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File #: 140074

May 21, 2025

VIA ELECTRONIC FILING

Matthew Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Michael and Sharon Hartman v. PPL Electric Utilities Corporation
Docket No. C-2024-3050485

Dear Secretary Homsher:

Attached for filing, please find the Amended Preliminary Objections on behalf of PPL Electric Utilities Corporation in response to the Complaint of Michael and Sharon Hartman in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Devin Ryan

DR/dmc
Enclosures

cc: Certificate of Service
Honorable Emily I. DeVoe (*via Email edevoe@pa.gov*)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this filing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA EMAIL AND FIRST-CLASS MAIL

Michael and Sharon Hartman
1650 Primrose Lane
Dauphin, PA 17018
Email: angelgah@comcast.net

Date: May 21, 2025



Devin Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michael and Sharon Hartman,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. C-2024-3050485
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent,	:	

**AMENDED PRELIMINARY OBJECTIONS OF
PPL ELECTRIC UTILITIES CORPORATION TO THE
SECOND COMPLAINT OF MICHAEL AND SHARON HARTMAN**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, comes PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) and hereby files these Amended Preliminary Objections, pursuant to the regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code §§ 5.91 and 5.101, and respectfully requests that the Commission dismiss the above-captioned Formal Complaint (“Second Complaint”) filed by Michael and Sharon Hartman (“Complainants”) in its entirety and with prejudice as against PPL Electric due to the pending of prior proceedings and because it constitutes an abuse of administrative process.

This is the Second Complaint that the Complainants have filed with the Commission against PPL Electric concerning the Company’s construction and vegetation management activities in the existing transmission line right-of-way traversing their property as part of the Halifax-Dauphin 69 kilovolt (“kV”) Transmission Rebuild Project (“Project”). The First Complaint was initially filed on March 1, 2019, at Docket No. C-2019-3008272 (“First

Complaint”) concerning substantially the same subject matter at issue in the Second Complaint, including the Company’s construction and vegetation management practices on the Complainants’ property. The First Complaint was adjudicated by the Commission’s Opinion and Order on remand entered on February 28, 2025.¹ In the *Hartman Remand Order*, the Commission sustained in part and denied in part the First Complaint and imposed a civil penalty of \$1,000. PPL Electric filed a Petition for Review challenging certain aspects of the Commission’s *Hartman Remand Order*, including the Commission’s finding of a violation of Section 1501 of the Public Utility Code and imposition of a civil penalty. The Company’s appeal remains pending before the Commonwealth Court.

Here, as noted above, the First Complaint remains pending on appeal before the Commonwealth Court. If the Company prevails on its appeal, the aspects of the Commission’s *Hartman Remand Order* sustaining the Complaint in part against PPL Electric will be reversed, which will directly affect the merits of the claims and relief requested in this Second Complaint proceeding. Therefore, the Second Complaint should be dismissed due to the pendency of prior proceedings and for abuse of administrative process because the public interest is prejudiced by the wasteful use of the Commission’s and Company’s time and resources in addressing the Second Complaint.

In support thereof, PPL Electric states as follows:

I. BACKGROUND

1. PPL Electric is a “public utility” and an “electric distribution company” as those terms are defined under the Public Utility Code, 66 Pa. C.S. §§ 102 and 2803, subject to the regulatory jurisdiction of the Commission.

¹ *Hartman v. PPL Electric Utilities Corp.*, Docket No. C-2019-3008272 (Order entered Feb. 28, 2025) (“*Hartman Remand Order*”).

2. PPL Electric furnishes electric distribution, transmission, and provider of last resort electric supply services to approximately 1.5 million customers throughout its certificated service territory, which includes all or portions of twenty-nine counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

3. On August 1, 2024, PPL Electric was served with the Second Complaint

4. The Second Complaint concerns the Company's construction and vegetation management activities as part of the Project on or near the Service Address at 1650 Primrose Lane, Dauphin, PA 17018 ("Service Address") as well as the Company's testimony and exhibits submitted in the First Complaint proceeding. (Second Compl. ¶¶ 4-5.)

