



17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Fax
www.postschell.com

John H. Isom

jisom@postschell.com
717-612-6032 Direct
717-731-1985 Fax
File #: 2507/140078

March 30, 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: Richard A. Boughner v. PPL Electric Utilities Corporation
Docket No. P-2009-2091280

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 has been provided to Mr. Boughner.

Respectfully Submitted,

John H. Isom

JMI/jl

Enclosures

cc: Certificate of Service

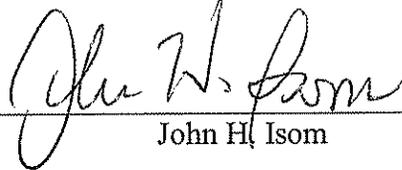
CERTIFICATE OF SERVICE

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

Richard A. Boughner
697 State St.
Lemoyne, PA 17043-1573

Date: March 30, 2009



John H. Isom

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Richard A. Boughner	:	
v.	:	
	:	Docket No. P-2009-2091280
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 Pa. Code § 5.101, hereby submits these Preliminary Objections to the above-captioned Complaint of Richard A. Boughner:

1. On March 13, 2009, the Pennsylvania Public Utility Commission (“Commission”) received Mr. Boughner’s Complaint, which initiated the above-captioned proceeding.

2. The Commission served a copy of Mr. Boughner’s Complaint on PPL Electric by Secretarial Letter dated March 18, 2009.

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

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

5. To the extent that Mr. Boughner’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 proposed rate increase about which to complain. Consequently, to the extent that Mr. Boughner's Complaint opposes a PPL Electric rate increase, it should be dismissed because the subject of the Complaint does not exist.

6. Mr. Boughner 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 Mr. Boughner's Complaint is intended to address the expiration of the rate cap, it should be dismissed for the reasons explained below.

7. Mr. Boughner 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 Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. § 2804 9 (Competition Act"). 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 Company*^[1] for Approval of Its Restructuring Plan under Section 2806 of the Public Utility Code, Docket No. R-00973954, 1998 Pa. PUC LEXIS 197 (Aug. 27, 1998).

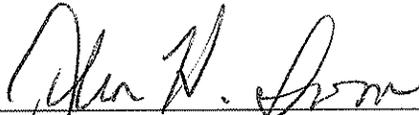
¹ PPL Electric was formerly named "Pennsylvania Power & Light Company."

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 any extension of the rate cap. Specifically, under the Competition Act, as originally enacted, PPL Electric was 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). Act No. 129, which was enacted on October 15, 2008 and became effective November 14, 2008, repealed Section 2807(e)(3). However, Act No. 129 explicitly establishes PPL Electric's right to recover "on a full and current basis . . . all reasonable costs" of acquiring default service supply. 66 Pa.C.S. § 2807(e)(3.9).

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 supplies, without regard to the level of its previously effective rate cap. For these reasons, Mr. Boughner's Complaint is legally insufficient. Consequently, to the extent that Mr. Boughner's Complaint poses a continuation of the rate cap on electric generation services, it should be dismissed because, as a matter of law, the Commission cannot grant the relief requested by Mr. Boughner.

WHEREFORE, for all the foregoing reasons, PPL Electric Utilities Corporation respectfully requests that the Complaint of Richard A. Boughner be dismissed.

Respectfully submitted,



David B. MacGregor (ID # 28804)
Post & Schell, P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808
Phone: 215-587-1197
Fax: 215-320-4879
E-mail: dmacgregor@postschell.com

Paul E. Russell (ID # 21643)
Associate General Counsel
PPL Services Corporation
Office of General Counsel
Two North Ninth Street
Allentown, PA 18106
Phone: 610-774-4254
Fax: 610-774-6726
E-mail: perussell@pplweb.com

John H. Isom (ID # 16569)
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: jisom@postschell.com

Of Counsel:

Post & Schell, P.C.

Date: March 30, 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.

