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October 26, 2015

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: David M. Quirk v. PPL Electric Utilities Corporation
Docket No: F-2015-2506992

Dear Ms. Chiavetta:

Enclosed for eFiling in the above-captioned matter is the Preliminary Objections of PPL Electric Utilities Corporation. The Answer was filed on October 26, 2015, at 14:03:15. A copy of the Confirmation Email of Filing is attached.

Pursuant to 52 Pa. Code §1.11, the enclosed Preliminary Objections are deemed to be eFiled on the date as indicated above.

Please note that this filing was eFiled with the Commission on the date indicated above.

Very truly yours,

KIMBERLY G. KRUPKA

KGK:ejm
Enclosure

cc: David M. Quirk (w/enc.)
Amy M. Bellizia (w/enc.) *via email only*
Kim Safford (w/enc.) *via email only*

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Liz Minger

From: eFile@pa.gov
Sent: Monday, October 26, 2015 2:40 PM
To: Liz Minger
Subject: E-file Confirmation for 1610693

Importance: High

Dear Elizabeth J Minger,

Your eFiling has been successfully filed on Mon Oct 26 14:03:51 EDT 2015.
You may view this Filing at

[Answer to Formal Complaint - PPL](#) and the Case details are: {DocketNumber=F-2015-2506992, Bp8CaseID=2506992}

Thank You,
Public Utility Commission
Commonwealth of Pennsylvania

** Please do not respond to this automatically generated email.*

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DAVID M. QUIRK,

Complainant,

vs.

PPL ELECTRIC UTILITIES

Respondent.

COMPLAINT DOCKET

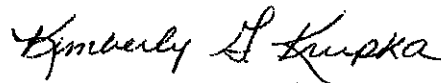
NO. F-2015-2506992

NOTICE TO PLEAD

To: **David M. Quirk**
22 Front Street, Apartment 3
Cressona, PA 17929

Pursuant to 52 Pa. Code Section 5.101(d), you are hereby notified that you have ten (10) days from the date of service of the within PRELIMINARY OBJECTIONS OF PPL ELECTRIC UTILITIES CORPORATION within which to file a written answer with the Secretary of the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17120, and that if you fail to so file a written answer within ten (10) days from the date of service, Respondent's Preliminary Objections may be granted without further notice.

GROSS MCGINLEY, LLP



By: _____
KIMBERLY G. KRUPKA, ESQUIRE
I.D. # 83071
Counsel for Defendant, PPL Electric Utilities
Corporation
33 South 7th Street, P.O. Box 4060
Allentown, PA 18105
Phone (610) 820-5450

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DAVID M. QUIRK,

Complainant,

vs.

PPL ELECTRIC UTILITIES

Respondent.

COMPLAINT DOCKET

NO. F-2015-2506992

PRELIMINARY OBJECTIONS OF PPL ELECTRIC UTILITIES CORPORATION

PPL Electric Utilities Corporation (“Respondent PPL Electric”), by and through its attorneys of record, Gross McGinley, LLP, hereby raises the following Preliminary Objections to the Complaint of David M. Quirk (“Complainant”), pursuant to 52 Pa. Code § 5.101, and in support thereof, alleges as follows:

1. Respondent PPL Electric hereby incorporates those averments set forth in its Answer contemporaneously filed in the above-captioned case as if more fully set forth at length.
2. Complainant filed a Complaint against Respondent PPL Electric alleging “incorrect charges on my bill” described as “Previously explained in detail.” Thereafter as Requested Relief, Complainant alleges: “Refund. Note: Landlord had some trouble with house phone hookup. He keeps changing building number, first it was 27 Front St., 25 Front St. and 23 Front St. I bought 3 cell phones for \$25 ea. and \$100 airtime cause they didn’t hook the house phone up for a month. I didn’t use the airtime so I bought another \$100 (1 yr.) just to keep the 1st years’ time but I never needed both phones, out \$275” See Complaint at ¶¶ 4-5, a true and correct copy of which is attached hereto as **Exhibit “A.”**

3. Preliminary objections are properly filed by a Respondent when the complaint is legally insufficient. 52 Pa. Code § 5.101(a)(4).

4. The provision at 52 Pa. Code § 5.101(a)(4) serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of a case exists, a hearing is unnecessary. *See Lehigh Valley Power Committee v. Pennsylvania Public Utility Commission*, 563 A.2d 557, 564 (Pa. Cmwlth. 1989).

5. Preliminary objection practice before the Public Utility Commission (the "Commission") is analogous to Pennsylvania civil practice regarding preliminary objections. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 WL 932315 (Pa. P.U.C. July 18, 1994).

6. Preliminary objections in civil practice requesting dismissal of a pleading will be granted only where the right to relief is clearly warranted and free from doubt. *Interstate Traveller Services, Inc. v. Pa. Dept. of Environment Resources*, 406 A.2d 1020, 1022 (Pa. 1979). The Commission follows this standard. *See Montague v. Philadelphia Electric Company*, 0088 WL 1534888, 66 Pa. PUC 24 (Pa. P.U.C. January 6, 1988).

7. The Commission may not rely upon the factual assertions of the moving party but must accept as true for purposes of disposing of the motion all well pleaded, material facts of the nonmoving party, as well as every inference from those facts. *Commonwealth of Pennsylvania v. Bell Telephone Co. of Pa.*, 551 A.2d 602, 604 (Pa. Cmwlth. 1988).

