

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Paul Remaley, Jr.

v.

PPL Electric Utilities Corporation

C-20077255

MAR 14 2007

PA. PUBLIC UTILITY COMMISSION

ORDER GRANTING PRELIMINARY OBJECTION, IN PART,  
DENYING IT, IN PART AND SETTING RESOLUTION CONFERENCE

Before

Veronica A. Smith  
Chief Administrative Law Judge

**DOCKETED**  
MAR 14 2007

DOCUMENT  
FOLDER

HISTORY OF THE PROCEEDING

On January 5, 2007, Paul Remaley, Jr. (Complainant), filed a Formal Complaint with the Commission against PPL Electric Utilities Corporation (Respondent), alleging that Respondent's failure to fix a problem on a utility pole caused damage to his household appliances. Complainant further avers that Respondent agreed to replace the damaged items but now refuses to pay the amount requested by Complainant. As relief, Complainant requests that Respondent be directed to reimburse him for the damaged appliances.

BTL

On January 31, 2007<sup>1</sup>, Respondent filed an Answer and a Preliminary Objection, addressing the allegations of the Complaint and moving to dismiss the Complaint on the basis that the Commission lacks jurisdiction to award monetary damages.

According to Commission records, as of March 12, 2007, Complainant did not file a response to the Preliminary Objection<sup>2</sup>. This matter was assigned to me by Motion Judge Assignment Notice dated February 12, 2007. The Preliminary Objection is ripe for ruling.

<sup>1</sup> Respondent was served with a copy of the Complaint on January 11, 2007.

<sup>2</sup> Pursuant to 52 Pa. Code §5.101(f)(1) a reply to the Preliminary Objections was due on or before February 12, 2007.

## FINDINGS OF FACT

1. Complainant is Paul Remaley, Jr., 4135 Levans Road, Schnecksville, Pennsylvania, 18078.
2. Respondent is PPL Electric Utilities Corporation.
3. On January 5, 2007, Complainant filed a Formal Complaint with the Commission alleging that Respondent's failure to fix a problem on a utility pole caused damage to his household appliances. Complainant further avers that Respondent now refuses to pay the replacement costs of the appliances.
4. As relief, Complainant requests that the Commission direct Respondent to pay the amount of the claimed reimbursement.
5. Respondent filed a Preliminary Objection moving for dismissal of the Complaint on the basis that the Commission lacks the jurisdiction to award monetary damages.

## DISCUSSION

Before the Commission are a Complaint and a Preliminary Objection seeking dismissal of the Complaint on the basis that the Commission lacks jurisdiction to grant the relief requested by Complainant.

The Commission's Rules of Administrative Practice and Procedure permit the filing of preliminary objections. 52 Pa. Code §§5.101-5.103. This practice is similar to Pennsylvania civil practice regarding the filing of preliminary objections. Equitable Small Transportation Interveners v. Equitable Gas Company, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

A preliminary objection in civil practice seeking dismissal of a pleading will be granted only where relief is clearly warranted and free from doubt. Interstate Traveller Services, Inc. v. Pa. Dept. of Environmental Resources, 406 A.2d 1020 (Pa. 1979); Rivera v. Philadelphia Theological

Seminary of St. Charles Borromeo, Inc., 595 A.2d 172 (Pa. Super. 1991). The Commission has adopted this standard. Montague v. Philadelphia Electric Company, 66 Pa. PUC 24 (1988).

The moving party may not rely on its own factual assertions, but must accept for the purposes of disposition of the motion, all well-pleaded, material facts of the other party, as well as every inference fairly deducible from those facts. County of Allegheny v. Commw. of Pa., 490 A.2d 402 (Pa. 1985); Commw. of Pa. v. The Bell Telephone Co. of Pa., 551 A.2d 602 (Pa. Commw. 1988). The motion may be granted only if the moving party prevails as a matter of law. Roc v. Flaherty, 527 A.2d 211 (Pa. Commw. 1985). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. Dept. of Auditor General, et al. v. State Employees' Retirement System, et al., 836 A.2d 1053, 1064 (Pa. Commw. 2003) (citing, Boyd v. Ward, 802 A.2d 705 (Pa. Commw. 2002)).