5. On March 1, 2019, the Complainants filed the First Complaint against PPL Electric related to the Company's Project alleging that the Company: (1) violated an existing right of way agreement on the Complainants' property; (2) failed to compensate the Complainants for damage and removal of their property; and (3) trespassed and damaged private property outside of the right-of-way. The relief requested by the Complainants included that PPL Electric be ordered to: (1) purchase a new right-of-way agreement; and (2) restore the Complainants' property to its "original" condition, including (a) restoration of topsoil and landscaping stones and boulders removed allegedly from the property, (b) removal of stone road and foreign materials PPL Electric placed on the Complainants' property, (c) installation of water runoff protection and soil erosion control measures, (d) replacement of vegetation to include native shrubs that were indiscriminately destroyed during construction, (e) restoration of pre-existing access logging roads that were destroyed, and (f) restoration of the property to its original topography. The Complaint was served on PPL Electric on March 5, 2019.

6. On March 25, 2019, PPL Electric filed its Answer to the First Complaint. In the Answer, PPL Electric stated that it has a 100-foot right-of-way to construct, maintain, reconstruct, and repair, among other things, transmission lines with ingress and egress rights as signed by the prior landowner of the Complainants' property on February 22, 1950. Further, PPL Electric stated that after it completed an inspection, it had not located any areas where the easement agreement was violated. As such, PPL Electric requested that the Commission deny the First Complaint.

7. The then-presiding Administrative Law Judge ("ALJ"), Andrew M. Calvelli, issued an Initial Call-in Telephonic Hearing Notice on April 3, 2019, scheduling an evidentiary hearing for May 16, 2019.

8. ALJ Calvelli later rescheduled the evidentiary hearing to June 26, 2019, by Hearing Notice dated May 10, 2019.

9. On May 10, 2019, ALJ Calvelli received two letters from the Complainants, the first dated May 2, 2019, and the second dated May 9, 2019. In the May 2, 2019 letter addressed to the Commission's Secretary and the Commission's Office of Administrative Law Judge ("OALJ"), the Complainants requested that the telephonic hearing be changed to an in-person hearing. In their May 9, 2019, letter, the Complainants requested that an in-person hearing take place on-site at their residence.

10. On June 10, 2019, the Complainants sent a Motion to Compel Production of Documents from PPL Electric to the Commission's Secretary and OALJ, based upon prior discovery requests made by the Complainants to PPL Electric.

11. Due to the pendency of the discovery motions, on June 13, 2019, ALJ Calvelli converted the Initial Telephonic Hearing scheduled to be held on June 26, 2019, into a Telephonic Pre-Hearing Conference. Thereafter, on June 27, 2019, PPL Electric filed a Motion for Summary

Judgment where it argued that the Commission lacked jurisdiction to determine the scope and validity of an easement or to order damages associated with claims of breach and, therefore, was entitled to summary judgment.

12. On October 3, 2019, the Complainants filed their untimely response to PPL Electric's Motion for Summary Judgment.

13. By Initial Decision served on October 16, 2019, ALJ Calvelli granted PPL Electric's Motion for Summary Judgment and dismissed the Complaint for lack of Commission jurisdiction. The Complainants filed Exceptions on October 31, 2019, and PPL Electric filed Replies to Exceptions on November 14, 2019.

14. In ruling upon the Complainants' Exceptions to the Initial Decision, the Commission held that: (1) the Complainants' Exceptions based on alleged lack-of-notice of construction activities were outside the scope of the Commission's and, therefore, dismissed; (2) the Commission had jurisdiction over the Complainants' vegetation management claims and, therefore, remanded to the Office of Administrative Law Judge to develop a full record on the Complainants' vegetation management claims; (3) the Commission had jurisdiction over the Complainants' general utility service claims related to the Company's construction practices and, therefore, remanded to the Office of Administrative Law Judge to develop a full record of those claims; (4) rejected and dismissed the Complainants' discriminatory service claim as it related to the Company's restoration efforts on the Complainants' property and an adjacent parcel owned by the U.S. National Park Service ("U.S. NPS"); (5) affirmed ALJ Calvelli's finding that the Commission lacks subject matter jurisdiction over the scope and validity of an easement agreement; (6) the Complainants' claims for damages were outside of the Commission's limited jurisdiction; and (7) the Complainants' environmental claims against PPL Electric were beyond

the Commission's limited jurisdiction and were more appropriately raised within the Pennsylvania Department of Environmental Protection and/or an appropriate jurisdiction civil court to address.

