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File #: 140074

May 23, 2019

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: John R. Marconi v. PPL Electric Utilities Corporation
Docket No. C-2019-3009648

Dear Secretary Chiavetta:

Enclosed please find the Preliminary Objections of PPL Electric Utilities Corporation to the Complaint of John R. Marconi 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

John R. Marconi
1209 Grants Place
Denver, PA 17517-8814
E-mail: jrmarconi@juno.com

Date: May 23, 2019



Devin T. Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

John R. Marconi,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2019-3009648
	:	
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.

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Date: May 23, 2019

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

John R. Marconi,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2019-3009648
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**PRELIMINARY OBJECTIONS OF
PPL ELECTRIC UTILITIES CORPORATION TO THE
COMPLAINT OF JOHN R. MARCONI**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, comes PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) 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 the Commission dismiss the above-captioned Formal Complaint (“Complaint”) filed by the John R. Marconi (“Complainant”) in its entirety and with prejudice.

In general, the Complaint alleges that the Company’s existing, Commission-approved residential distribution charges are unreasonable and unlawful because they include a per kilowatt hour (“kWh”) rate in addition to a fixed customer charge. As relief, the Complainant requests that PPL Electric’s residential electric service tariff be declared void and that within 60 days of the Commission’s order, the Company must “submit new and proper billing standards” that include a uniform, fixed customer charge to recover all residential customers’ distribution costs. (Complaint ¶ 5.)

As explained herein, the Commission should summarily dismiss the Complaint because: (1) it requests relief that cannot be granting in this proceeding; (2) the Complainant failed to join necessary parties and serve them with the Complaint; and (3) the Complainant lacks standing to contest other electric distribution companies' ("EDCs") residential distribution rates and charges.

In support thereof, PPL Electric states as follows:

I. BACKGROUND

1. PPL Electric is a "public utility" and an "electric distribution company" 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 May 3, 2019, PPL Electric was served with the above-captioned Complaint, which generally alleges that the Company's existing, Commission-approved residential distribution charges are unreasonable and unlawful. A true and correct copy of the Complaint is attached hereto as **Appendix A**.

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 because: (1) it requests relief that cannot be granting in this proceeding; (2) the Complainant failed to join necessary parties and serve them with the Complaint; and (3) the Complainant lacks standing to contest other EDCs' residential distribution rates and charges.

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. Servs. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwlth. 2005)). 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). Notwithstanding, any doubt must be resolved in favor of the non-moving party. *Stilp*, at 781.

7. In addition, the Presiding Officer must determine whether, based on the factual pleadings, if recovery is possible. *See Rok v. Flaherty*, 527 A.2d 211, 214 (Pa. Cmwlth. 1987).

Indeed, for preliminary objections to be sustained, it must appear with certainty that the law will permit no recovery. *See Stilp*, at 781; *Milliner v. Enck*, 709 A.2d 417, 418 (Pa. Super. 1998).

III. PRELIMINARY OBJECTIONS

A. PRELIMINARY OBJECTION NO. 1 – THE COMPLAINANT’S REQUESTED RELIEF CANNOT BE GRANTED IN THIS COMPLAINT PROCEEDING

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

9. The Complaint should be dismissed in its entirety because the Complainant’s requested relief cannot be granted in this complaint proceeding. *See* 52 Pa. Code § 5.101(a)(4).

10. As explained previously, the Complainant alleges that the Company’s existing, Commission-approved residential distribution charges are unreasonable and unlawful. (Complaint ¶¶ 4-5.)

11. The Complainant notes that the Company’s residential distribution charges include a consumption-based, per kWh component in addition to a fixed customer charge. (Complaint ¶¶ 4-5.)

12. The Complainant alleges that the per kWh distribution rate violates the law because EDCs were required to divest their generation assets and functionally separate the generation and distribution of electricity in Pennsylvania. (Complaint ¶¶ 4-5.)

13. According to the Complainant, the per kWh distribution rate “create[s] a direct nexus between the charges for electric distribution and unregulated generation, thereby permitting [the Company] to indirectly charge (and profit) from generation usage.” (Complaint ¶ 5.)