Respondent correctly notes that the Commission lacks the authority to award damages. Feingold v. Bell of Pennsylvania, 383 A.2d 791 (Pa. 1977). However, the Commission has been granted broad powers to supervise and regulate all public utilities doing business within the Commonwealth and is empowered to determine whether a public utility is providing safe, adequate and reasonable service. 66 Pa. C.S. §§501, 1501. The Commission may impose civil penalties upon a utility that is found to be in violation of a statute, regulation or order of the Commission. 66 Pa. C.S. §3301.

Complainant essentially alleges a service dispute regarding the timeliness of Respondent's repairs to the electrical lines serving Complainant's residence and that Respondent's failure to fix the problem caused damage to his household appliances for which he now seeks replacement costs. Respondent, in its Answer admits that a "...broken neutral connection caused damage to ...Complainant's personal property..." PPL Answer ¶4.

Although, the Commission cannot grant the monetary damages requested by Complainant, it is the proper venue to adjudicate the issue of whether Respondent's alleged failure to timely correct the service issues experienced by Complainant rose to the level of unreasonable service. For this reason, Respondent's Preliminary Objection is granted, in part and denied, in part. That portion of the Complaint seeking monetary damages is dismissed and the remaining portions will be submitted to the Commission's alternative dispute resolution process and, if necessary, a hearing.

This case will be set for a resolution conference to provide the parties with the opportunity to discuss the service issues raised in the Complaint. The parties are directed to attempt to resolve this matter themselves and are strongly encouraged to participate in this process. This process is consistent with the Commission's regulations at 52 Pa. Code §§ 5.231(a) and 69.391.

Respondent shall contact Complainant no later than March 30, 2007, to set a mutually convenient date, time and location to conduct a conference to discuss the possible resolution of this case. The conference shall occur no later than April 20, 2007. No later than ten days following the conference, Respondent shall file a report with Herbert R. Nurick, Mediation Coordinator, setting forth:

- (a) The date, time and location of the conference;
- (b) The participants representing each party;
- (c) A statement describing whether a full resolution, including withdrawal of the complaint, was achieved; and, if not, whether the parties consent to have this case set for mediation by Commission staff; and
- (d) A statement listing any resolved issues, if a full resolution was not achieved.

Should the conference not take place by the due date, Respondent shall file a report with the mediator, no later than April 30, 2007, giving the reason(s) why the due date was not met.

The Commission encourages mediation if the parties cannot reach an agreement through the resolution conference.<sup>3</sup> If the parties do not reach an agreement on their own, consent to mediate, or if mediation is unsuccessful, they are entitled to a hearing, which will include the presentation of oral testimony and other evidence before a Commission Administrative Law Judge, who will consider the case and issue a written decision.

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<sup>3</sup> Mediation is an informal process in which the parties attempt to resolve the case with the help of a mediator. The mediator is a neutral staff member of the Commission who does not give advice, make a decision or represent any party. Instead, the mediator assists the parties in their efforts to come to an agreement.

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter of this proceeding.
2. The Commission's Rules of Administrative Practice and Procedure permit the filing of preliminary motions.
3. The Commission has been granted broad powers to supervise and regulate all public utilities doing business within the Commonwealth.
4. The Commission is empowered to determine whether a public utility is providing safe, adequate and reasonable service.
5. The Commission lacks the authority to award monetary damages.

## ORDER

THEREFORE,

IT IS ORDERED:

1. That PPI. Electric Utilities Corporation's Preliminary Objection moving to dismiss the Complaint filed by Paul Remaley, Jr., at PUC Docket No. C-20077255, is granted, in part and denied, in part.
2. That the portion of the Complaint seeking monetary damages is dismissed.
3. That the remainder of this case be set for resolution conference.

4. That PPL Electric Utilities Corporation shall contact Paul Remaley, Jr. no later than March 30, 2007, to set a mutually convenient date, time and location to conduct a conference to discuss the possible resolution of the issues raised in the Complaint.

