

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Scott W. Erdman	:	
	:	
v.	:	C-2025-3056487
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Erin L. Gannon
Administrative Law Judge

INTRODUCTION

This Initial Decision grants PPL Electric Utilities Corporation’s preliminary objection that seeks dismissal of the Formal Complaint filed by Scott W. Erdman on July 24, 2025, because the Commission lacks jurisdiction over claims regarding property right disputes, including questions of trespass and whether a utility’s facilities are situated within a valid right of way.

HISTORY OF THE PROCEEDING

On July 24, 2025, Scott W. Erdman filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission or PUC) against PPL Electric Utilities Corporation (Respondent, PPL or the Company).¹ The Complainant

¹ Commission records indicate PPL was served the Complaint on July 24, 2025.

alleges that PPL has placed an electric pole on his property without his consent and that the pole is blocking access to his property via an easement that the Complainant paid for 10 years ago. The Complainant states that PPL is using an incorrect map to verify the property lines. For relief, the Complainant asks for PPL to be required to move the pole and to fill and reseed the hole to restore the original landscape.

On August 13, 2025, the Respondent filed an answer to the Complaint. In its answer, PPL avers that the address where the utility pole was placed is 4529 Upper Road, Shamokin, PA 17872, and avers further that the property at 4529 Upper Road is not owned by Scott Erdman.² PPL states that it has verified that it holds an existing right-of-way (ROW) over the property at 4529 Upper Road and the utility pole is located within that existing ROW. The Respondent denies that the Complaint concerns electric service provided to the Complainant. The Respondent contends that the Complaint relates only to a real property dispute and requests that the Complaint be denied in its entirety and with prejudice.

Also on August 13, 2025, PPL filed a preliminary objection in response to the Complaint. In its preliminary objection, which was accompanied by a notice to plead, PPL repeats the contention in its answer that the allegations in the Complaint solely concern a real property dispute regarding property boundaries. The Respondent contends that the Complainant's request for relief is likewise based on the location of the property boundaries at issue. PPL avers that it is well-established that the Commission lacks authority to adjudicate real property rights, as such disputes are within the exclusive jurisdiction of the courts of common pleas. Preliminary Objection ¶ 10 (citing *Stefanoski v. Pennsylvania-American Water Co.*, Docket No. C-20078219 (Opinion and Order entered Sept. 22, 2008); *Perrige v. Metropolitan Edison Co.*, Docket No. C-00004110 (Opinion and Order entered July 11, 2003); *Lou Amati/Amati Serv. Station v. West Penn*

² The Complainant's mailing address is 4502 Upper Road, Shamokin, PA 17872.

Power Co., Docket No. C-00945842 (Order entered Oct. 25, 1995); *Shedlosky v. Pennsylvania Elec. Co.*, Docket No. C-20066937 (Opinion and Order entered May 28, 2008)). PPL also cites to *Semrau v. PECO Energy Co.*, Docket No. C-2012-2306879 (Initial Decision issued July 3, 2012) (Final Order entered Aug. 16, 2012) (*Semrau*), for its contention that “[t]he Commission has no jurisdiction to determine what person or entity owns a particular parcel of real property” and “is not the proper forum for resolving property rights controversies.” Preliminary Objection ¶ 14. PPL thus argues that, because the Complainant solely raises claims related to real property rights and his requested relief is based on the same, the Complaint should be dismissed for lack of Commission jurisdiction.

No response was filed to PPL’s preliminary objection.

The record closed on August 25, 2025, which was the deadline for filing a response to the preliminary objection.

On September 8, 2025, a motion judgement assignment notice was issued, assigning me as the presiding officer.

The Respondent’s preliminary objection is procedurally ready to be ruled upon and, for the reasons discussed below, PPL’s preliminary objection will be granted.

FINDINGS OF FACT

1. The Complainant in this case is Scott W. Erdman, whose mailing address is 4502 Upper Road, Shamokin, PA 17872.

2. The Respondent in this case is PPL Electric Utilities Corporation.

3. On July 24, 2025, the Complainant filed a Complaint, alleging that PPL has placed an electric pole on his property without his consent and that the pole is blocking an easement to access his property.

4. As relief, the Complainant asks for PPL to be required to move the pole and to fill and reseed the hole to restore the original landscape.

5. On August 13, 2025, the Respondent filed an Answer to the Complaint.

6. On April 23, 2025, the Respondent also filed a preliminary objection to the Complaint requesting that the Complaint be dismissed in its entirety because the Commission lacks subject matter jurisdiction to adjudicate the real property disputes on which the claims and requested relief are based.