14. As relief, the Complainant requests that PPL Electric’s residential service tariff be declared “void within sixty (60) days of the PUC order, and that PPL be ordered to submit new

tariff language that comports with the PUC's order and the law within that sixty-day time frame, breaking any and all connections between distribution charges and generation usage for residential customers." (Complaint, Memorandum at 4.)

15. More specifically, within that 60-day period, PPL Electric must "first determine its overall reasonably-related distribution costs and fees" and then institute a uniform and flat monthly fee to recover those costs from all residential customers. (Complaint, Memorandum at 4; Complaint ¶ 5.)

16. Further, even though the instant Complaint "specifically identifies PPL," the Complainant avers that the Commission's decision in this case should affect other EDCs' "current and future" tariffs as well. (Complaint Memorandum, at 1 n.1.)

17. None of this requested relief can be granted in this complaint proceeding, and the Complaint should be dismissed accordingly. *See Rok*, 527 A.2d at 214; *Stilp*, 910 A.2d at 781; *Milliner*, 709 A.2d at 418.

1. The Complainant's Requested Relief Conflicts With Section 1309 Of The Public Utility Code

18. The Complaint should be dismissed because the requested relief conflicts with Section 1309 of the Public Utility Code, which governs the procedure for establishing rates based on a formal complaint. *See* 66 Pa. C.S. § 1309.

19. Section 1309(a) prescribes the following:

(a) General rule.--Whenever the commission, after reasonable notice and hearing, upon its own motion or upon complaint, finds that the existing rates of any public utility for any service are unjust, unreasonable, or in anywise in violation of any provision of law, the commission shall determine the just and reasonable rates, including maximum or minimum rates, to be thereafter observed and in force, and shall fix the same by order to be served upon the public utility, and such rates shall constitute the legal rates of the public utility until changed as provided in this part. Whenever a public utility does not itself produce or generate that which it distributes, transmits, or furnishes to the public for compensation, but

obtains the same from another source, the commission shall have the power and authority to investigate the cost of such production or generation in any investigation of the reasonableness of the rates of such public utility.

66 Pa. C.S. § 1309(a) (emphasis added).

20. Here, the Complainant requests that PPL Electric’s residential electric service tariff be declared void and that within 60 days of the Commission’s order, the Company must “submit new and proper billing standards.” (Complaint ¶ 5.)

21. However, the Commission cannot declare PPL Electric’s residential electric service tariff void and then wait for PPL Electric present new residential distribution charges within 60 days of the Commission’s order.

22. Section 1309 of the Public Utility Code requires the Commission, as part of its order ruling on a complaint challenging rates, to: (1) “determine the just and reasonable rates . . . to be thereafter observed and in force”; and (2) “fix the same by order to be served upon the public utility.” 66 Pa. C.S. § 1309(a).

23. Therefore, if the Complaint is sustained, the Commission would have to declare what PPL Electric’s new residential distribution charges are in its final order.

24. Indeed, if the Complaint were to proceed, the parties would have to fully litigate whether PPL Electric’s existing residential distribution charges are unjust and unreasonable and, if so, what the new charges should be.

25. Such evidence would likely include the Complainant presenting a cost of service study and supporting testimony on his proposed rate design.

26. Without such information, the Commission will have no record upon which to determine what the new residential distribution charges should be.

27. This is critical because in base rate proceedings, residential rate design is a heavily contested issue involving the interests of several parties, including consumer, energy efficiency, environmental, and low-income advocates.

28. Thus, the procedure outlined in the Complainant's requested relief: (1) is wholly insufficient to resolve an important issue that affects the 1,265,333 residential customers, including low-income customers, in PPL Electric's service territory; and (2) conflicts with Section 1309 of the Public Utility Code.

2. The Complainant's Requested Relief Cannot Be Granted Without Providing Notice To All EDCs

29. The Complainant also requests relief that cannot be granted without providing notice to all EDCs in Pennsylvania.

30. As mentioned previously, the Complainant argues that his challenge to the Company's residential distribution charges should affect other EDCs' "current and future" tariffs as well. (Complaint Memorandum, at 1 n.1.)

31. However, Section 1309(a) of the Public Utility Code requires "reasonable notice and hearing" before the Commission can find that those EDCs' existing rates are unjust and reasonable and then determine the EDCs' new just and reasonable rates. 66 Pa. C.S. § 1309(a).

