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October 21, 2013

VIA ELECTRONIC FILING

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

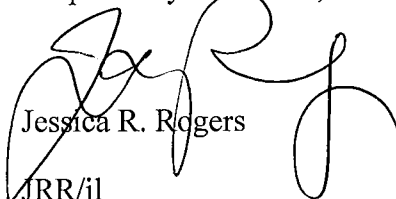
Re: James A. Stoner, III v. PPL Electric Utilities Corporation
Docket No. C-2013-2385588

Dear Secretary Chiavetta:

Enclosed for filing are the Preliminary Objections of PPL Electric Utilities Corporation for the above-reference proceeding.

Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Jessica R. Rogers

JRR/jl

Enclosures

cc: Certificate of Service

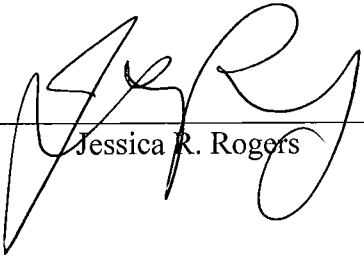
CERTIFICATE OF SERVICE
(Docket No. C-2013-2385588)

I hereby certify that a true and correct copy of the foregoing 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 FIRST CLASS MAIL

James A. Stoner, III
207 King's Highway
Marysville, PA 17053

Date: October 21, 2013



Jessica R. Rogers

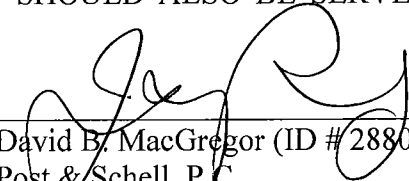
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

James A. Stoner, III,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2013-2385588
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE §§ 5.102(b) AND 5.103(c), YOU MAY ANSWER THE ENCLOSED MOTION WITHIN TWENTY (20) DAYS AFTER THE DATE OF SERVICE. YOUR ANSWER SHOULD BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.

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Date: October 21, 2013

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

James A. Stoner, III,	:	
	:	
Complainant,	:	
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v.	:	Docket No. C-2013-2385588
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

PRELIMINARY OBJECTIONS OF PPL ELECTRIC UTILITIES CORPORATION

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”), by and through its attorneys, hereby files this Preliminary Objection, pursuant to the Regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code § 5.101, and respectfully requests that the Commission dismiss the portion of the above-captioned Complaint that requests monetary damages.

In support thereof, PPL Electric states as follows:

I. INTRODUCTION AND BACKGROUND

1. PPL Electric furnishes electric service to approximately 1.4 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. PPL Electric is a “public utility” and an “electric distribution company” as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 102, 2803.

2. PPL Electric owns approximately 5,000 miles of transmission lines operating at 69 kV (kilovolts) or higher, approximately 375 substations with a capacity of 10 MVA (megavolt amperes) or more, and approximately 43,000 miles of distribution lines operating at less than 69 kV.

3. Pursuant to Chapters 15 and 28 of the Public Utility Code, PPL Electric has a statutory obligation to provide safe, efficient, and reasonably reliable service and facilities and to make all repairs or improvements in or to such service or facilities as are reasonably necessary for the accommodation, convenience, and safety of its customers.

4. Complainant James A. Stoner, III (“Complainant”) is a PPL Electric customer with a service address of 207 King’s Highway, Marysville, Perry County, Pennsylvania 17053.

5. On September 30, 2013, Complainant filed a Formal Complaint with the Commission.

6. In Paragraph 5 of the Complaint, Complainant requested that damages to his house be repaired at PPL Electric’s expense. *See* Complaint p. 3.

7. Contemporaneously with the filing of these Preliminary Objections, PPL Electric is filing an Answer to the Complaint. In its Answer, PPL Electric denies the factual basis for Complainant’s claim, and denies that the Company’s facilities have caused any damage to Complainant’s real property.

8. For the reasons set forth below, regardless of the factual correctness of the Complaint, the Commission lacks authority to grant the relief requested in the Complaint.

II. PRELIMINARY OBJECTIONS

9. Complainant’s request for relief is not within the jurisdiction of the Commission. Therefore, the portion of the Complaint requesting the Company pay for the repair of damages must be dismissed.

III. STANDARD OF REVIEW

10. Pursuant to the Commission's regulations, preliminary objections in response to a Complaint 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.

