



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

Christopher T. Wright

cwright@postschell.com
717-612-6013 Direct
717-731-1985 Direct Fax
File #: 2507/140074

March 24, 2014

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: Joseph Graham v. PPL Electric Utilities Corporation and American Power & Gas
of Pennsylvania LLC
Docket No. C-2014-2407666**

Dear Secretary Chiavetta:

Enclosed please find the Preliminary Objections of PPL Electric Utilities Corporation to the Complaint of Joseph Graham in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

Christopher T. Wright

CTW/skr
Enclosure

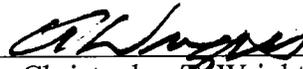
CERTIFICATE OF SERVICE

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

Joseph Graham
308 Sussex Street
Old Forge, PA 18518

Date: March 24, 2014



Christopher F. Wright

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

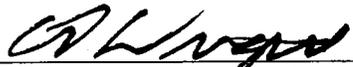
Joseph Graham,	:
	:
Complainant,	:
	:
v.	:
	:
PPL Electric Utilities Corporation, and	:
American Power & Gas of Pennsylvania	:
LLC	:
	:
Respondents.	:

Docket No. C-2014-2407666

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.101, YOU MAY FILE AN ANSWER TO THE ENCLOSED PRELIMINARY OBJECTIONS WITHIN TEN (10) DAYS OF THE DATE OF SERVICE HEREOF. YOUR ANSWER TO THE PRELIMINARY OBJECTIONS MUST 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.

Paul E. Russell (ID # 21634)
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



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: 215-587-1444
E-mail: dmacgregor@postschell.com

Christopher T. Wright (ID # 203412)
Devin T. Ryan (ID # 316602)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: cwright@postschell.com
dryan@postschell.com

Of Counsel:

Post & Schell, P.C.

Date: March 24, 2014

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joseph Graham,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2014-2407666
	:	
PPL Electric Utilities Corporation, and	:	
American Power & Gas of Pennsylvania	:	
LLC	:	
	:	
Respondents.	:	

**PRELIMINARY OBJECTIONS OF
PPL ELECTRIC UTILITIES COMPANY
TO THE COMPLAINT OF JOSEPH GRAHAM**

AND NOW, comes PPL Electric Utilities Company (“PPL Electric”) and hereby files Preliminary Objections, pursuant to the regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code § 5.101, and respectfully requests that the Complaint filed by Joseph Graham (“Complainant”) be dismissed as against PPL Electric. In support thereof, PPL Electric states as follows:

I. BACKGROUND

1. PPL Electric furnishes electric distribution, transmission, and default supply services 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,” an “electric

distribution company,” and a “default service provider” as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code, 66 Pa.C.S. §§ 102, 2803.

2. By Secretarial Letter dated March 3, 2014, PPL Electric was served with the above-captioned Complaint. The sole issue raised in the Complaint pertains to the rates charged for the competitive electric generation supply provided by American Power & Gas of Pennsylvania LLC (“AP&G”). (Complaint ¶ 4.)

3. PPL Electric herein files these Preliminary Objections to the Complaint. For the reasons explained below, PPL Electric respectfully requests that the Complaint be dismissed in its entirety as against PPL Electric for legal insufficiency pursuant to Section 5.101(a)(4) of the Commission’s regulations, 52 Pa. Code § 5.101(a).

II. STANDARD OF REVIEW

4. 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.

52 Pa. Code § 5.101(a) (emphasis added).

5. 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. Cmwlth., 910 A.2d 775, 781 (Pa. Cmwlth. 2006) (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*, Docket No. P-00072343 (December 26, 2007). 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). For preliminary objections to be sustained, it must appear with certainty that the law will permit no recovery, and any doubt must be resolved in favor of the non-moving party. *Stilp*, at 781.

III. PRELIMINARY OBJECTIONS

6. PPL Electric incorporates by reference Paragraphs 1 through 5 as if fully set forth herein.

7. The Complaint avers that the Complainant was a shopping customer that received competitive electric generation supply from AP&G during the time period in question. (Complaint ¶¶ 2-4.)

8. AP&G is a licensed electric generation supplier (“EGS”) that is authorized to offer, render, furnish or supply electricity or electric generation services in the Commonwealth of Pennsylvania, including within PPL Electric’s service territory. *See License Application American Power & Gas of Pennsylvania, LLC for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Supplier of Electricity*, Docket No. A-2013-2355561 (July 16, 2013).

9. The Complaint alleges that the rates charged by AP&G for electric generation supply increased during the billing period in question. (Complaint ¶ 4.)

10. The sole issue presented in the Complaint pertains to the rates charged for the competitive electric generation supply provided by AP&G. The Complainant's cause of action is against AP&G, not PPL Electric.

11. PPL Electric was not named as a respondent to the Complaint. The Secretary's Bureau added, *sua sponte*, PPL Electric as a respondent to the Complaint.

12. The allegations in the Complaint are entirely unrelated to electric distribution, electric transmission, default generation supply service, or any other services provided by PPL Electric. PPL Electric has no authority over the terms and conditions of the contract between the Complainant and AP&G, including the rates charged by AP&G.

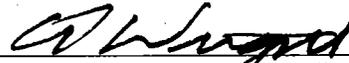
13. Further, in the prayer for relief, the Complaint only requests relief from AP&G. The relief requested by the Complaint is entirely unrelated to PPL Electric.

14. Accordingly, the Complaint has failed to state a cause of action against PPL Electric upon which relief may be granted and, therefore, the Complaint should be dismissed as against PPL Electric pursuant 52 Pa. Code § 5.101(a)(4).

IV. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the Complaint be dismissed in its entirety and with prejudice as against PPL Electric Utilities Corporation.

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: 215-587-1444
E-mail: dmacgregor@postschell.com

Christopher T. Wright (ID # 203412)
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Paul E. Russell (ID # 21634)
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Two North Ninth Street
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Phone: 610-774-4254
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Of Counsel:

Post & Schell, P.C.

Date: March 24, 2014

Attorneys for PPL Electric Utilities Corporation