32. If those EDCs are not provided notice and an opportunity to participate, their due process rights will be violated. *See Schneider v. Pa. PUC*, 479 A.2d 10, 15 (Pa. Cmwlth. 1984) (citation omitted) (stating that due process is satisfied when a party is "afforded notice and the opportunity to appear and be heard").

33. As a result, pursuant to Section 1309(a) of the Public Utility Code, the Complainant's requested relief cannot be granted without providing notice to all of the EDCs.

WHEREFORE, PPL Electric respectfully requests that the above-captioned Complaint be summarily dismissed pursuant to 52 Pa. Code § 5.101(a)(4).

B. PRELIMINARY OBJECTION NO. 2 – THE COMPLAINT SHOULD BE DISMISSED BECAUSE THE COMPLAINANT FAILED TO JOIN NECESSARY PARTIES AND SERVE THEM WITH THE COMPLAINT

34. PPL Electric incorporates by reference Paragraphs 1 through 33 as if fully set forth herein.

35. The Complaint also should be dismissed because the Complainant failed to join necessary parties and serve them with the Complaint. 52 Pa. Code § 5.101(a)(1), (5).

36. The Complainant failed to join necessary parties because the other EDCs' Commission-approved tariffs and rights could be affected by the disposition of this proceeding. *See Schneider v. Pa. PUC*, 479 A.2d 10, 15 (Pa. Cmwlth. 1984) (citation omitted) (stating that due process is satisfied when a party is "afforded notice and the opportunity to appear and be heard").

37. Indeed, the Complainant states in his Complaint that he intends for the Complaint to affect the legality of other Pennsylvania EDCs' Commission-approved residential distribution charges because such charges include per kWh distribution rates. (Complaint Memorandum, at 1 n.1.)

38. However, those EDCs were not named as respondents in the instant Complaint.

39. Therefore, the Complainant failed to join the other EDCs as necessary parties.

WHEREFORE, PPL Electric respectfully requests that the above-captioned Complaint be summarily dismissed pursuant to 52 Pa. Code § 5.101(a)(1), (5).

C. **PRELIMINARY OBJECTION NO. 3 – THE COMPLAINT SHOULD BE DISMISSED BECAUSE THE COMPLAINANT LACKS STANDING TO CONTEST OTHER EDCS’ RESIDENTIAL DISTRIBUTION CHARGES**

40. PPL Electric incorporates by reference Paragraphs 1 through 39 as if fully set forth herein.

41. The Complaint should be dismissed because the Complainant has no standing to challenge the other EDCs’ residential distribution rates and charges.

42. Under Pennsylvania law, “[i]n seeking judicial resolution of a controversy, a party must establish as a threshold matter that he has standing to maintain the action.” *Stilp v. Commonwealth*, 940 A.2d 1227, 1233 (Pa. 2007). “[T]he core concept of standing is that a person who is not adversely affected in any way by the matter he seeks to challenge is not aggrieved thereby and has no standing to obtain a judicial resolution of his challenge.” *Fumo v. City of Phila.*, 972 A.2d 487, 496 (Pa. 2009) (citing *Wm. Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 280-81 (Pa. 1975)).

43. To have standing, a party must establish that its interest is substantial, direct, and immediate. *See Del-Aware Unlimited. v. Commonwealth*, 551 A.2d 1117, 1121 (Pa. Cmwlth. 1988) (citation omitted); *1000 Grandview Ass’n v. Mt. Washington Assocs.*, 434 A.2d 796, 797 (Pa. Super. 1981) (citation omitted).

44. To establish a party’s interest is “substantial,” the interest must exceed the interest “of all citizens in procuring obedience to the law.” *In re Hickson*, 821 A.2d 1238, 1243 (Pa. 2003). Further, the party’s interest is “direct” when “there is a causal connection between the asserted violation and the harm complained of,” and the interest is “immediate” when “that causal connection is not remote or speculative.” *City of Phila. v. Commonwealth*, 838 A.2d 566, 577 (Pa. 2003).

45. Here, the Complainant is an electric distribution service customer of PPL Electric, not the other Pennsylvania EDCs. (*See* Complaint ¶ 4.)

