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File #: 2507/140074

March 31, 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: Barry Stampler v. PPL Electric Utilities Corporation
Docket No. C-2014-2409298

Dear Secretary Chiavetta:

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

Respectfully submitted,

Jessica R. Rogers

JRR/skr
Enclosure

cc: Certificate of Service

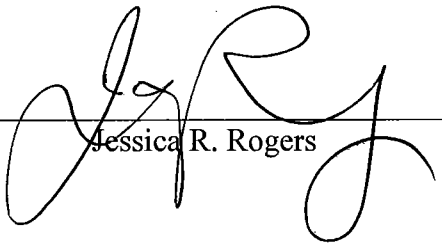
CERTIFICATE OF SERVICE

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

Barry J. Stampler
106 N. Eastwood
P.O. Box 274
Greentown, PA 18426

Date: March 31, 2014



Jessica R. Rogers

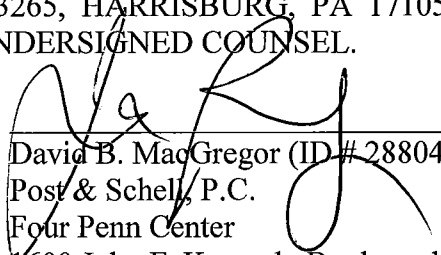
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Barry Stampler,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2014-2409298
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.101, YOU MAY ANSWER 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.

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Date: March 31, 2014

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Barry Stampler,	:	
	:	
Complainant,	:	
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v.	:	Docket No. C-2014-2409298
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**PRELIMINARY OBJECTIONS OF
PPL ELECTRIC UTILITIES CORPORATION
TO THE COMPLAINT OF BARRY STAMPLER**

AND NOW, comes PPL Electric Utilities Corporation (“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 certain portions of the Complaint filed by Barry Stampler (“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 10, 2014, PPL Electric was served with the above-captioned Complaint. The Complainant appears to challenge the accuracy of his electric bills.

3. PPL Electric herein files these Preliminary Objections to the Complaint. For the reasons explained below, PPL Electric respectfully requests that certain allegation in the Complaint be dismissed in their entirety as against PPL Electric for legal insufficiency and nonjoinder of a necessary party pursuant to Section 5.101(a) 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 alleges that the Complainant's electric bills have increased over the last year due to an increase in PPL Electric's rates and inaccurate meter readings. (Complaint ¶ 4.)

8. The Complaint seeks the following relief: (1) that his usage for the past year be investigated; (2) the accuracy of his electric meter be tested; (3) that Complainant's rates for electric service be reduced; and (4) that Complainant receive a bill credit/refund for the bills issued over the past year.

9. From June 17, 2013 to the date the Complaint was filed, the Complainant received competitive electric generation supply from Energy Services Providers, Inc. d/b/a Pennsylvania Gas & Electric ("Energy Services").

10. Energy Services 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 of Energy Services Providers, Inc. d/b/a Pennsylvania Gas & Electric for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Supplier and Aggregator of Retail Electric Power*, Docket No. A-2010-2212421 (May 9, 2011).

11. The Complaint alleges, among other things, that the rates charged for electric service over the past year increased. (Complaint ¶ 4.)

12. PPL Electric has no authority over the terms and conditions of the contract between the Complainant and Energy Services, including the rates charged by Energy Services.

13. To the extent that the Complainant seeks to challenge the rates charged by Energy Services for the competitive electric generation supply provided during the period of June 17, 2013 to the date the Complaint was filed, the Complainant's cause of action is against Energy Services, not PPL Electric.

14. To the extent that the Complainant seeks relief from the rates charged by Energy Services for the competitive electric generation supply provide during the period of June 17, 2013 to the date the Complaint was filed, the Complainant's remedy is against Energy Services, not PPL Electric.

15. Energy Services is an indispensable party to allegations in the Complaint. Energy Services was not named as a respondent to the Complaint. The failure to join Energy Services as an indispensable party deprives the Commission of subject matter jurisdiction and is fatal to a cause of action. *See Bucks County Servs. v. Phila. Parking Auth.*, 71 A.3d 379 (Pa. Cmwlth. 2013).

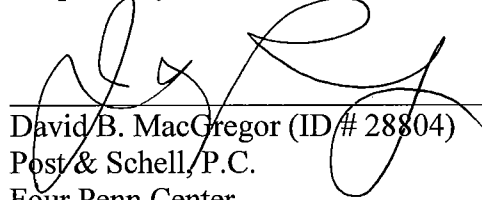
16. Based on the foregoing, any portion of the Complaint related to the rates charged by Energy Services should be dismissed with prejudice as against PPL Electric pursuant to 52 Pa. Code § 5.101(a)(4) and (5) for legal insufficiency and nonjoinder of a necessary party.¹

¹ In these Preliminary Objections, PPL Electric is not seeking dismissal of any claims related to: (1) the distribution rates charged by PPL Electric; (2) the default service rates charged by PPL Electric for the electric generation supply provided from January 16, 2013 through June 17, 2013; and (3) the accuracy of the Complainant's electric meter.

IV. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that any portion of the Complaint related to the rates charged by Energy Services should be dismissed and with prejudice as against PPL Electric Utilities Corporation.

Respectfully submitted,



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Of Counsel:

Post & Schell, P.C.

Date: March 31, 2014

Attorneys for PPL Electric Utilities Corporation

