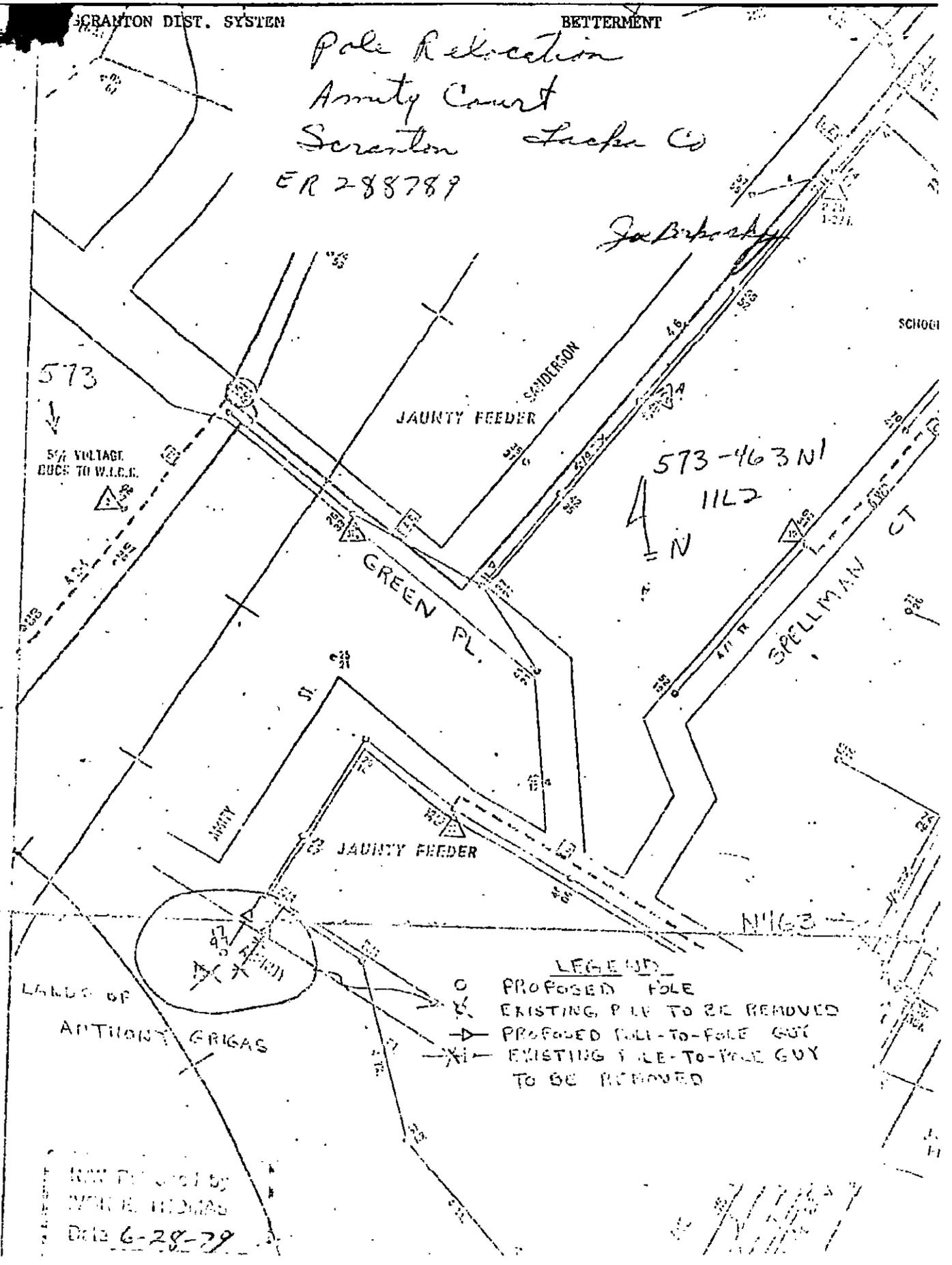
LEGEND

- O PROPOSED POLE
- X EXISTING P.O. TO BE REMOVED
- ▶ PROPOSED POLE-TO-POLE GUY
- XI EXISTING POLE-TO-POLE GUY TO BE REMOVED

WORK PROVIDED BY
MORRIS THOMAS
DATE 6-28-79

SCHOOL

N163



CF95107948

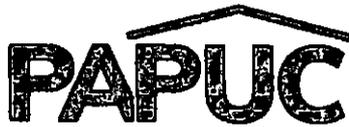
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DIST



DATE OF DEPOSIT

SEP 03 2024



PENNSYLVANIA PUBLIC UTILITY COMMISSION

PA PUBLIC UTILITY COMMISSION SECRETARY'S BUREAU

DATE OF DEPOSIT

FEB 15 2024

FORMAL COMPLAINT - FILLABLE FORM

PA PUBLIC UTILITY COMMISSION SECRETARY'S BUREAU

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.

1 Read and Complete this form

Required Step 2 Choose options for how to file your formal complaint and how to be contacted

3 Watch for important correspondence from the Public Utility Commission (PUC)

Please complete this fillable form.

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 Nieves Abad
Street/P.O. Box 747 Delaware St Apt#
City Forest City State PA Zip 18421
County Susquehanna

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

Home: 631-575-2348 Mobile: 631-575-2348

Email Address martjua3@aol.com

Utility Account Number (from your bill)

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 Nieves Abad
Street/P.O. Box 837 rear capouse ave Apt#
City scranton State pa Zip 18509

Exhibit 12

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 Electric Utilites Corp

3 TYPE OF UTILITY SERVICE

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

- Electric
- Gas
- Water
- Wastewater/Sewer
- Storm Water
- Steam Heat
- Motor Carrier (taxi, moving company, limo)
- 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). If you need additional space, use the space provided on Page 9. Please indicate the number of the question that you are answering."