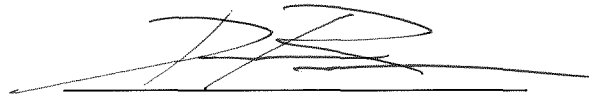
46. Therefore, the Complainant has no interest, let alone a substantial, direct, and immediate interest, in the other EDCs' residential distribution rates and charges.

WHEREFORE, PPL Electric respectfully requests that the challenge to other EDCs' tariffs and distribution charges in above-captioned Complaint be summarily dismissed pursuant to 52 Pa. Code § 5.101(a)(7).

IV. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the above-captioned Formal Complaint filed by John R. Marconi at Docket No. C-2019-3009648 be dismissed in its entirety pursuant 52 Pa. Code § 5.101(a)(1), (4)-(5), (7).

Respectfully submitted,



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Michael J. Shafer (ID # 205681)
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E-mail: dryan@postschell.com

Date: May 23, 2019

Attorneys for PPL Electric Utilities Corporation

APPENDIX A

**FORMAL COMPLAINT FILED BY JOHN R.
MARCONI AGAINST PPL ELECTRIC UTILITIES
CORPORATION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

Formal Complaint

2019 APR 25 AM 10:38

Filing this form begins a legal proceeding and you will be a party to the case. If you do not wish to be a party to the case, consider filing an informal complaint. PA PUC SECRETARY'S BUREAU

To complete this form, please type or print legibly in ink.

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name JOHN R. MARCONI
Street/P.O. Box 1209 GRANTS PLAKE Apt #
City DENVER State PA Zip 17517-8814
County LANCASTER

Telephone Number(s) Where We Can Contact You During the Day:

(234) 334-9650 (home) () (SAME) (mobile)

E-mail Address (optional): JRMARCONI@JUNO.COM

Utility Account Number (from your bill) 41554-47022

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name N/A
Street/P.O. Box
City State Zip

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

PPL Electric Utilities, Inc. ("PPL")

3. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- ELECTRIC WASTEWATER/SEWER
- GAS TELEPHONE/TELECOMMUNICATIONS (local, long distance)
- WATER MOTOR CARRIER (e.g. taxi, moving company, limousine)
- STEAM HEAT

4. Reason for Complaint

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reasons for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. Your complaint may be dismissed without a hearing if you do not provide specific information.

- The utility is threatening to shut off my service or has already shut off my service.
- I would like a payment agreement.
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.
- Other (explain). *Please see attached memorandum, incorporated in full as part of the complaint.*

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

5. Requested Relief

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

My requested relief would be for the PUC to declare PPL's tariff-approved billing practices for electric distribution to be improper and illegal, as they create a direct nexus between the charges for electric distribution and unregulated generation, thereby permitting PPL to indirectly charge (and profit) from generation usage instead of being based on PPL's actual distribution costs. This improper nexus therefore needs to be terminated with reasonable haste, and PPL should be commanded to instead base residential distribution charges on its actual costs, divided evenly amongst all residential customers in its service territory. This requested relief necessitates declaring the applicable section of PPL's tariff (Electric Pa. PUC No. 201, Seventy-Eighth Revision Page No. 20) void within sixty (60) days of the PUC order, within such time PPL must submit new and proper billing standards.

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

6. **Protection From Abuse (PFA)**

Has a court granted a "Protection From Abuse" order that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection From Abuse" order for your personal safety or welfare?

YES

NO

If your answer to the above question is "yes," attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. **Prior Utility Contact**

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES

NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES

NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

- c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

*N/A based on the nature of this Complaint.
Please see attached, previously referenced,
memorandum for further explanation as to why
contacting PPL about this issue before filing this
Complaint is unnecessary and would be fruitless.*

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. Legal Representation

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer in this matter, provide your lawyer's name, address, telephone number, and e-mail address, if known. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name _____

Street/P.O. Box _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address (if known) _____


Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

9. **Verification and Signature**

You must sign your complaint. Individuals filing a Formal Complaint **must** print or type their name on the line provided in the verification paragraph below and **must** sign and date this form in **ink**. If you do not sign the Formal Complaint, the PUC **will not accept it**.

Verification:

I JOHN R. MARCONI, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

 (Signature of Complainant) 4/23/19 (Date)

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification **must** be signed by an authorized officer or authorized employee. If the Formal Complaint is **not signed** by one of these individuals, the PUC **will not accept it**.

