

April 16, 2019

Via Electronic Filing

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

**Re: Docket No. C-2019-3008814
Sherry Stiles v. Pennsylvania Electric Company
Preliminary Objection of Penelec**

Dear Secretary Chiavetta:

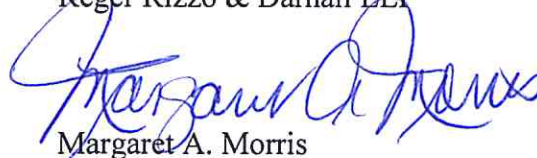
Attached for filing is the Preliminary Objection of Pennsylvania Electric Company to the Complaint filed by Sherry Stiles (Complainant) in the above captioned proceedings.

A copy of the Preliminary Objection has been provided to the Complainant in the manner indicated on the attached Certificate of Service.

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/lam
Attachment

cc: John L. Munsch, Esquire, FirstEnergy Service Company [w/enc.]
Sherry Stiles [w/enc.]

**Re: Docket No. C-2019-3008814
Sherry Stiles v. Pennsylvania Electric Company
Preliminary Objection of Penelec**


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following persons on the attached service list, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Via Electronic and First Class Mail

Sherry Stiles
30 Schoolhouse Road
Nicholson, PA 18446
SHERRYL181@gmail.com

Date: April 16, 2019


Margaret A. Morris, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SHERRY STILES

v.

PENNSYLVANIA ELECTRIC COMPANY

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:
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:
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Docket No. C-2019-3008814

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.101 you are hereby notified that if you do not file a written response answering the enclosed Preliminary Objections of Pennsylvania Electric Company within **ten (10) days** from service of this Notice, the facts set forth by Pennsylvania Electric Company in the Preliminary Objections may be deemed to be true, whereby requiring no other proof. All pleadings, such as a Reply to the Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy to counsel for Pennsylvania Electric Company, Margaret A. Morris, Esq., and where applicable, the Administrative Law Judge presiding over the issue.

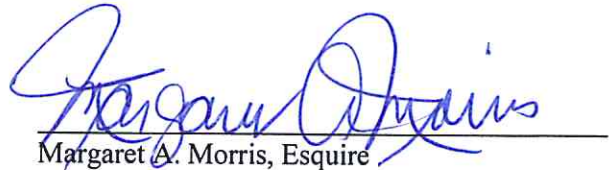
File with:

Rosemary Chiavetta, Esquire
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2 North
P.O. Box 3265
Harrisburg, PA 17105

With a copy to:

Margaret A. Morris, Esquire
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104

Date: April 16, 2019



Margaret A. Morris, Esquire
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Reger Rizzo & Darnall LLP
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Counsel for Pennsylvania Electric Company

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SHERRY STILES :
 :
 v. : Docket No. C-2019-3008814
 :
 PENNSYLVANIA ELECTRIC COMPANY :

**PRELIMINARY OBJECTION OF PENNSYLVANIA ELECTRIC COMPANY
TO THE COMPLAINT OF SHERRY STILES**

Pennsylvania Electric Company (Penelec or Company), by and through its attorneys, Reger Rizzo & Darnall LLP, pursuant to 52 Pa. Code § 5.101, hereby files its Preliminary Objection to the Formal Complaint of Sherry Stiles (Complainant) filed in the above-captioned proceeding.

Penelec seeks to dismiss the Formal Complaint because the Complainant lacks standing to bring the Complaint because she does not have a direct, immediate or substantial interest in the proceedings pursuant to 52 Pa. Code § 5.101(a)(7). Penelec requests that this Preliminary Objection be granted and that the Commission dismiss the Complaint in its entirety.

In support of its preliminary objections, Penelec states as follows:

I. Procedural Background

1. Penelec is an electric distribution company certificated as a public utility permitted to operate within the Commonwealth in Pennsylvania and provides service to 695 Johnson Hill Road, Lenoxville, Pennsylvania (Service Location).

2. The Complainant is not the owner of the Service Location nor is she an applicant or customer of Penelec. She filed a Formal Complaint alleging incorrect charges billed to the account in the name of Celia Whengreen (Customer).

3. In its Answer and New Matter being served contemporaneously with this Preliminary Objection, Penelec denied the material allegations in the Formal Complaint.

4. Pursuant to 52. Pa. Code § 5.101, Penelec objects to the Formal Complaint on the grounds that the Complainant lacks standing to to dispute charges on the Customer's account.

II. Argument

5. The Commission's Rules of Practice and Procedure permit parties to file preliminary objections. The grounds for preliminary objections are limited to those set forth in 52 Pa. Code § 5.101(a) as follows:

- (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.

6. Commission's procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994).

7. In the instant Formal Complaint, the Complainant disputes charges billed to the Customer and seeks "to be refunded for the amount Penelec over-charges us for, around \$1000." (Compl. ¶ 5.)

8. The Complainant admits she does not reside at the Service Location but she raises beef cattle at the Service Location. She admits that Celia Whengreen is the legal owner and service is in her name. See, Letter attached to Formal Complaint.

9. The Commission has held that a person or entity has standing when the person or entity has a direct, immediate and substantial interest in the subject matter of a proceeding. *Joint Application of Pennsylvania-American Water Co. and Evansburg Water Co. for Approval of the transfer, by sale, of the water works property and rights of Evansburg Water Co. to Pennsylvania-American Water Co.*, A-212285F0046/47 and A-210870F01 (Ordered entered July 9, 1998); *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (1975); *Landlord Service Bureau, Inc. v. Equitable Gas Co.*, 79 Pa. P.U.C. 342 (1993); *Re Equitable Gas Co.*, 76 Pa. P.U.C. 23 (1992); *Manufacturers' Association of Erie v. City of Erie - Bureau of Water*, 50 Pa. P.U.C. 43 (1976); *Waddington v. Pennsylvania Public Utility Commission*. 670 A.2d 199 (Pa. Cmwlth. 1995), *alloc. denied*, 678 A.2d 368 (Pa. 1996).

10. A party who asserts standing “in a representative capacity would still be required to demonstrate an interest on the part of its members that is direct, immediate and substantial. *Pa PUC v PA Gas & Water Company, et al*, Docket R-922169 (Order entered October 29, 1992.

11. The Complainant is not a licensed Pennsylvania attorney and cannot represent the Customer in a formal adversarial proceeding before the Commission.

12. Requiring a person or entity to have a direct, immediate and substantial interest in the subject matter of a proceeding helps avoid frivolous, harassing lawsuits whose costs are ultimately borne, at least in part, by utility ratepayers. *Pennsylvania Public Utility Commission v. National Fuel Gas Distribution Corp.*, 73 Pa. P.U.C. 552 (1990)

13. The Complainant cannot assert a claim on behalf of the Customer. Mere conjecture about possible future harm does not confer a direct interest in the subject matter of a proceeding. *Official Court Reporters of the Court of Common Pleas of Philadelphia County v. Pennsylvania Labor Relations Board*, 467 A.2d 311 (Pa. 1983).

14. The Complaint should be dismissed on procedural grounds and not on the merits. *Lesley A. Scheaffer for Leslie W. Scheaffer v PPL Electric Utilities Corp.*, Docket No. F-2016-2577647, (Opinion and Order entered April 3, 2018).

WHEREFORE, Respondent, Metropolitan Edison Company, requests that the Formal Complaint filed by Sherry Stiles be dismissed or denied in its entirety for lack of standing.

Respectfully submitted,



Date: April 16, 2019

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