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File #: 2507/140078

March 23, 2009

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
PO Box 3265
Harrisburg, PA 17105-3265

RE: Elva J. Tshudy v. PPL Electric Utilities Corporation
Docket No. C-2009-2092230

Dear Secretary McNulty:

Enclosed, for filing, is the original Preliminary Objections of PPL Electric Utilities Corporation in the above-referenced proceeding.

As indicated on the certificate of service, a copy of the Preliminary Objections has been provided to Ms. Tshudy.

Respectfully Submitted,

John H. Isom

JHI/jl
Enclosures

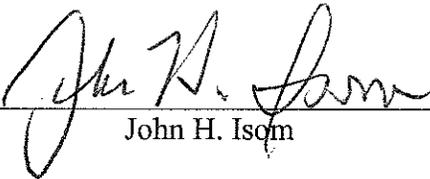
CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing Answer to Complaint and Preliminary Objections have 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 FIRST CLASS MAIL

Elma J. Tshudy
65 Fairfax Village
Harrisburg, PA 17112-9508

Date: March 23, 2009



John H. Isom

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Elva J. Tshudy	:	
v.	:	
	:	Docket No. C-2009-2092230
PPL Electric Utilities Corporation	:	
	:	

**PRELIMINARY OBJECTIONS OF
PPL ELECTRIC UTILITIES CORPORATION**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

PPL Electric Utilities Corporation (“PPL Electric”), pursuant to 52 Code § 5.101, hereby submits these Preliminary Objections to the above-captioned Complaint of Elva J. Tshudy:

1. On February 24, 2009, the Pennsylvania Public Utility Commission (“Commission”) received Ms. Tshudy’s Complaint, which initiated the above-captioned proceeding.

2. The Commission served a copy of Ms. Tshudy’s Complaint on PPL Electric by Secretarial Letter dated March 2, 2009.

3. PPL Electric is filing an Answer to Ms. Tshudy’s Complaint simultaneously with these Preliminary Objections.

4. In Paragraph No. 4 of the Complaint, Ms. Tshudy states that she opposes PPL Electric’s proposed rate increase. For the reasons explained below, Ms. Tshudy’s Complaint should be dismissed.

5. To the extent that Ms. Tshudy’s Complaint addresses any increase in rates proposed by PPL Electric, the Complaint should be dismissed because no increase in rates proposed by PPL Electric is pending before the Commission at this time. Hence, there is no rate increase about which to complain. Consequently, to the extent that Ms. Tshudy’s Complaint

opposes a PPL Electric rate increase, it should be dismissed because the subject of the Complaint does not exist.

6. Ms. Tshudy also expressed concern about the expiration of the cap on PPL Electric's rates for electric generation services that will expire at the end of 2009. Recently, the expiration of the rate cap has received significant attention in the media. To the extent that Ms. Tshudy's Complaint is intended to address the expiration of the rate cap, it should be dismissed, for the reasons explained below.

7. Ms. Tshudy provides no legal basis for continuing the rate cap on electric generation services, and the Commission is without power, jurisdiction or authority to extend the rate cap beyond December 31, 2009.

8. Presently, and since 1996, PPL Electric's rates for electric generation services, that is, provider of last resort services for customers who do not obtain their electric generation supplies from third parties, has been subject to a rate cap. The rate cap was established initially under Section 2804 of the Electric Generation Customer Choice and Competition Act, 66 Pa.C.S. § 2804. In PPL Electric's restructuring case, the parties agreed in a settlement that the statutory generation rate cap would be extended through December 31, 2009, and the Commission approved that settlement. *Application of Pennsylvania Power & Light Company¹ for Approval of Its Restructuring Plan under Section 2806 of the Public Utility Code*, Docket No. R-00973954 (Aug. 27, 1998).

9. Upon the expiration of the generation rate cap established in the settlement of PPL Electric's restructuring proceeding, there is no lawful basis for further extensions of the rate cap. Specifically, PPL Electric is permitted as a matter of law to "recover fully all reasonable costs" of furnishing provider of last resort services. 66 Pa.C.S. § 2807(e)(3). Although Act No.

¹ PPL Electric was formerly named "Pennsylvania Power & Light Company."

129, which was enacted on October 15, 2008 and became effective November 14, 2008, repealed Section 2807(e)(3), Act No. 129 explicitly established PPL Electric's right to recover "on a full and current basis . . . all reasonable costs" of acquiring default service supply.

10. Beginning on January 1, 2010, PPL Electric is entitled to charge rates for provider of last resort service at levels sufficient to recover all of its reasonable costs of obtaining the necessary generation supply, without regard to the level of its previously effective rate cap. For these reasons, Ms. Tshudy's Complaint is legally insufficient. As a matter of law, the Commission cannot grant the relief requested by Ms. Tshudy, which is a continuation of the rate cap on electric generation services.

WHEREFORE, for all the foregoing reasons, PPL Electric Utilities Corporation respectfully requests that the Complaint of Elva J. Tshudy be dismissed.

Respectfully submitted,



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Of Counsel:

Post & Schell, P.C.

Date: March 23, 2009

Attorneys for PPL Electric Utilities Corporation

NOTICE TO PLEAD

You are required to file and serve a reply within 10 days after service of these Preliminary Objections. Failure to file a timely reply to the Preliminary Objections may be deemed in default, and relevant facts stated in the Preliminary Objections may be deemed to be admitted.