10. **Two Ways to File Your Formal Complaint**

Electronically. You must create an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

Note: If you are appealing your Bureau of Consumer Services (BCS) decision, you must file your formal complaint by mail.

Mail. Mail the completed form with your original signature and any attachments, by certified mail, first class mail, or overnight delivery to this address:

Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120

Note: Formal Complaints sent by fax or e-mail will **not** be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your Formal Complaint for your records.

JOHN R. MARCONI
1209 Grants Place
Denver, PA 17517-8814
(234) 334-9650

April 23, 2019

Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

MEMORANDUM IN SUPPORT OF COMPLAINT DATED 4/23/19

TO: Pennsylvania Public Utility Commission
FROM: John R. Marconi
PROPERTY LOCATION: 1209 Grants Place, Denver, PA 17517-8814
PPL ACCOUNT NUMBER: 41554-47022

To Whom It May Concern:

Please accept this Memorandum in support of my Complaint dated April 23, 2019. I request a formal hearing on this matter. Mediation should not be scheduled, as it would not resolve the issue presented.

BACKGROUND: I am the owner of the the above-listed real property (the "Property"), which consists of a residential home with a standard single phase, 120/240 volt, 3-wire service. I have owned this home since late 2008, and it is important to point out that it is an "all-electric" house. PPL Electric Utilities, Inc. ("PPL") is the distribution provider and (at present) Town Square Energy is my generation provider of choice.

I have concerns about the "Total Distribution Charges" charged by PPL, which form the basis for this Complaint.¹

On or about April 10, 2019, I mailed a request to the PUC to investigate this matter, and same was interpreted as an informal complaint. Since I did not previously contact PPL about my concerns, I voluntarily dismissed my informal complaint in favor of filing a formal complaint. It should be noted that I still have not contacted PPL about my issue (even though now it is clearly aware of the issue being presented, and has not contacted

1. Although this request for regulatory review specifically identifies PPL, and addresses issues with its billing practices as presently permitted in its Tariff, the issues identified are equally applicable to all electric utility companies operating in Pennsylvania which bill using similar practices, and any decision by the PUC certainly should have a *stare decisis* effect upon their tariffs (current and future), as well.

me, either), as it would be a vain and fruitless endeavor, as the billings by PPL (i.e., the amounts determined by application of its recently approved Tariff) are correct. Instead, I am challenging the legality of the formulation used by PPL in its approved Tariff, as I am claiming that the formulation is (and resulting billings are) improper and illegal for the reasons stated herein, and for which I am requesting relief from the PUC. Since PPL clearly would not agree with me that the Tariff that they submitted to the PUC for residential service charges was improper and/or illegal, and that the PUC should not have approved same, it would be senseless and a waste of time to contact PPL prior to filing this Complaint. Furthermore, since I am not challenging that accuracy of the bills charged to me, but instead the overall approved formulation scheme applicable to me and all residential customers, prior communication with PPL to discuss this matter is neither necessary nor commanded by PUC regulations.

ISSUE: The last billing statement from PPL for the Property, for the billing period of February 28, 2019 to March 29, 2019, was for \$163.47. Of that amount, the "Total Distribution Charges" were \$70.66, representing 43% of the total bill. The previous bill, for the billing period of January 30, 2019 to February 28, 2019 was for \$205.39, with "Total Distribution Charges" of \$86.13, representing 42% of the total bill. (See attached referenced bills)

In PPL's recently-approved Tariff, it is now permitted to charge residential customer \$17.56 per month, *plus 4.295 cents per kilowatt hour* (Electric Pa. P.U.C. No. 201, Seventy-Eighth Revised Page No. 20, Effective April 1, 2019). [NOTE: Although I did not become aware of PPL's recent Tariff submission (and approval of same by the PA PUC) affecting residential rates, in order to timely submit an objection of some sort, including filing a possible Comment to Proposed Rate Increase, I do believe that post-approval Tariff review and modification of the applicable Tariff section(s) is appropriate for the legal reasons stated herein.]

The problem that I desire the PA PUC to address, and rectify, is the nexus that exists between PPL's distribution-related charges and kilowatt hour (i.e., generation) usage for residential customers, as I believe this is improper and illegal, and needs to be terminated with reasonable haste in favor of an equally-distributed flat-fee charge to all residential customers in PPL's service territory based on overall actual, determinable distribution costs.