5. That the resolution conference shall take place no later than April 20, 2007.

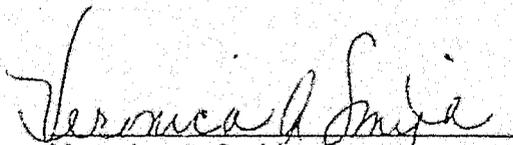
6. That PPL Electric Utility Corporation shall file a report addressed to Herbert R. Nurick, Mediation Coordinator, Office of Administrative Law Judge, P.O. Box 3265, Harrisburg, PA 17105-3265, no later than ten days following the resolution conference setting forth:

- (a) the date, time and location of the conference;
- (b) the participants for each party
- (c) a statement describing whether a full resolution, including withdrawal of the complaint was achieved; and, if not, whether the parties consent to have this case set for mediation by Commission staff; and
- (d) a statement listing any resolved issues, if a full resolution was not achieved.

7. That, if the resolution conference does not take place by the due date, PPL Electric Utilities Corporation shall file a report with the mediator, no later than April 30, 2007 giving the reason(s) why the due date was not met.

8. That, if the parties do not reach an agreement on their own, consent to mediate, or if mediation is unsuccessful, this matter will be set for hearing

Dated: March 12, 2007

  
Veronica A. Smith  
Chief Administrative Law Judge

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EASTON OFFICE:  
717 WASHINGTON ST  
EASTON PA 18042  
(610) 258-1506

March 15, 2007

**ORIGINAL**

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
Post Office Box 3265, 400 North Street  
Harrisburg, PA 17105-3265

RE: Paul Remaley, Jr. v. PPL Electric Utilities Corporation  
Docket No. C-20077255

Dear Mr. McNulty:

Enclosed for filing in the above-captioned matter are an original and three copies of a Certificate of Satisfaction of Complaint under 52 Pa. Code § 5.24(b).

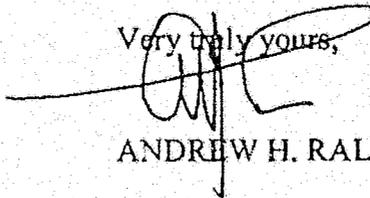
Because all legal and factual issues in this proceeding have been resolved, PPL respectfully requests that this docket be terminated.

I hereby certify that I have provided a copy of the Certificate to the Complainant in this proceeding.

In addition, please date and time-stamp the enclosed extra copy of this letter and return it to me in the envelope provided.

**DOCUMENT  
FOLDER**

Very truly yours,



ANDREW H. RALSTON, JR.

AHR:cjc-m  
Enclosures

cc: Administrative Law Judge Veronica Smith (w/enc.)  
Mr. Paul Remaley, Jr. (w/enc.)  
Deidre Bilger (w/enc.)

SECRETARY'S OFFICE  
2007 MAR 19 PM 1:47

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**ORIGINAL**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PAUL REMALEY, JR.,

Complainant,

vs.

PPL ELECTRIC UTILITIES CORPORATION,

Respondent.

COMPLAINT DOCKET  
NO. C-20077255

**DOCKETED**  
MAR 20 2007

RECEIVED  
2007 MAR 19 11:14 AM  
SECRETARY'S OFFICE

**DOCUMENT  
FOLDER**

CERTIFICATION OF SATISFACTION OF COMPLAINT

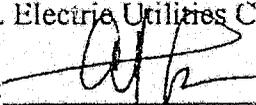
1. Complainant is Paul Remaly, Jr. (hereinafter "Complainant").
2. Respondent is PPL Electric Utilities Corporation (hereafter "PPL").
3. This Certificate of Satisfaction of Complaint is submitted pursuant to 52 Pa. Code §5.24(b).
4. PPL hereby certifies that the parties to the above-referenced formal Complaint, now pending before the Pennsylvania Public Utility Commission, have mutually and voluntarily agreed on the following terms as full satisfaction of all outstanding legal and factual disputes in this proceeding, and Complaint has acknowledged satisfaction to PPL:
  - (a) PPL has already paid Complainant the sum of \$1280.00;
  - (b) PPL will pay Complainant the additional sum of \$843.00;
  - (c) Complainant agrees to withdraw his Complaint with prejudice.
5. Respondent, PPL, hereby notifies Complainant of the filing of the Certificate of Satisfaction, and that if Complainant objects or disagrees with the terms of the Certificate of

Satisfaction, Complainant must notify the Commission in writing of his objection and/or disagreement within ten (10) days of the date that the Certificate of Satisfaction was signed and served, or the terms of the Certificate of Satisfaction will become final and binding.