52 Pa. Code § 52.101(a).

11. In ruling on preliminary objections, all well-pled allegations of material facts as well as all inferences reasonably deducible therefrom must be accepted. *Stilp v. Cmwlth.*, 910 A.2d 775, 781 (Pa. Cmwlth. 2006) ("*Stilp*"), (citing *Dep't of Gen. Serv. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwlth. 2005); accord *Complaint of Nat'l Fuel Gas Distrib. Corp. and Petition for an Order to Show Cause Why New Mountain Vantage GP, LLC And Others Acting in Concert with It Should Not Be Required to Apply for a Certificate of Public Convenience Approving the Acquisition of Control of Nat'l Fuel Gas Dist. Corp.*, Docket No. P-00072343 (Dec. 26, 2007). Conclusions of law, unwarranted factual inferences, argumentative allegations and expressions of opinion, however, need not be accepted as true. *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlth. 2007). Preliminary objections should be sustained unless it appears with certainty that the law would permit the relief requested under the facts asserted. *Stilp*, at 781.

IV. ARGUMENT

12. PPL Electric incorporates by reference Paragraphs 1 through 11 as if fully set forth herein.

13. The Commission only has those duties, powers, and responsibilities as expressly, or by necessary implication, given to it by the General Assembly. *Jennifer Tomb v. Pennsylvania Electric Co.*, Docket No. C-2008-2036378, 2008 Pa. PUC LEXIS 994 (Dec. 8, 2008) (citing *Rogoff v. The Buncher Co.*, 395 Pa. 477, 151 A.2d 83 (1959)). The Commission must act within, and cannot exceed, its jurisdiction.

14. The specific relief requested in the Complaint is outside the Commission's jurisdiction. The Commission does not have the authority to order a public utility to pay monetary compensation to a customer complainant. *See Diane M. Hamilton and Eva J. Hamilton v. Verizon Pa., Inc.*, Docket No. C-2009-2135715, 2010 Pa. PUC LEXIS 234 at *8 (July 28, 2010) (Finalized Initial Decision) (citing *DeFrancesco v. Western Pennsylvania Water Co.*, 499 Pa. 374, 453 A.2d 595 (1982); *Elkin v. Bell of Pa.*, 491 Pa. 123, 420 A.2d 371 (1980); *Minisi, on behalf of Woodgate Homeowners Association, Inc. v. Verizon Pennsylvania Inc.*, Docket No. C-2008-2043302 (Sept. 3, 2008); *Feingold v. Bell of Pa.*, 477 Pa. 1, 383 A.2d 791 (1977)). Further, the Commission is without authority to address issues relating to real property disputes. The Commission does not have jurisdiction to adjudicate real property rights. *Leonard Karpel v. Peoples Natural Gas Company, LL C.*, 2011 Pa. PUC LEXIS 1289 (August 12, 2011).

15. The Commission is without jurisdiction to determine whether damage has occurred to Complainant's house, as that is a real property dispute. Further, if a direct claim for monetary damages had been made by the Complainant in this case, an award could not be granted because the Commission lacks jurisdiction over monetary damage claims. *Id.* at 7. The fact that the Complainant has asked for the Company to repair any damage at its own expense

functions exactly as a request for monetary damages, because the Company would be required to hire a contractor that it would then provide monetary compensation to for any repair to Complainant's house. There is no meaningful difference between a request for monetary damages and the request for relief that the Complainant has presented in this proceeding. Therefore, the portion of the Complaint requesting that Complainant's house should be repaired by PPL Electric at its own expense should be dismissed.

V. **CONCLUSION**

16. PPL Electric incorporates by reference Paragraphs 1 through 15, *supra*, as though set forth fully herein.

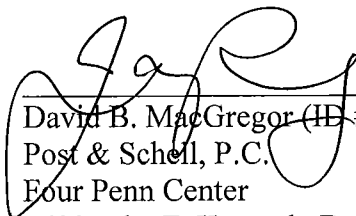
17. The scope of the Commission's jurisdiction over the relief requested in the Complaint is well-settled. The Commission does not have the authority to award monetary damages.

18. Accordingly, the Commission should enter an order, pursuant to 52 Pa. Code § 5.101, dismissing the portion of the above-captioned Complaint relating to monetary damages.

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the portion of the above-captioned Complaint of James A. Stoner, III relating to monetary damages associated with repair of his property be dismissed.

Respectfully submitted,

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Date: October 21, 2013

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