

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

**Michael and Sharon Hartman
v.
PPL Electric Utilities Corporation**

**Public Meeting held January 8, 2025
3008272-OSA
Docket No. C-2019-3008272**

MOTION OF CHAIRMAN STEPHEN M. DeFRANK

Before the Commission are the Exceptions of Michael and Sharon Hartman (Hartmans or Complainants) and PPL Electric Utilities Corporation (PPL or Company) filed on October 19, 2023 and October 23, 2023, respectively, to the Initial Decision of Administrative Law Judge Steven K. Haas (ALJ), issued October 3, 2023 at the instant docket. This matter involves a formal complaint implicating the adequacy of service provided by PPL. The adequacy of service dispute arises in connection with PPL's construction and construction related activity involving the Halifax-Dauphin 69 kV Transmission Line Rebuild Project (Transmission Project). The Hartmans raise several claims in their March 1, 2019 Complaint. The essential allegations were stated as follows: "PPL has violated the existing right-of-way Agreement on our residential property; and has failed to compensate us for damage and removal of our property. Furthermore, PPL has trespassed upon and damaged private property outside the right-of-way." The presiding ALJ concluded that the Complainants met their burden of proof concerning inadequate erosion control measures by PPL in connection with the Transmission Project. I concur.

However, upon review of the Initial Decision, the Exceptions, and Reply Exceptions, I submit that further clarity and modification is required to make an appropriate determination on the Complainant's Exceptions related to reconsideration of environmental claims.¹ In light of the Commonwealth Court's ruling in the Township of Marple v. Pennsylvania Public Utility Commission (*Marple*), Complainants seek reconsideration of the claims regarding the environmental impact of PPL's construction practices and the reasonableness of PPL's environmental protection controls.² In *Marple*, the Commonwealth Court determined the Commission failed to properly apply the requirements of the Environmental Rights Amendment of the Pennsylvania State Constitution in our review and disposition of a petition for exemption of certain local zoning requirements.³

PPL, via its Reply Exceptions, asserts that the Complainants reliance upon *Marple* in support of their environmental claims is misplaced.⁴ The Company distinguished *Marple* based upon the difference in the statutory provisions of Section 619 of the Municipal Planning Code (MPC) as compared to Section 701 of the Public Utility Code pertaining to formal complaints. In summary, PPL argues: "[t]he Commonwealth Court's ruling does not apply because this case is a Section 701 formal complaint proceeding, not a Section 619 proceeding."

¹ See Complainant Exceptions at Pages 8-9

² See *Township of Marple v. Pennsylvania Public Utility Commission*, 294 A3.d 965 (Pa. Cmwlth. 2023).

³ *Id.* at 973-975; Pa. Const., Art. 1, § 27.

⁴ See PPL Reply Exceptions at pages 21-22

The ERA places requirements on the Commonwealth and its agencies, including this Commission.⁵ I note the Commission’s adjudicatory decisions and regulations are subject to the ERA.⁶ When a complainant raises quality of service issues in a complaint, which could include environmental issues, they bear the burden of proof to show that utility service is unreasonable, just like any other complaint.⁷ Here the Commission is addressing the merits of the assertions made by the Complainants regarding PPL’s quality of service, which does include allegations of PPL’s impact on the property of the Complainants.

Consequently, I believe that the Exceptions of the Hartmans in the nature of petition for reconsideration of their environmental claims, as described above, should be denied in part. I find this determination to be consistent with the Commission’s recent disposition in *Tate v Columbia Gas of Pennsylvania, Inc.*⁸ I offer this determination solely based on the facts and circumstances presented in this instant case. Such determination is not intended to qualify the universe of circumstances in which this Commission is obligated, or not obligated, to apply an ERA analysis.

THEREFORE, I MOVE THAT:

1. The Exceptions of Michael and Sharon Hartman, filed on October 19, 2023, the Initial Decision of Administrative Law Judge Steven K. Haas, issued October 3, 2023, in the above-captioned formal complaint are granted in part, and denied, in part, consistent with this Motion.
2. The Exceptions of Michael and Sharon Hartman, treated as a Petition for Reconsideration of their environmental harm claims are denied, consistent with this Motion.
3. The Exceptions of PPL Electric Utilities Corporation, filed on October 23, 2023 to the initial decision of Administrative Law Judge Steve K. Haas, issued October 3, 2023, in the above-captioned formal complaint are granted in part, and denied, in part, consistent with this Motion.
4. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

January 8, 2025
Date



Stephen M. DeFrank
Chairman

⁵ The Environmental Rights Amendment establishes a right for people to have clean air, pure water, and to the preservation of the environment, and for the Commonwealth to act as a trustee of public natural resources, conserving and maintaining them for the benefit of all. Pa. Const., Art. 1, § 27. The Pennsylvania Supreme Court has noted that the Environmental Rights Amendment “places a limitation on the state’s power to act contrary to [the] right, and while the subject of the right may be amenable to regulation, any laws that unreasonably impair the right are unconstitutional.” *Pa. Env’t Def. Found. v. Commonwealth*, 161 A.3d 911, 931-32 (Pa. 2017).

⁶ *Township of Marple v. Pennsylvania Public Utility Commission*, 294 A.3d 965, 974 (Pa. Cmwlth. 2023); *Energy Conservation Council of Pennsylvania v. Pub. Util. Comm’n*, 25 A.3d 440, 446-447 (Pa. Cmwlth. 2011). See page 694.

⁷ 66 Pa.C.S. § 332; *Funk v. Wolf*, 144 A.3d 228, 235 (Pa. Cmwlth. 2016), affirmed, 158 A.3d 642 (Pa. 2017) (The administrative structure and duty of agencies is generally not modified by the ERA.)

⁸ See *Tate v. Columbia Gas of Pennsylvania, Inc.*, Docket No. C-2020-3018966 (Order entered October 10, 2024) (finding that the utility is not a state actor and, therefore, its actions cannot be held to violate the Environmental Rights Amendment of the Pennsylvania Constitution – see page 30).