8. Given this, the Commission must view the complaint in the light most favorable to the Complainant and should dismiss the complaint only if it appears that the Complainant would not be entitled to relief under any circumstances as a matter of law. *See Equitable Small Transportation Intervenors, supra*.

9. The Commission regulations state that a person may file a formal complaint claiming a violation of a statute that the Commission has jurisdiction to administer. *See* 52 Pa. Code § 5.21(a)

10. Additionally, the regulations authorize the Commission to dismiss a complaint if a hearing is not necessary and authorizes preliminary objections to be filed in response to a complaint. *See* 52 Pa. Code § 5.21(d)

11. The only details contained within Complainant's Complaint are set forth in Paragraphs 4 and 5. All such allegations pertain to telephone connections, and not electric service.

12. As set forth in Paragraphs 2 and 3, PPL Electric supplies Complainant with electric service, not telephone service.

13. In order to be legally sufficient, a complaint must set forth "...an act done or omitted to be done by a person subject to the jurisdiction of the Commission, in violation, or claimed violation of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission." *See* 52 Pa. Code § 5.21(a).

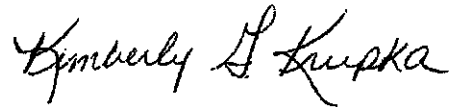
14. In this case, the Complaint does not allege any facts that could be construed as a violation by Respondent PPL Electric of any statute, regulation, or order which the Commission has jurisdiction to administer.

15. As such, the Complaint is legally insufficient, and therefore, must be denied and dismissed with prejudice.

WHEREFORE, PPL Electric respectfully requests that Respondents Preliminary Objections be Granted and the Complainant be dismissed.

Respectfully submitted,

GROSS MCGINLEY, LLP



BY: _____
KIMBERLY G. KRUPKA, ESQUIRE
Attorney for Respondent, PPL Electric Utilities Corporation

Dated: 10/26/15
In Allentown, Pennsylvania

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DAVID M. QUIRK,

Complainant,

vs.

PPL ELECTRIC UTILITIES

Respondent.

COMPLAINT DOCKET

NO. F-2015-2506992

CERTIFICATE OF SERVICE

This is to certify that the PRELIMINARY OBJECTION OF PPL ELECTRIC UTILITIES CORPORATION on behalf of PPL ELECTRIC UTILITIES CORPORATION was mailed to counsel/complainant of record on behalf of Respondents by First Class United States Mail, postage on this the 26th day of October, 2015

DAVID M. QUIRK
25 FRONT ST, APT 2
CRESSONA, PA 17929

GROSS MCGINLEY, LLP

Kimberly G. Krupka

By: _____
KIMBERLY G. KRUPKA, ESQUIRE
I.D. # 83071
Counsel for Defendant, PPL Electric Utilities
Corporation
33 South 7th Street, P.O. Box 4060
Allentown, PA 18105
Phone (610) 820-5450

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EXHIBIT 'A'

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DAVID M. QUIRK,

COMPLAINANT,

VS.

PPL ELECTRIC UTILITIES

RESPONDENT.

COMPLAINT DOCKET

NO. F-2015-2506992

ANSWER OF PPL ELECTRIC UTILITIES CORPORATION

PPL Electric Utilities Corporation (PPL Electric), by its attorney, hereby Answers Complaint in the above-captioned proceeding as follows:

1. Admitted.
2. Admitted in part, denied in part. The correct name of answering Respondent is PPL Electric Utilities Corporation.
3. Admitted.
4. Denied. As this is Complainant's Complaint, no further information has been provided. By way of further response, all information set forth in Section 5, Requested Relief, refers to difficulties with the landlord and house phone hookup. Complainant references allegations concerning three cell phones and air time purchases. Such allegations do not relate to PPL Electric Utilities Corporation, and accordingly, are denied.
5. Paragraph 5 constitutes a request for relief to which no Answer is required. To the extent a response is required PPL Electric incorporates by reference herein the averments set forth in its Answer to Paragraph 4 of the Complaint.

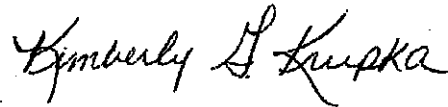
6. No response of answering Respondent is required, as the allegations of this paragraph do not pertain to answering Respondent.

7. Admitted.

WHEREFORE, in view of the foregoing, PPL Electric respectfully requests that the Commission deny the above-captioned Complaint.

Respectfully submitted,

GROSS MCGINLEY, LLP



BY: _____

KIMBERLY G. KRUPKA, ESQUIRE
Attorney for Respondent, PPL Electric Utilities Corporation

Dated: 10/26/15
In Allentown, Pennsylvania

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DAVID M. QUIRK,

COMPLAINANT,

VS.

PPL ELECTRIC UTILITIES

RESPONDENT.

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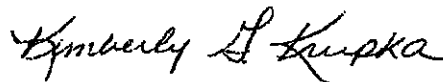
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CERTIFICATE OF SERVICE

This is to certify that the ANSWER on behalf of PPL ELECTRIC UTILITIES CORPORATION was mailed to counsel/complainant of record on behalf of Respondents by First Class United States Mail, postage on this the 26th day of October, 2015

DAVID M. QUIRK
25 FRONT ST, APT 2
CRESSONA, PA 17929

GROSS MCGINLEY, LLP



By: _____

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