15. On February 17, 2021, attorney Robert Young filed a Notice of Entry of Appearance on behalf of the Complainants.

16. On November 30, 2021, PPL Electric filed a Praecipe for Withdrawal of attorney Kimberly Krupka.

17. On December 1, 2021, PPL Electric filed a Notice of Entry of Appearance for Michael J. Shafer, Devin T. Ryan, and Nicholas A. Stobbe.

18. On March 1, 2022, attorney Robert Young filed a Notice of Withdrawal of Appearance on behalf of the Complainants and, since that point, the Complainants have proceeded throughout the remainder of this proceeding on a pro se basis.

19. Throughout and after the time period during which the above-described events occurred, the parties engaged in discovery and settlement discussions in the *First Complaint*. Several site visits occurred at the Complainants' property during which the parties viewed the property and discussed the Complaint. Both parties propounded Interrogatories and the Complainants submitted requests for the issuance of subpoenas for various individuals. Various procedural issues arose throughout the course of this proceeding related to discovery requests propounded by the parties.

20. During an informal, off the record call between the parties and ALJ Haas in early 2022, PPL Electric, the Complainants, and ALJ Haas agreed to "re-set" discovery in the First Complaint and re-issue their various requests in order to overcome and rectify any prior procedural issues or defects.

21. On April 25, 2022, PPL Electric relayed to ALJ Haas that it understood the Complainants would not be filing a Motion to Compel.

22. Following the discovery “re-set,” the Complainants again submitted requests for subpoenas for a number of individuals. These requests were sent to PPL Electric and ALJ Haas but were not served on the individual subjects of the requests as required by the Commission’s regulations.

23. At the direction of ALJ Haas on May 17, 2022, the Complainants were advised of the defective subpoena applications. Proper subpoena applications were not subsequently submitted for the subject individuals.

24. Pursuant to a procedural schedule established by the parties, evidentiary hearings were scheduled for August 16-17, 2022.

25. The Complainants served their written direct testimony and exhibits in the First Complaint on May 17, 2022.

26. On July 8, 2022, PPL Electric served its written rebuttal testimony of four witnesses and their exhibits.

27. By e-mail dated July 13, 2022, the Complainants indicated that they did not intend to serve surrebuttal testimony.

28. The evidentiary hearings were held as scheduled on August 16-17, 2022.

29. A third and final day of evidentiary hearings was held on September 21, 2022.

30. During the August 16, 2022, evidentiary hearing, PPL Electric’s counsel informed ALJ Haas and the Complainants that PPL Electric had a substantial number of objections to portions of the Complainants’ testimony and exhibits. ALJ Haas directed PPL Electric to submit

its objections in writing on or before October 20, 2022. The Complainants' response, if any, was due by November 9, 2022.

31. On October 20, 2022, PPL Electric filed its Motion to Strike a significant portion of the Complainants' testimony and exhibits.

32. On February 2, 2023, ALJ Haas issued an Order granting, in part, and denying, in part, PPL Electric's Motion to Strike. Specifically, ALJ Haas struck the following paragraphs from the Complainants' Exhibit A (i.e., the Complainants' Direct Testimony): 11, 13, 14 (last sentence only), 16, 21, 24, 25, 26, 31, 35, 39, 41, 42, 48, 49, 76, 77, 85, 86, 89, 90, 91, 93, 94, 96, 98, 128, and 136 (subsection nos. 12, 19, 20, 21, 27, 28 and 32 only).

33. Further, the following of the Complainants' Exhibits were also struck from the evidentiary record: Exhibit Nos. 2, 4, 6, 13, 14, 15, 21, 22, 23, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, and 57.

34. On February 9, 2023, ALJ Haas and the parties held an informal status call to discuss the status of the case and a proposed briefing schedule. As a result of that call, ALJ Haas directed the parties to file Main Briefs by March 9, 2023, and Reply Briefs by March 30, 2023.

35. A further status call was held on February 22, 2023.

36. On March 3, 2023, ALJ Haas issued a Briefing Order, memorializing the deadlines for the Main Briefs and Reply Briefs and setting page limits on the argument sections in those briefs, specifically 40 pages double-spaced for the Main Briefs and 25 pages double-spaced for the Reply Briefs.