**WHEREFORE**, PPL Electric Utilities Corporation respectfully requests that the docket be marked closed in this matter.

Respectfully submitted,

PPL Electric Utilities Corporation

BY: 

\_\_\_\_\_  
ANDREW H. RALSTON, JR.

Dated: March 15, 2007  
At Allentown, Pennsylvania

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PAUL REMALEY, JR.,

Complainant,

vs.

PPL ELECTRIC UTILITIES CORPORATION,

Respondent.

COMPLAINT DOCKET  
NO. C-20077255

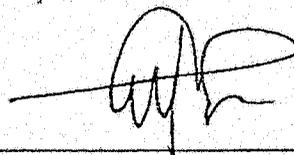
2007 MAR 19 PM 1:47  
SECRET

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a true copy of the foregoing document upon the participants, listed below, in accordance with the requirements of § 1.54 (relating to service by a participant):

Paul Remaley, Jr.  
4135 Levans Rd.  
Schnecksville, PA 18078

Dated this 15<sup>th</sup> day of March, 2007.



ANDREW H. RALSTON, JR., ESQUIRE

GROSS, MCGINLEY, LABARRE & EATON, LLP

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(610) 258-1506

March 16, 2007

DOCUMENT  
FOLDER

2007 MAR 19 11:14 AM  
SECRETARY'S OFFICE

Mr. Paul Remaley, Jr.  
4135 Levans Road  
Schnecksville, PA 18078

RE: Paul Remaley vs. PPL Electric Utilities Corporation

Dear Mr. Remaley:

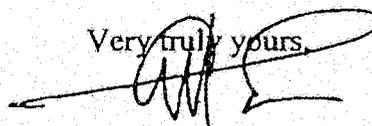
C-20077255

Enclosed please find a copy of a Certificate of Satisfaction that I am filing with the Pennsylvania Public Utility Commission in your case, based upon your recent settlement with PPL.

I believe this Certificate of Satisfaction accurately sets forth the agreement which has been reached between you and PPL regarding your pending formal complaint. However, if for any reason you disagree with the contents of the Certificate of Satisfaction, you have the right to file written objections with the Secretary of the Commission within 10 days from the date of this letter, in which case you should also provide a copy of your objections to my office.

Please contact me if you have any questions. Thank you for your cooperation in bringing this matter to an amicable resolution.

Very truly yours,



ANDREW H. RALSTON, JR.

AHR:cjc-m  
Enclosure

cc: James J. McNulty, Secretary  
Chief Administrative Law Judge Veronica A. Smith (w/enc.)  
Ms. Deidre L. Bilger (w/enc.)

BA

COMMONWEALTH OF PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

DATE: March 19, 2007  
SUBJECT: C-20077255  
Paul Remaley, Jr. v. PPL Electric Utilities Corporation  
TO: Wanda Zeiders  
Docket Management  
FROM: Janean Spiegel, ALJ Support Staff  
Office of Administrative Law Judge

DOCUMENT  
FOLDER

On March 19, 2007, a Certificate of Satisfaction was filed in the above-captioned proceeding. If no objection is filed to this certificate within 10 days of the filing, this proceeding will be closed.

All parties should be notified that the case is closed and a copy of that notification placed in the document folder.

Attachment

pc: SA Amanda Rumsey  
Beth Plantz  
Case File

**DOCKETED**  
MAR 20 2007

CA



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

April 13, 2007

C-20077255

PAUL REMALEY JR.  
4135 LEVANS ROAD  
SCHNECKSVILLE PA 18078

PAUL REMALEY JR.  
v.  
PPL ELECTRIC UTILITIES CORPORATION

**DOCKETED**  
APR 11 2007

TO WHOM IT MAY CONCERN:

Please be advised that the Commission has marked closed the above-entitled proceeding.

Very truly yours,

James J. McNulty  
Secretary

cc: All parties of Record

nvl

**DOCUMENT  
FOLDER**