7. The Complainant did not file a response to the preliminary objection.

DISCUSSION

Commission regulations permit the filing of preliminary objections. 52 Pa. Code §§ 5.101(a)(1)-(7). Preliminary objection practice before the Commission is similar to Pennsylvania civil practice respecting preliminary objections. *Equitable Small Transp. Intervenors v. Equitable Gas Co.*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994).

Preliminary objections are limited to the following grounds:

§ 5.101. Preliminary objections.

(a) *Grounds.* Preliminary objections are available to parties and may be filed in response to a pleading except motions and prior preliminary objections. Preliminary objections must be accompanied by a notice to plead, must state specifically the legal and factual grounds relied upon and be limited to the following:

(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)(1-7).

In deciding preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the complainant, recovery or relief is possible. *Dep't of Auditor Gen. v. SERS*, 836 A.2d 1053 (Pa. Cmwlth. 2003); *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105 (Pa. Cmwlth. 1996). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002). All of the non-moving party's averments in the complaint must be viewed as true for purposes of deciding the

preliminary objections, and only those facts specifically admitted may be considered against the non-moving party. *Ridge v. State Emps. Ret. Bd.*, 690 A.2d 1312 (Pa. Cmwlth. 1997).

PPL asserts that the relief the Complainant seeks is beyond the jurisdiction of the Commission. Section 5.101(a)(1) of the Commission's regulations provides lack of Commission jurisdiction as basis for preliminary objections. 52 Pa. Code § 5.101(a)(1). It is well settled that the Commission may not exceed its jurisdiction and must act within it. *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 the power to decide a controversy. *Hughes v. Pa. State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992). As a creation of the legislature, the Commission possesses only the authority that the state legislature has specifically granted to it in the Public Utility Code. 66 Pa.C.S. §§ 101, *et seq.* Its jurisdiction must arise from the express language of the pertinent enabling legislation or by strong and necessary implication therefrom. *Feingold v. Bell Tel. Co.*, 383 A.2d 791 (Pa. 1977).

While the Commission has the responsibility under to ensure that “[e]very public utility shall furnish and maintain adequate, efficient, safe and reasonable service and facilities. . .”, 66 Pa. C.S. § 1501, the Commission is not the proper forum to resolve a controversy which will determine property rights, including claims of trespass and whether a utility's facilities are situated within a valid right of way. Rather, property disputes are within the exclusive jurisdiction of the Court of Common Pleas. *Turgeon v. Verizon Pa. LLC*, Docket No. C-2021-3026390 (Opinion and Order entered May 30, 2024) (*Turgeon*) (citing *Fairview Water Co. v. Pa. Pub. Util. Comm'n*, 502 A.2d 162 (Pa. 1985)); *Petition of Librandi Machine Shop, Inc. for Declaratory Order*, Docket No. P-2018-3000047 (Opinion and Order entered Feb. 25, 2021); *Semrau; Boczar v. PPL Elec. Utils. Corp.*, Docket No. C-20016332 (Opinion and Order entered Feb. 10, 2003);

Fiorillo v. PECO Energy Co., Docket No. C-00971088 (Opinion and Order entered Sept. 17, 1999).

In the Complaint, Mr. Erdman states that PPL has placed an electric pole on his property without his consent and that the pole is blocking an easement to access his property. Complaint ¶¶ 4, 5. The relief requested by Mr. Erdman is for PPL to move the pole so he can have access to his easement, and to fill the hole and reseed. *Id.* ¶ 5.

When, for the purpose of deciding these Preliminary Objections, all of the Complainant's averments are viewed as true, recovery or relief is not possible. For the Commission to determine whether the Respondent has installed the utility pole on the Complainant's property and without his consent, the Commission would have to interpret the location of the property boundaries and whether the pole is located within a valid easement. This is beyond the Commission's jurisdiction.

