

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Andrew Perrong :
 :
v. : Docket # C-2020-3019899
 :
Frontier Utilities Northeast, LLC :

NOTICE TO PLEAD

TO: FRONTIER UTILITIES NORTHEAST, LLC

c/o: Deanne M. O'Dell, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101

You are hereby notified to file a written response to the enclosed Preliminary Objections within ten (10) days from service hereof or a judgment may be entered against you.

All pleadings must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served to Complainant, Andrew R. Perrong, and where applicable, the Administrative Law Judge presiding over the proceeding.

File with:*	With a copy to:
Rosemary Chiavetta, Secretary	Andrew R. Perrong
Pennsylvania Public Utility Commission	1657 The Fairway #131
PO Box 3265	Jenkintown, PA 19046
Harrisburg, PA 17105-3265	andyperrong@gmail.com

*Due to the COVID-19 pandemic, the Pennsylvania Public Utility Commission is encouraging individuals to eFile documents. Information regarding eFiling with the Commission is available at <https://www.puc.pa.gov/efiling/default.aspx>.

Dated: **August 9, 2020**

_____/s/_____

Andrew Perrong
Complainant Pro-Se

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Andrew Perrong	:	
	:	
v.	:	Docket # C-2020-3019899
	:	
Frontier Utilities Northeast, LLC	:	

**PRELIMINARY OBJECTIONS OF ANDREW R. PERRONG
TO RESPONDENT FRONTIER UTILITIES NORTHEAST, LLC’S NEW MATTER**

Complainant ANDREW PERRONG files these Preliminary Objections to the New Matter of FRONTIER UTILITIES NORTHEAST, LLC (hereinafter “Respondent”) as follows:

1. The Commission’s Regulations, 52 Pa. Code § 5.101 permit filing of Preliminary Objections for, *inter alia*, “failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.” 52 Pa. Code § 5.101(a)(2). The Commission may strike portions of pleadings if it deems that they are scandalous and impertinent.

2. To be scandalous and impertinent, the allegations must be immaterial and inappropriate to the proof of the cause of action. *Dep’t of Env’tl. Res. v. Peggs Run Coal Co.*, 423 A.2d 765, 769 (Pa. Commw. Ct. 1980).

3. Respondent, in Paragraph 14 of its Answer and New Matter, under the New Matter section, and accompanying Attachment A, includes material pertaining to Complainant’s prior civil litigation history.

4. Respondent impermissibly filed the averments in this paragraph and accompanying

attachment before the Commission in an obvious attempt to discredit the Complainant and dissuade him from exercising his rights, and not as an averment as to the requisite element of any of the causes of action in these proceedings.

5. Even if such material was true, as it must be assumed for the purposes of these Preliminary Objections, such allegations would give no relief to Respondent nor absolve it of its violations. It is therefore scandalous and/or impertinent. *Dep't of Auditor Gen. v. SERS*, 836 A.2d 1053, 1064 (Pa. Commw. Ct. 2003).

6. Complainant's prior civil litigation history is completely irrelevant to the proceedings before the Commission. Indeed, there is no requirement that a Complainant seeking to bring a complaint have never sued anyone else for violating his rights.

7. Complainant is currently a law student and on law review at Temple University and, after placing his number on the National Do Not Call Registry, has not hesitated to sue companies who have contacted him illegally. In so doing, Complainant has done exactly what Congress intended him to do when they enacted the TCPA. *See Murray v. GMAC Mortg. Corp.*, 434 F.3d 948, 954 (7th Cir. 2006) (“[W]hat the district judge did not explain, though, is why ‘professional’ is a dirty word. It implies experience, if not expertise.”).

8. The fact that Complainant is an individual who had the knowledge to fight back against unethical telemarketing and sales practices has no relevance on his ability to bring a claim, especially when such claims are based on violations of the Commission's Regulations, and not any state or federal statute. *Cunningham v. Rapid Response Monitoring Servs., Inc.*, 251 F. Supp. 3d 1187, 1194-97 (M.D. Tenn. Apr. 26, 2017) (“Litigation is not college athletics: there is no ‘amateurs only’ rule.”).

9. Indeed, other Courts have expressly rejected Respondent's argument that Complainant's

particular individual litigation history somehow deprives him of standing or the ability to pursue his claims. *See, e.g., Perrong v. Direct Energy, LP*, No. 2:19-cv-2373 (E.D. Pa. Dec. 11, 2019) (denying motion to dismiss); *Perrong v. Vivint*, No. 2:19-cv-568 (D. Utah May 20, 2020) (denying motion to dismiss and strike class allegations). Moreover, this is the first, and to date, only, formal complaint Complainant has ever filed with the Commission.

10. It is obvious that Respondent included the Complainant's prior civil litigation history for no other reason than to attempt to discredit the Respondent and suggest that he instituted these proceedings for unethical reasons, which is plainly scandalous and impertinent. *Lehigh Oral and Maxillofacial Surgery, Inc. v. Lehigh Valley Oral Surgery and Implant Center, P.C.*, No. C-48-CV-2016-5417 (Ct. Com. Pl Northampton County July 13, 2017) (holding that allegations that Plaintiff brought suit for unethical reasons were plainly scandalous and/or impertinent).

11. Such allegations, therefore, are plainly scandalous, impertinent, and must be stricken.

CONCLUSION

Complainant prays that the Commission STRIKE Paragraph 14 and Attachment A of Respondent's Answer and New Matter for impermissibly including scandalous and impertinent matter.

Dated: **August 9, 2020**

_____/s/_____

Andrew Perrong
Complainant Pro-Se
1657 The Fairway #131
Jenkintown, PA 19046
Phone: 215-791-6957
Facsimile: 888-329-0305
andyperrong@gmail.com

CERTIFICATE OF SERVICE

Pursuant to 52 Pa. Code § 1.54, I hereby certify that I served a copy of the foregoing via

E-Mail and First Class Mail, to:

Deanne O'Dell, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
dodell@eckertseamans.com

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Office of Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
2nd Floor, L-M West
400 North Street
Harrisburg, PA 17120
bobbwillia@pa.gov

I also certify that I e-filed the foregoing with the Commission via their web portal.

Dated: **August 9, 2020**

_____/s/_____

Andrew Perrong
Complainant Pro-Se
1657 The Fairway #131
Jenkintown, PA 19046
Phone: 215-791-6957
Facsimile: 888-329-0305
andyperrong@gmail.com