DISCUSSION: The supply of electric service to higher-usage residential customers (such as the subject Property), as opposed to lower-usage residential customers, does *not* require any additional oversight or expense by PPL, or result in any additional wear-and-tear on its distribution facilities. Electric ions, forming the basis for the electric service, are already passing through the primary and secondary distribution lines, and some residences simply have more of those ions pass through their meter bases to service higher load requirements. To the extent that there is some (unknown) additional wear-

and-tear on PPL's facilities, it is *de minimis* at most, and would take many years to even be recognized.

In Pennsylvania, the regulated (distribution) and unregulated (generation) aspects of the electric utility industry are supposed to be kept strictly separate. However, it is clear that PPL is gaining significant revenue from the unregulated component of billings by charging distribution fees based on a flat monthly amount *plus a charge for kilowatt hour (i.e., generation) usage*. In significant part (especially for higher-usage customers, like me), there is a direct, undeniable formulaic nexus between the distribution charge and the kilowatt hour usage by the ratepayer. This not only violates the mandated separation of regulated and unregulated functions, but punishes higher-usage electric ratepayers by having them pay significantly higher bills simply because they use more electricity, as it is in no way rationally (or scientifically) connected/related to the *actual* costs and expenses incurred by PPL to service any particular residential customer – and specifically is not related to any *actual* higher costs to service a higher-usage customer as opposed to a lower-usage customer.²

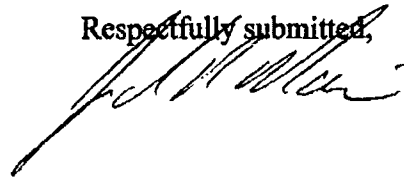
There must be *functional*, rather than just corporate, separation of distribution and generation activities *and fees* in order for a deregulated system to successfully operate in the best interests of ratepayers. Such functional separation would weaken the utility's ability and incentive to inflate customer costs through riders and surcharges in order to offset, among other things, non-distribution costs and losses. Even though there is a mandated separation of distribution and generation, PPL's practices have the effect of no separation at all. If a ratepayer chooses a PPL affiliate as their generation provider, PPL makes money on (1) a flat-rate distribution charges, (2) a piggy-back 'distribution' charge tied into generation usage, and (3) the generation charge itself. However, if a PPL affiliate is not chosen by a ratepayer as their generation provider, PPL still is being permitted to charge the piggy-back "distribution" charge that is tied in to the generation usage in addition to the flat-rate distribution fee. PPL wins with generation usage no matter on which side the coin lands.

SUMMARY: Based on PPL's bills, there clearly is not a functional separation between distribution and generation, and the ratepayers are the unfortunate, unnecessary victims of this loophole. Permitting PPL to charge ratepayers for distribution costs by directly relating said charges to generation usage, having no rational or scientifically-based connection to the actual costs incurred by PPL to service the customer for such usage, is, in effect, permitting PPL to charge a 'back-door' generation charge to ratepayers, and is in violation of the mandated separation of the regulated and unregulated utility operations.

2. To be clear, residential ratepayers certainly are not in the same position as commercial or industrial customers, who can take various accounting deductions for utility bills as business expenses, and/or pass on such operational costs to their customers. Furthermore, the mere fact that residential customers *use* more electricity does not mean, *ipso facto*, that they can *afford* to pay more for various distribution costs, as well. This is a false assumption that I believe exists, at present, and is made manifest in PPL's Tariff (as well in the tariffs of other electric utilities operating in Pennsylvania).