37. On March 9, 2023, PPL Electric and the Complainants filed Main Briefs.

38. On March 30, 2023, PPL Electric and the Complainants filed Reply Briefs.

39. On October 3, 2023, ALJ Haas issued the ID. A true and correct copy of the ID is attached hereto as **Appendix A**.

40. On October 19, 2023, the Complainants filed Exceptions to the ID.

41. On October 23, 2023, the Company filed Exceptions to the ID.

42. On November 13, 2023, both the Company and Complainants filed Replies to their respective Exceptions.

43. On February 28, 2025, the Commission entered its Opinion and Order on remand, in which it granted in part and denied in part the Complainants' Exceptions and denied the Exceptions of PPL Electric. *Hartman Remand Order* at 2, 111-12. The Commission further directed "[t]hat, within forty-five (45) days of the entry of this Opinion and Order," the Company "shall re-inspect the pole pads numbers 75 and 76, and the access road and shoulders associated therewith to determine if any areas of erosion or excessive runoff are still occurring and take any necessary corrective measures to prevent or minimize future erosion, including but not limited to surface re-grading, adding additional stone material and adding additional topsoil and re-seeding areas where the soil and vegetation has washed away." *Id.* at 112-13. Moreover, the Commission imposed a civil penalty of \$1,000 on PPL Electric. *Id.* at 113.

44. On March 31, 2025, PPL Electric filed its Petition for Review challenging the Commission's *Hartman Remand Order*.

45. On April 14, 2025, PPL Electric filed its status report detailing the re-inspection that was conducted pursuant to the *Hartman Remand Order*.

46. PPL Electric's Petition for Review remains pending before the Commonwealth Court.

47. The Complainants did not appeal the *Hartman Remand Order* to the Commonwealth Court.

48. PPL Electric herein files these Preliminary Objections to the Second Complaint. For the reasons explained below, PPL Electric respectfully requests that the Commission summarily dismiss the Second Complaint due to the pendency of prior proceedings, namely, the First Complaint, and find that the Second Complaint constitutes an abuse of administrative process.

II. STANDARD OF REVIEW

49. Pursuant to the Commission's regulations, preliminary objections in response to a pleading may be filed on several grounds, including:

- (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) (emphasis added).

50. In ruling on preliminary objections, the Presiding Officer must accept as true all well-pled allegations of material facts as well as all inferences reasonably deducible therefrom. *Stilp v. Cmwltth.*, 910 A.2d 775, 781 (Pa. Cmwltth. 2006) (citing *Dep't of Gen. Servs. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwltth. 2005)). However, the Presiding Officer need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions

of opinion. *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlth. 2007). Notwithstanding, any doubt must be resolved in favor of the non-moving party. *Stilp*, at 781.

51. In addition, the Presiding Officer must determine whether, based on the factual pleadings, if recovery is possible. *See Rok v. Flaherty*, 527 A.2d 211, 214 (Pa. Cmwlth. 1987). Indeed, for preliminary objections to be sustained, it must appear with certainty that the law will permit no recovery. *See Stilp*, at 781; *Milliner v. Enck*, 709 A.2d 417, 418 (Pa. Super. 1998).

III. PRELIMINARY OBJECTIONS

A. PRELIMINARY OBJECTION NO. 1 – THE SECOND COMPLAINT SHOULD BE DISMISSED DUE TO THE PENDENCY OF A PRIOR PROCEEDING

52. PPL Electric incorporates by reference Paragraphs 1 through 51 as if fully set forth herein.

53. The Commission should dismiss the Second Complaint because it raises issues that are already the subject of a pending proceeding.

54. As noted previously, the Company's appeal of the Commission's *Hartman Remand Order* in the First Complaint proceeding remains pending before the Commonwealth Court as of the date of these Amended Preliminary Objections.

55. Through the Second Complaint, the Complainants make a variety of allegations related solely to the First Complaint proceeding.

56. Both the First and Second Complaints relate entirely to the Company's construction and vegetation management activities with respect to the Project on or near the Complainants' Service Address, along with the veracity of the Company's testimony and exhibits submitted in the First Complaint proceeding.

57. For example, in Paragraph 4 of the Second Complaint, the Complainants allege that “PPL [Electric] has knowingly and recklessly submitted misleading and false testimony and documents during a Formal hearing, case number C-2019-3008272.” (Second Compl. ¶ 4.)

58. As set forth in PPL Electric’s Amended New Matter, the Complainants previously raised these claims about the Company’s testimony and exhibits in the First Complaint proceeding. (See PPL Amended New Matter ¶¶ 1, 48-80, 96, 99.)

