

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Gasden Ridge Holdings, LLC a/k/a Treval, LLC	:	
	:	C-2024-3049516
v.	:	
	:	
PPL Electric Utilities Corporation	:	

**INTERIM ORDER  
GRANTING IN PART AND DENYING IN PART THE  
PRELIMINARY OBJECTIONS OF PPL ELECTRIC UTILITIES CORPORATION**

Gasden Ridge Holdings, LLC a/k/a Treval, LLC (Complainant or Gasden) filed a Formal Complaint (Complaint) dated June 11, 2024, against PPL Electric Utilities Corporation averring that Respondent has a right of way on Complainant’s property and damaged improvements made to his property. Complainant further averred that Respondent ran bulldozers up and down his asphalt driveway and buried over 2,000 feet of stone access roads constructed by Complainant. Complainant also averred Respondent has not returned dozens of phone calls, detailed emails and requests for meetings. As relief, Complainant averred he wants his roads replaced back with stone, the topsoil piles returned to a contour that he can mow, the garbage cleaned up, the driveway repaved and stated that his damages exceed \$100,000.

PPL Electric Utilities Corporation (Respondent, PPL or Company) filed an Answer and Preliminary Objections on July 2, 2024. In its Answer, Respondent admitted it has a right of way on Complainant’s property and denied it exceeded its scope of its right of way. Respondent further denied it was negligent or that it damaged or destroyed improvements made to Complainant’s property or his asphalt driveway. Respondent further denied it buried access roads, left garbage on Complainant’s home or left dirt on the property which allowed erosion to occur.

In its preliminary objections, Respondent argues that Complainant's claims are based upon two theories: (1) that PPL was negligent in the performance of the work within its right-of-way on Complainant's property; and/or (2) that PPL exceeded the scope of its right-of-way of the property. However, Respondent argues the Commission does not have the authority to hear Complainant's claims.

Respondent further asserts Complainant requests monetary damages for which the Commission cannot award. Complainant alleges that he suffered damages in excess of \$100,000. To the extent that Complainant argues that it is entitled to monetary damages as a result of PPL's alleged actions, Respondent argues the Commission does not have the authority to award it monetary damages. Further, Complainant alleges that PPL caused damage and destruction to his property. To the extent that the Complainant is requesting that the Commission determine that PPL was negligent in performing work within its right-of-way on Complainant's property, Respondent argues the Commission lacks the authority to make such a determination.

Respondent argues the Commission is not the proper forum for resolving property rights controversies. Rather, such controversies are a matter for a court of general jurisdiction. To the extent that Complainant requests the Commission to determine the scope and validity of PPL's easement and whether PPL exceeded the scope of its right-of-way, Respondent argues the Commission also lacks the authority to do so.

Respondent concludes the Commission does not have jurisdiction over Complainant's claims and cannot award the relief sought by Complainant, and accordingly, the Complaint should be dismissed with prejudice.

The Preliminary objections dated July 2, 2024, included a notice to plead advising Complainant it may file a response to the preliminary objections within 10 days of service of the preliminary objections.

Complainant did not file a Response to Preliminary Objections.

The Commission's Rules of Practice and Procedure permit parties to file preliminary objections. The grounds for preliminary objections are limited to those set forth in 52 Pa. Code § 5.101(a) 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.

Commission's procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice.<sup>1</sup> Respondent argues, in part, that Complainant requested relief the Formal Complaint by an award of monetary damages from the Company.

It is well-established under Pennsylvania law that the enforcement powers of the Commission do not include the power to award money damages.<sup>2</sup>

In *Feingold*, the Pennsylvania Supreme Court explained:

. . . the statutory array of PUC remedial and enforcement powers does not include the power to award damages to a private litigant for breach of contract by a public utility. Nor can we find an

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<sup>1</sup> *Equitable Small Transportation Intervenors v. Equitable Gas Company*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994).