SUGGESTED RESOLUTION: I am in no way opposed to PPL charging fees to standard residential customers in order to cover demonstratively provable distribution operating costs, and also realize a *reasonable* profit for shareholders. With that understanding, I respectfully request that the PA PUC make a finding that PPL's applicable tariff section (Electric Pa. P.U.C. No. 201, Seventy-Eighth Revised Page No. 20, Effective April 1, 2019) shall be void within sixty (60) days of the PUC's order, and that PPL be ordered to submit new tariff language that comports with the PUC's order and the law within that sixty-day time frame, breaking any and all connections between distribution charges and generation usage for residential customers. All standard residential service customers should be treated equally and uniformly, with the PUC mandating that PPL first determine its overall reasonably-related distribution costs and fees, and then *evenly* distribute those cost amongst all residential customers in its service territory -- using a *similar monthly flat-fee*. This is fair to both PPL and ratepayers and, importantly, creates a clear and legally proper separation between the regulated and unregulated aspects of the electric utility industry.³

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'John M. ...', written over the typed text 'Respectfully submitted,'.

cc: Pennsylvania Office of Consumer Advocate
555 Walnut Street
5th Floor Forum Place
Harrisburg, PA 17101-1923

3. NOTE: I considered , as an alternative to the requested relief, a “blended” solution that would have the total fees recoverable by PPL being determined using the present formula in PPL's Tariff, but should then be *capped* at a reasonable amount per monthly billing cycle (e.g. \$50.00), so that, at the very least, ratepayers are not penalized by experiencing such dramatic variations in distribution charges, especially in peak Summer and Winter months. However, I am not in favor of this blended solution as, although it may *alleviate* the extremes of excessive billing charges to ratepayers, it does not *correct* the significant problem (illegality) of permitting a regulated utility to charge distribution fees based on unregulated usage amounts.



Pay/Manage your account online at ppllectric.com



Questions? Please contact us by Apr 22.
1-800-DIAL-PPL
(1-800-342-5775)
Mon-Fri: 7am to 8pm

PPL Electric Utilities

Bill Acct. No.	Due Date	Amount Due
41554-47022	Apr 22, 2019	\$163.47

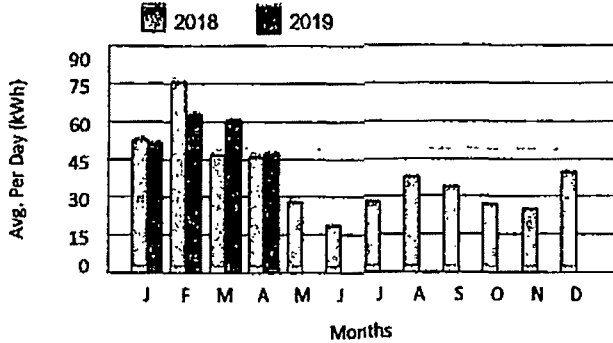
Your Electric Usage Profile

Service to:
JOHN MARCONI
1209 GRANTS PL
DENVER, PA 17517

Meter: 300473557

Your next meter reading is on or about May 1, 2019.

This section helps you understand your year-to-year electric use by month. Meter readings are actual unless otherwise noted.



Billing Summary

(Billing details on back)

Balance as of Apr 1, 2019	\$0.00
Charges:	
Total Distribution Charges	\$70.66
Total Generation & Transmission Charges	\$92.81
Total Current Charges	\$163.47

Amount Due By Apr 22, 2019	\$163.47
Account Balance	\$163.47

How To Shop For Electricity

You can choose the company that supplies your electricity. Visit papowerswitch.com or www.oca.state.pa.us for supplier offers. If you are shopping, know your contract expiration date.

Here's the information you need to shop:
Bill Account Number: 41554-47022 Rate Schedule: RS (Residential)
Current Supplier: Town Square Energy East, LLC

PPL Electric Utilities price to compare for your rate is \$0.07039 per kWh. This changes the 1st of June and December.

4385
163.47
4/10/19

Monthly Comparison	Days Billed	kWh	Average kWh/Day	Average Temp
Mar 2019	29	1351	47	39F
Mar 2018	29	1325	46	37F

Billing Period	Type	Reading
Mar 29	Actual	22453
Feb 28	Actual	21102
29 Days	kWh Billed	1351

Yearly Comparison	Total Use	Avg. Monthly
Apr 2018 - Mar 2019	13957	1163
Apr 2017 - Mar 2018	13147	1096

Manage Your Account

Pay Your Bill	Online Options (ppllectric.com)
Online: Visit ppllectric.com	- Report an outage/check outage status
Phone: Call 1-800-342-5775	- Make a payment, view your bill and usage history.
Mail: Use envelope provided	- Sign up for alerts.
ABP: Automatic Bill Pay (see back of stub to enroll)	- Enroll in paperless billing, automatic bill pay, budget billing.
Card: MasterCard, Discover, Visa or debit, call 1-844-278-3310 (service fee applies)	- View your rate schedule at: ppllectric.com/rates

