



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

---

Devin Ryan

dryan@postschell.com  
717-612-6052 Direct  
717-731-1985 Direct Fax  
File #: 140074

June 25, 2018

***VIA ELECTRONIC FILING***

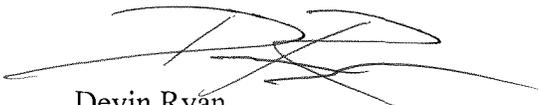
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Lynn Schaufelberger v. PPL Electric Utilities Corporation**  
**Docket No. C-2018-3002463**

Dear Secretary Chiavetta:

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

Respectfully submitted,



Devin Ryan

DTR/jl  
Enclosures

cc: Certificate of Service

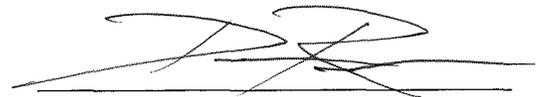
**CERTIFICATE OF SERVICE**

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 E-MAIL & FIRST CLASS MAIL**

Lynn Schaufelberger  
1725 Fulton Street  
Harrisburg, PA 17102  
E-mail: [lynniethepoohs@aol.com](mailto:lynniethepoohs@aol.com)

Date: June 25, 2018

A handwritten signature in black ink, appearing to read 'DR', is written over a horizontal line.

Devin T. Ryan

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|                                     |   |                           |
|-------------------------------------|---|---------------------------|
| Lynn Schaufelberger,                | : |                           |
|                                     | : |                           |
| Complainant,                        | : |                           |
|                                     | : |                           |
| v.                                  | : | Docket No. C-2018-3002463 |
|                                     | : |                           |
| 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 FOR PPL ELECTRIC UTILITIES CORPORATION.

Amy E. Hirakis (ID # 310094)  
PPL Services Corporation  
Two North Ninth Street  
Allentown, PA 18101  
Phone: 610-774-4254  
Fax: 610-774-6726  
E-mail: aehirakis@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: 215-320-4879  
E-mail: dmacgregor@postschell.com

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

Of Counsel:

Post & Schell, P.C.

Date: June 25, 2018

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|                                     |   |                           |
|-------------------------------------|---|---------------------------|
| Lynn Schaufelberger,                | : |                           |
|                                     | : |                           |
| Complainant,                        | : |                           |
|                                     | : |                           |
| v.                                  | : | Docket No. C-2018-3002463 |
|                                     | : |                           |
| PPL Electric Utilities Corporation, | : |                           |
|                                     | : |                           |
| Respondent.                         | : |                           |

---

**PRELIMINARY OBJECTIONS OF  
PPL ELECTRIC UTILITIES CORPORATION TO  
THE COMPLAINT OF LYNN SCHAUFELBERGER**

---

**TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

AND NOW, comes PPL Electric Utilities Corporation (“PPL Electric”) and hereby files these Preliminary Objections, 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 request for damages in the above-captioned Complaint (“Complaint”) filed by Lynn Schaufelberger (“Complainant”). As explained herein, the Commission does not have authority to award damages. Therefore, requests for damages are properly stricken from complaints as impertinent matter.

For these reasons, and as explained more detail below, PPL Electric respectfully requests that these Preliminary Objections be granted and that the Complaint’s request for damages be summarily dismissed. In support thereof, PPL Electric states as follows:

## **I. BACKGROUND**

1. PPL Electric is a “public utility” and an “electric distribution company” (“EDC”) as those terms are defined under the Public Utility Code, 66 Pa. C.S. §§ 102 and 2803, subject to the regulatory jurisdiction of the Commission.

2. PPL Electric furnishes electric distribution, transmission, and provider of last resort electric 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.

3. On June 5, 2018, PPL Electric was served with the above-captioned Complaint. The Complaint raises issues related to an audit performed pursuant to the Company’s Low-Income Winter Relief Assistance Program (“Low-Income WRAP”), which is a program offered under PPL Electric’s Phase III Energy Efficiency and Conservation Plan (“EE&C Plan”).