<sup>2</sup> *Elkin v. Bell Tel. Co. of PA.*, 420 A.2d 371 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1978); see *Nagy v. Bell Tel. Co. of PA.*, 436 A.2d 701 (Pa. Super. 1981).

express grant of power from which the power to award such damages can be fairly implied. Thus, it can be concluded that the Legislature did not intend for the PUC to have such a power.

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The Court of Common Pleas retains original jurisdiction over suits for monetary damages.<sup>4</sup> The Commission does not have the power to award monetary damages and the Complainant's request for money damages is an impertinent matter that must be stricken within the use and meaning of Commission regulation at 52 Pa. Code § 5.101(a)(2).

The Commission lacks the jurisdiction to award Complainant money damages related to the averments set forth in the formal complaint and in the prayer for relief filed in this proceeding. This point has been well-settled in numerous decisions.<sup>5</sup> In addition, although the Commission would not make a determination of whether Respondent was negligent in the performance of the work within its right-of-way on Complainant's property, the Commission retains the jurisdiction to rule on any service and safety issues and may order other relief as appropriate, and to determine whether Respondent provide safe, adequate and reliable service.<sup>6</sup> The Commission has broad powers to supervise and regulate all public utilities doing business within the Commonwealth and is empowered to determine whether a public utility is providing safe, adequate and reasonable service.<sup>7</sup> The Commission may impose civil penalties upon a utility which is found to be in violation of a statute, regulation or order of the Commission.<sup>8</sup>

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<sup>3</sup> *Feingold*, 383 A.2d at 794.

<sup>4</sup> *Behrend*, *supra*.

<sup>5</sup> *Elkin v. Bell Telephone Company of Pennsylvania*, 491 Pa. 123, 420 A.2d 371 (1980); *Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 383 A.2d 791 (1977); *Poorbaugh v. Pa. Pub. Util. Comm'n*, 666 A.2d 744 (Pa.Cmwlth. 1995).

<sup>6</sup> 66 Pa.C.S. § 1501.

<sup>7</sup> 66 Pa.C.S. §§ 501, 1501.

<sup>8</sup> 66 Pa.C.S. § 3301.

Utility service is not limited to the provision of service and includes “any and all acts” related to that function.<sup>9</sup>

To the extent that Complainant is asserting a service-related complaint against Respondent, Complainant may attempt to introduce testimony and exhibits at the evidentiary hearing in this case regarding alleged damages sustained relative to the alleged incident and with respect to the alleged actions or failure to act by Respondent or its agents, as it relates to service issues.

Accordingly, the request to dismiss Complainant’s claim for the award of money damages is granted, however, any Complainant may be permitted to introduce any admissible evidence as it relates to alleged service-related conduct of the Respondent and damages sustained thereby, subject to any timely objections raised in this proceeding.

Respondent further argues, to the extent that Complainant requests the Commission to determine the scope and validity of PPL’s easement and whether PPL exceeded the scope of its right-of-way, the Commission also lacks the authority to do so.

Complainant specifically averred that Respondent has a right of way on Complainant’s property and damaged improvements made to his property. Complainant further averred that Respondent ran bulldozers up and down his asphalt driveway and buried over 2,000 feet of stone access roads constructed by Complainant. Complainant also averred Respondent has not returned dozens of phone calls, detailed emails and requests for meetings. As relief, Complainant averred he wants his roads replaced back with stone, the topsoil piles returned to a contour that he can mow, the garbage cleaned up, the driveway repaved and stated that his damages exceed \$100,000.

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<sup>9</sup> 66 Pa.C.S. § 102 (defining “service”); *West Penn Power Co. v. Pa. Pub. Util. Comm’n*, 578 A.2d 75 (Pa.Cmwlth. 1990); *McCall v. Pennsylvania Electric Company*, PUC Docket No. C-2009-2105240 (Initial Decision issued February 25, 2010).