1. Pole #s 57334 N42685, 57339 N46273, 57327 N46297, 57320 N46302, 571316 N46296 are located on the property at 837 rear capouse ave scranton pa 18509 without a legal right of way signed with the owner of the property.

2. Two of these poles are located in the middle of my driveway and future building space.

3. PPL refused to move these two poles and they have no legal right of way to have poles on property.

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. If you need additional space, use the space provided on Page 9. Please indicate the number of the question that you are answering.

1. compensation in the amount of \$100 per pole , per week since May 1, 2023 the poles have been on the property without legal right of way with the new owner obtaining deed of property at 837 rear capouse ave scranton pa 18509.
2. Pole numbers 57334 N42685, 57339 N46273, 57327 N46297, 57320 N46302, 571316 N46296 be removed from the property immediately.
3. would like to come to a resolution in regards to a fair right of way with PP&L
4. would like all future upgrades needed to build ; including upgrades to poles, transformers, running of new wires be full responsibility of PP& L and not the owner of 837 rear capouse ave, scranton pa 18509.
5. Claim numbers 2023-00453 and 2023-00661 for the damages to the utility poles and any other claims to date to be dismissed . Utility poles were illegally on the property at the time of the incident with no right of way or legal right to have utility poles on said property. I contacted PPL multiple times and opened multiple work orders before construction began asking them move the poles , or remove the wires so no damages would occur. I also contacted PPI forestry department that were close to the trees so that no damage would occur to the poles before construction.

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.

7. PRIOR UTILITY CONTACT

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

- 4 Yes * Informal complaint dismissed on 2/5/2024 - anc 2/21/24
- 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?

- (anc) 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 or wastewater 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. If you need additional space, use the space provided on Page 9. Please indicate the number of the question that you are answering."

Contacted PPL legal department, right of way dept, forestry department, PPL supervisors, PPL call center, written correspondence with PPL, spoke to scranton city hall and scranton zoning department and scranton code enforcement. We opened informal case # 3960946 with PA PUC and informed to file formal complaint.

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 NA 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 _____

Street/P.O. Box _____ Apt# _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

Email Address _____

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 eFile your complaint, you must print or type your name in the box provided below. Date the form. The PUC's eFiling system will accept an electronic signature. The eFiling system will not accept a complaint form without a signature and date.

Verification:

I Nieves Abad, 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).

<u>Nieves Abad</u>	<u>2/14/2024</u>
(Signature of Complainant)	(Date)

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

- **Save and keep a copy of your Formal Complaint for your records.**
- **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.**

ADDITIONAL SPACE (IF NEEDED)

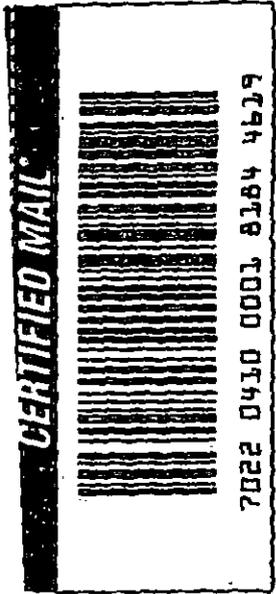
answering question #4.

4. PPL wants to charge \$4,128 for the removal of poles Bill # 81036584-3

5. PP&L is trying to hold me liable to damage of the poles and wiring that was done during construction, while these poles were illegally located on the property. Claim # 2023-00453, Claim # 2023-00661.

6. PPL refuses to pay any fees associated with keeping the poles on property and obtain a legal right of way with land owner.

Wieves Abad
747 Delaware St
Forest City PA 18421



RECEIV

FEB 20 202

PA PUBLIC UTILITY CO
SECRETARY'S BL

Secretary
Pennsylvania Public Utility Comm:
400 North Street
Harrisburg, Pennsylvania 1712

3:35



2 People



Text Message
Tue, Jun 3 at 10:01 AM

Tom Ppl Supervisor Capouch Ave

**Nieves,
I'm not sure if you were able to
talk with adjacent property
owner. In case we can't go that
route, I ran an estimate to
relocate the poles to the property
line. The actual cost is \$9,287.
PPL has agreed to charge direct
cost of \$4,128 since it serves
other customers. I'll get a right of
way drawing to Dan Walker.
Thanks
Tom**

(Handwritten signature)

DATE OF DEPOSIT

SEP 03 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Exhibit 13

EXT 01719

DATE OF DEPOSIT

SEP 03 2004

PA PARTICIPALITY COMMISSION
TREASURERS BUREAU

57316

N46296





57316

N46296



Exhibit 15

DATE OF DEPOSIT

SEP 03 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

57334

N42685









Exhibit K

PPL 57327

N46297

DATE OF DEPOSIT

SEP 03 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU





EXHIBIT 7

DATE OF DEPOSIT

SEP 03 2024

PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU









EXHIBIT 18

DATE OF DEPOSIT

SEP 03 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU









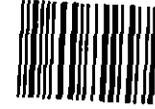
Nieves Abad
747 Delaware St
Forest City PA 18421

RECEIVED

SEP - 6 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Retail



17105

RDC 03

U.S. POSTAGE PAID
PM
SCRANTON, PA 18503
SEP 03, 2024

\$15.85

R2303S103802-08

Rosemary Chiavetta
Commonwealth Keystone Building
400 North St, 2nd floor North
P.O. BOX 3265
Harrisburg PA 171