Correspondence:

Customer Services, 827 Hausman Road, Allentown, PA 18104-9392

Other important information on the back of this bill →



Pay/Manage your account online at pplelectric.com



Questions? Please contact us by Mar 25.
1-800-DIAL-PPL
(1-800-342-5775)
Mon-Fri 7am to 8pm

Bill Acct. No.	Due Date	Amount Due
41554-47022	Mar 25, 2019	\$205.39

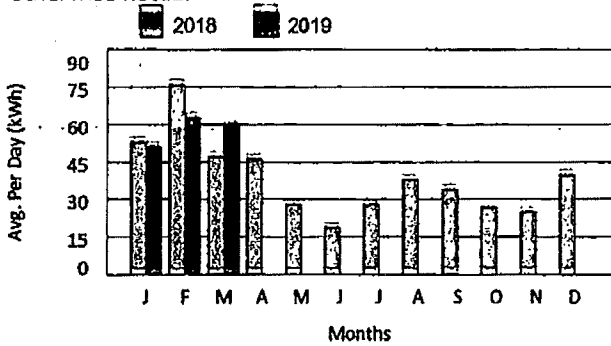
Your Electric Usage Profile

Service to:
JOHN MARCONI
1209 GRANTS PL
DENVER, PA 17517

Meter: 300473557
Your next meter reading is on or about Mar 29, 2019.

#4366
3/7/19
#205.39

This section helps you understand your year-to-year electric use by month. Meter readings are actual unless otherwise noted.



Billing Summary

(Billing details on back)

Balance as of Mar 1, 2019	\$0.00
Charges:	
Total Distribution Charges	\$86.13
Total Generation & Transmission Charges	\$119.26
Total Current Charges	\$205.39
Amount Due By Mar 25, 2019	\$205.39
Account Balance	\$205.39

How To Shop For Electricity

You can choose the company that supplies your electricity. Visit papowerswitch.com or www.oca.state.pa.us for supplier offers. If you are shopping, know your contract expiration date.

Here's the information you need to shop:
 Bill Account Number: 41554-47022 Rate Schedule: RS (Residential)
 Current Supplier: Town Square Energy East, LLC

PPL Electric Utilities price to compare for your rate is \$0.07039 per kWh. This changes the 1st of June and December.

Monthly Comparison	Days Billed	kWh	Average kWh/Day	Average Temp.
Feb 2019	29	1736	60	32F
Feb 2018	30	1418	47	37F

Billing Period	Type	Reading
Feb 28	Actual	21102
Jan 30	Actual	19366
29 Days	kWh Billed	1736

Yearly Comparison	Total Use	Avg. Monthly
Mar 2018 - Feb 2019	13931	1161
Mar 2017 - Feb 2018	12978	1082

Manage Your Account

Pay Your Bill	Online Options (pplelectric.com)
Online: Visit pplelectric.com	- Report an outage/check outage status
Phone: Call 1-800-342-5775	- Make a payment, view your bill and usage history.
Mail: Use envelope provided	- Sign up for alerts.
ABP: Automatic Bill Pay (see back of stub to enroll)	- Enroll in paperless billing, automatic bill pay, budget billing.
Card: MasterCard, Discover, Visa or debit, call 1-844-278-3310 (service fee applies)	- View your rate schedule at: pplelectric.com/rates

Correspondence:
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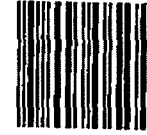
Other important information on the back of this bill →



Mr John Marconi
1209 Grants Pl
Denver PA 17517



1000



17120

U.S. POSTAGE PAID
FCM LG ENV
BOWMANVILLE, PA
17507
APR 24, 19
AMOUNT

\$1.30


R2305K140979-01

SECRETARY
Pennsylvania Public Utility Commission
400 NORTH STREET
HARRISBURG PA 17120

VERIFICATION

I, SCOTT R. KOCH, being the Regulatory Operations Supervisor at PPL Electric Utilities Corporation, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect PPL Electric Utilities Corporation to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 5/23/19


Scott R. Koch