It is well settled that the Commission must act within and cannot exceed its jurisdiction.<sup>10</sup> It is well-settled that the Commission does not have the jurisdiction to determine the validity of a right-of-way.<sup>11</sup> In addition, property disputes belong in a court of general jurisdiction.<sup>12</sup>

However, the Commission has the responsibility to ensure that “[E]very public utility shall furnish and maintain adequate, efficient, safe and reasonable service and facilities. . . .” 66 Pa. C.S. § 1501, and the Commission is the proper forum to determine whether the utility has provided proper service to these Complainants, short of resolving a controversy which will determine property rights.<sup>13</sup> In addition, the Commission has expressed a clear preference that a *pro se* Complaint not be dismissed without first being provided a hearing during which the *pro se* complainant can further explain his or her position and the factual basis for the Complaint.<sup>14</sup>

Although generally, the Commission will not determine the scope and validity of PPL’s easement and whether PPL exceeded the scope of its right-of-way, Complainant may provide evidence and advance its claims that Respondent damaged improvements made to his property, ran bulldozers up and down his asphalt driveway and buried over 2,000 feet of stone access roads constructed by Complainant, left garbage on his property and related claims and

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<sup>10</sup> *Behrend v. Bell Telephone Co.*, 363 A.2d 1152 (Pa. Super 1976).

<sup>11</sup> *Stefanoski v. PA American Water Co.*, Docket No. C-20078219 (Opinion and order entered September 22, 2008).

<sup>12</sup> *See Anne E. Perrige v. Metropolitan Edison Co.*, PUC Docket No. C-00004110 (Order entered July 11, 2003) (Commission had no jurisdiction to interpret the meaning of a written right-of-way agreement); *Lou Amati/Amati Service Station v. West Penn Power Co. and Bell Atlantic-Pennsylvania, Inc.*, PUC Docket No. C-00945842 (Order entered October 25, 1995) (real property issues such as trespass and whether utility facilities are located pursuant to valid easements are within the exclusive jurisdiction of the Courts of Common Pleas); *Tod and Lisa Shedlosky v. Pennsylvania Electric Company*, PUC Docket No. C-20066937 (Order entered May 28, 2008).

<sup>13</sup> *See Burek v. Pennsylvania Electric Company*, Docket No. C-20028132 (Opinion and Order entered June 27, 2003)(the Commission affirmed the analysis of Administrative Law Judge Larry Gesoff, whose Initial Decision contained a discussion regarding the utility's application of herbicides).

<sup>14</sup> *Carlock v. The United Telephone Company of Pennsylvania*, Docket No. F-00163617 (Opinion and Order entered July 14, 1993).

that Respondent has not returned dozens of phone calls, detailed emails and requests for meetings.

Under the circumstances, the following order will be entered.

THEREFORE,

IT IS ORDERED:

1. That the preliminary objections of Respondent, PPL Electric Utilities Corporation, to the extent that Complainant seeks an award by the Commission of monetary damages to be paid by Respondent, are granted, consistent with this interim order. Respondent's request to strike any specific request for payment of monetary damages is granted.

2. That the preliminary objections of PPL Electric Utilities Corporation are denied to the extent that the preliminary objections seek to prohibit Complainant from introducing any testimony or exhibits at any evidentiary hearing regarding the alleged damages and service related claims, subject to any objections raised prior to or raised at the hearing in this proceeding.

3. That the preliminary objections of Respondent, PPL Electric Utilities Corporation, to the extent that Complainant specifically seeks a determination of the scope and validity of PPL's easement and whether PPL exceeded the scope of its right-of-way, are granted, consistent with this interim order.

4. That the preliminary objections of PPL Electric Utilities Corporation are denied to the extent that the preliminary objections seek to prohibit Complainant from providing evidence or advancing its claims that Respondent damaged improvements made to his property, ran bulldozers up and down his asphalt driveway and buried over 2,000 feet of stone access

roads constructed by Complainant, left garbage on his property and related claims and that Respondent has not returned dozens of phone calls, detailed emails and requests for meetings.

Dated: October 24, 2024

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/s/

Jeffrey A. Watson

Administrative Law Judge

**C-2024-3049516 - GADSEN RIDGE HOLDINGS LLC AKA TREVAL LLC v. PPL  
ELECTRIC UTILITIES CORPORATION**

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