59. Further, the Company recognizes that the Commission stated the following in its *Hartman Remand Order* regarding the instant Second Complaint proceeding:

Based on the closure of this record, we shall not entertain allegations of procedural misconduct in this proceeding nor allegations of a substantive nature that are directly related to the record of the matter under consideration that are asserted by the Hartmans in the context of a separate, docketed formal complaint. Absent a determination by the Commission for reopening of this record for purposes of the receipt of additional evidence, or consolidation of the proceedings, the complaint filed August 1, 2024, at Docket No. C-2024-3050485 shall proceed according to the merits of that docketed matter.

Hartman Remand Order at 12-13.

60. The Company maintains that the Commission failure to address the Complainants’ allegations about the veracity of PPL Electric’s testimony and exhibits was in error. [TO BE CONFIRMED THAT WE CAN ADD THIS TO THE LIST OF ISSUES ON APPEAL; IF NOT OR IF WE SHIFT STRATEGY, DELETE THIS PARAGRAPH]

61. The Commission’s pronouncement in the quoted passage above was made before PPL Electric appealed the *Hartman Remand Order* to the Commonwealth Court.

62. Because that appeal is pending before the Commonwealth Court, there remains an ongoing prior proceeding that concerns the same subject matter of the Second Complaint.

63. Therefore, the Second Complaint should be dismissed due to the pendency of a prior proceeding pursuant to 52 Pa. Code § 5.101(a)(6).

B. PRELIMINARY OBJECTION NO. 2 – THE SECOND COMPLAINT SHOULD BE DISMISSED BECAUSE IT CONSTITUTES AN ABUSE OF ADMINISTRATIVE PROCESS

64. PPL Electric incorporates by reference Paragraphs 1 through 63 as if fully set forth herein.

65. The Commission should dismiss the Second Complaint because it constitutes an abuse of administrative process, due to the Complainants' repeated filing of Complaints about the same issues, thereby prompting the Company and the Commission to expend significant time and resources.

66. The Commission has held that serial filing of the same or similar complaints can constitute an abuse of administrative process, with proceeding complaints appropriately dismissed with prejudice. *See Moyer v. PPL Elec. Utils. Corp.*, Docket No. C-2022-3031294 (Order entered Dec. 8, 2022) (“The facts of the present case reflect an egregious example of the Complainant’s use of the administrative process to repeatedly raise the same issues which have been previously decided against [Complainant]. This proceeding demonstrates that both the agency and the utility, [], have expended substantial resources to address claims which have been previously reviewed and decided. Accordingly, in these extreme circumstances, in view of the substantial wasteful use of the Commission’s and the respondent’s time, energy and resources, we conclude that dismissal with prejudice is appropriate.”); *see also Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 (Order entered December 26, 1995); *Charles Nichols III v. Bell-Atlantic-Pennsylvania*, Docket No. C-00956667 (Order entered August 4, 1995).

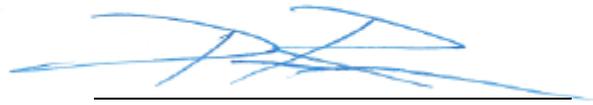
67. Here, the Complainants, once again, raise issues concerning the Company’s construction and vegetation management practice with respect to the Project and their purported claims about the Company’s testimony and exhibits presented in the First Complaint proceeding. (*See* Second Compl. ¶¶ 4-5; PPL Amended New Matter ¶¶ 1, 48-80, 96, 99.)

68. Therefore, PPL Electric respectfully submits that the Second Complaint constitutes an abuse of administrative process and should be dismissed with prejudice pursuant to 52 Pa. Code § 5.101(a)(4).

IV. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the above-captioned Second Formal Complaint filed by Michael and Sharon Hartman at Docket No. C-2024-3050485 be dismissed in its entirety and with prejudice pursuant 52 Pa. Code § 5.101(a)(6) and (a)(4).

Respectfully submitted,



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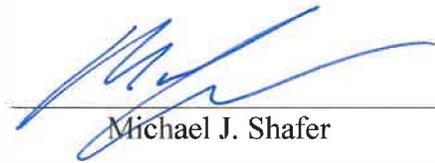
Date: May 21, 2025

Attorneys for PPL Electric Utilities Corporation

VERIFICATION

I, MICHAEL J. SHAFER, being Senior Counsel at PPL Services Corporation, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect PPL Electric Utilities Corporation 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.

Date: May 21, 2025



Michael J. Shafer