In *Carlock v. The United Telephone Co. of Pennsylvania*, Docket No. F-00163617 (Opinion and Order entered July 14, 1993), the Commission held that, in the normal course, a *pro se* complaint would not be dismissed without first providing a hearing during which the *pro se* complainant could further explain his or her position and the factual basis for the complaint. The concern was expressed that, in general, *pro se* complainants may find it difficult to navigate through pre-hearing motions and should be given the chance to orally describe their basic issue and supporting facts. *Id.* There are some cases, however, such as this one where a hearing would not enable the Complainant to better explain his position or provide additional facts that would alter the inevitable conclusion that this Commission lacks jurisdiction to entertain the Complaint in the first instance. See *Vata v. Phila. Gas Works*, Docket No. C-2009-2149960 (Opinion and Order entered Aug. 24, 2010); *Oechsle v. PPL Elec. Utils. Corp.*, Docket No. F-2024-3051701 (Opinion and Order entered July 10, 2025). Here, Complainant seeks relief (i.e. determination of property boundaries and claims of trespass) that is not possible under

the jurisdiction of the Commission. Therefore, a hearing in this case is not necessary or in the public interest.

Accordingly, the preliminary objection is granted and the Complaint is dismissed.

It is noted that, in its Answer, PPL requested that the Complaint be denied in its entirety and with prejudice. Answer at 5. In its preliminary objection, PPL requested that the Complaint be dismissed in its entirety but did not request dismissal with prejudice. Preliminary Objection ¶ 15. In *Turgeon*, cited above, the Commission dismissed a complaint by a customer seeking to have a utility pole removed from her property, alleging that the utility's line was hanging too low and the pole was not in a valid easement. The Commission found it lacked jurisdiction to determine the easement issue but specified that the complaint was dismissed without prejudice because it raised additional issues – within the Commission's jurisdiction, which the complainant could choose to pursue if the threshold property dispute was resolved by the courts. *Id.* In contrast, here, Mr. Erdman's claims and requested relief relate solely to his property rights. As the Commission has no jurisdiction to decide those issues, I will dismiss the Complaint with prejudice.

CONCLUSIONS OF LAW

1. The Commission's Rules of Administrative Practice and Procedure permit the filing of preliminary objections. 52 Pa. Code § 5.101.

2. Commission preliminary objection practice is comparable to Pennsylvania civil practice. *Equitable Small Transp. Intervenors v. Equitable Gas Co.*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994).

3. In deciding the preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the Petitioners, recovery or relief is possible. *Dep't of Auditor Gen. v. SERS*, 836 A.2d 1053 (Pa. Cmwlth. 2003); *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105 (Pa. Cmwlth. 1996).

4. Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002).

5. All of the non-moving party's averments in the complaint must be viewed as true for purposes of deciding the preliminary objections, and only those facts specifically admitted may be considered against the non-moving party. *Ridge v. State Emps. Ret. Bd.*, 690 A.2d 1312 (Pa. Cmwlth. 1997).

6. It is well settled that the Commission may not exceed its jurisdiction and must act within it. *City of Pittsburgh v. Pa. Pub. Util. Comm'n*, 43 A.2d 348 (Pa. Super. 1945).

7. Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967).

8. Subject matter jurisdiction is a prerequisite to the exercise of the power to decide a controversy. *Hughes v. Pa. State Police*, 619 A.2d 390 (Pa. Cmwlth 1992).

9. As a creation of the legislature, the Commission possesses only the authority that the state legislature has specifically granted to it in the Public Utility Code. 66 Pa.C.S. §§ 101- 3316.

10. The Commission’s jurisdiction must arise from the express language of the pertinent enabling legislation or by strong and necessary implication therefrom. *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977).

11. Property rights controversies, including property boundaries, trespass, and the validity and scope of easements, are within the exclusive jurisdiction of the Court of Common Pleas. *Turgeon v. Verizon Pa. LLC*, Docket No. C-2021-3026390 (Opinion and Order entered May 30, 2024) (citing *Fairview Water Co. v. Pa. Pub. Util. Comm’n*, 502 A.2d 162 (Pa. 1985)); *Petition of Librandi Machine Shop, Inc. for Declaratory Order*, Docket No. P-2018-3000047 (Opinion and Order entered Feb. 25, 2021); *Semrau v. PECO Energy Co.*, Docket No. C-2012-2306879 (Initial Decision issued July 3, 2012) (Final Order entered Aug. 16, 2012); *Boczar v. PPL Elec. Utils. Corp.*, Docket No. C-20016332 (Opinion and Order entered Feb. 10, 2003); *Fiorillo v. PECO Energy Co.*, Docket No. C-00971088 (Opinion and Order entered Sept. 17, 1999).

12. Determining whether the Respondent has installed the utility pole on the Complainant’s property and without his consent, would require the Commission to interpret the location of the property boundaries and whether the pole is located within a valid easement.

13. The requested relief is beyond the Commission’s jurisdiction. 66 Pa.C.S. §§ 101–3316.