4. PPL Electric herein files these Preliminary Objections to the Complaint. For the reasons explained below, PPL Electric respectfully requests that the Commission summarily dismiss the Complaint’s request for damages because such relief cannot be granted by the Commission.

## **II. STANDARD OF REVIEW**

5. 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.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.
- (7) Standing of a party to participate in the proceeding.

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

6. 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 (Dec. 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**

#### **A. PRELIMINARY OBJECTION No. 1 – The Complainant's Request for Damages Should Be Dismissed Because the Commission Has No Power to Award Damages**

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

8. In the Complaint, the Complainant alleges she had an audit performed pursuant to Low-Income WRAP. (Complaint ¶ 4) She avers that the auditor allegedly stated that her new

refrigerator would qualify for a replacement. (Complaint ¶ 4) However, the refrigerator did not meet the eligibility qualifications, and a new refrigerator was not installed. (Complaint ¶ 4)

9. The Complainant requests as relief, among other things, that the Company “add to [her] bill a credit” so that she can buy a new refrigerator. (Complaint ¶ 5) In other words, the Complainant is asking the Commission to award her monetary damages.

10. It is well-established that the Commission does not have the authority to order a public utility to pay damages, as requested by the Complainant. *See DeFrancesco v. W. Pa. Water Co.*, 453 A.2d 595, 596-97 (Pa. 1982); *Elkin v. Bell of Pa.*, 420 A.2d 371, 375 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791, 794-95 (Pa. 1977); *Rogers v. PECO Energy Co.*, 2001 Pa. PUC LEXIS 2, at \*7 (Order entered Jan. 12, 2001) (“[I]t has been held that the Commission has no power to award damages for loss of earnings, loss of credit, loss of reputation, and ill health, nor does it have the right to offset claims for damages against a utility’s tariff charges for service.”) (emphasis added) (quoting *Hadley v. PECO Energy Co.*, 1996 Pa. PUC LEXIS 85 (June 28, 1996) (Initial Decision)).

11. Here, the Complainant’s request for damages is impertinent matter “in the sense that it is irrelevant to [the] cause of action” because the Commission lacks authority to award damages. *See Stoner v. PPL Elec. Utils. Corp.*, Docket No. C-2013-2385588, p. 3 (Nov. 14, 2013) (order sustaining preliminary objections). Indeed, requests for damages are regularly stricken from complaints as being impertinent matter. *See, e.g., id.* at pp. 3, 5; *Powell v. Verizon Pa., Inc.*, Docket No. C-2011-2264876, 2011 Pa. PUC LEXIS 652, at \*8-9, 16-17 (Dec. 21, 2011), *adopted by Commission*, 2012 Pa. PUC LEXIS 374 (Order Entered Mar. 1, 2012); *J.E. Culbertson Co. v. Pa. Elec. Co.*, Docket No. C-2010-2204947, 2011 Pa. PUC LEXIS 781, at \*8-

9, 12 (Feb. 4, 2011), *adopted by Commission*, Docket No. C-2010-2204947 (Order Entered Apr. 8, 2011).

12. Therefore, the Complainant's request for damages is impertinent matter and should be stricken from his Complaint pursuant to 52 Pa. Code § 5.101(a)(2).

**IV. CONCLUSION**

WHEREFORE, for the reasons set forth above, PPL Electric Utilities Corporation respectfully requests that the request for damages in the above-captioned Formal Complaint be dismissed pursuant 52 Pa. Code § 5.101(a)(2).

Respectfully submitted,

Amy E. Hirakis (ID # 310094)  
PPL Services Corporation  
Two North Ninth Street  
Allentown, PA 18101  
Phone: 610-774-4254  
Fax: 610-774-6726  
E-mail: aehirakis@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: 215-320-4879  
E-mail: dmacgregor@postschell.com

Of Counsel:  
Post & Schell, P.C.

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

Date: June 25, 2018

Attorneys for PPL Electric Utilities Corporation

