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Devin Ryan

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

September 27, 2021

***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: Antonina Piano v. PPL Electric Utilities Corporation**  
**Docket No. C-2021-3028345**

Dear Secretary Chiavetta:

Enclosed for filing on behalf of PPL Electric Utilities Corporation is its Preliminary Objection to the Formal Complaint of Antonina Piano.

On September 21, 2021, Antonina Piano filed a letter requesting to withdraw her Formal Complaint. However, as of September 27, 2021, the Formal Complaint docket remains active. Accordingly, PPL Electric Utilities Corporation is filing the enclosed Preliminary Objection out of an abundance of caution.

Copies are being provided per the Certificate of Service.

Respectfully submitted,



Devin Ryan

DR/dmc  
Enclosures

cc: Certificate of Service

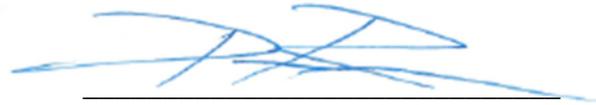
## **CERTIFICATE OF SERVICE**

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 AND FIRST-CLASS MAIL**

Antonina Piano  
148 Hawthorne Drive  
Hershey, PA 17033  
[Tpiano1@gmail.com](mailto:Tpiano1@gmail.com)

Date: September 27, 2021



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Devin T. Ryan

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Antonina Piano,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2021-3028345
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

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**NOTICE TO PLEAD**

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YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.101, YOU MAY ANSWER THE ENCLOSED PRELIMINARY OBJECTION WITHIN TEN (10) DAYS OF THE DATE OF SERVICE HEREOF. YOUR ANSWER TO THE PRELIMINARY OBJECTION 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.



Kimberly A. Klock (ID # 89716)  
Michael J. Shafer (ID # 205681)  
PPL Services Corporation  
Two North Ninth Street  
Allentown, PA 18101  
Phone: 610-774-2599  
Fax: 610-774-4102  
E-mail: [kklock@pplweb.com](mailto:kklock@pplweb.com)  
[mjshafer@pplweb.com](mailto:mjshafer@pplweb.com)

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Devin T. Ryan (ID # 316602)  
Nicholas A. Stobbe (ID # 329583)  
Post & Schell, P.C.  
17 North Second Street, 12th Floor  
Harrisburg, PA 17101-1601  
Phone: 717-731-1970  
Fax: 717-731-1985  
E-mail: [dryan@postschell.com](mailto:dryan@postschell.com)  
[nstobbe@postschell.com](mailto:nstobbe@postschell.com)

Date: September 27, 2021

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Antonina Piano,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2021-3028345
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

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**PRELIMINARY OBJECTION OF  
PPL ELECTRIC UTILITIES CORPORATION TO THE  
COMPLAINT OF ANTONINA PIANO**

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**TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

AND NOW, comes PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) and hereby files this Preliminary Objection, 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 Antonina Piano (“Complainant”) in its entirety and with prejudice as against PPL Electric.

The instant Complaint requests that PPL Electric “underground” the transmission line on or near the Complainant’s property. (Complaint ¶¶ 4-5.) As explained herein, PPL Electric does not own or operate the transmission line and poles in question. In actuality, the transmission line and poles are owned and operated by Metropolitan Edison Company (“Met-Ed”) or its

transmission affiliate, Mid-Atlantic Interstate Transmission, LLC (“MAIT”).<sup>1</sup> Therefore, PPL Electric cannot remove the transmission line or poles, nor can the Company place the referenced transmission line underground. As such, PPL Electric is incorrectly named as the Respondent in this proceeding and has no authority to underground the transmission line at issue.

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 September 7, 2021, PPL Electric was served with the above-captioned Complaint, which requests that PPL Electric place certain “power lines” underground for various reasons. (Complaint ¶¶ 4-5.)

4. After reasonable investigation, the transmission line and poles at issue is owned and operated by Met-Ed or MAIT, not PPL Electric.

5. PPL Electric herein files this Preliminary Objection to the Complaint. For the reasons explained below, PPL Electric respectfully requests that the Commission summarily

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<sup>1</sup> See *Joint Application Of Mid-Atlantic Interstate Transmission, LLC ("MAIT"); Met. Edison Co. ("Met-Ed") And Pa. Elec. Co. ("Penelec") for: (1) A Certificate Of Public Convenience Under 66 Pa. C.S. § 1102(A)(3) Authorizing The Transfer Of Certain Transmission Assets From Met-Ed And Penelec To MAIT; (2) A Certificate Of Public Convenience Conferring Upon MAIT The Status Of A Pa. Pub. Util. Under 66 Pa.C.S. § 102; And (3) Approval Of Certain Affiliate Interest Agreements Under 66 Pa.C.S. § 2102*, Docket Nos. A-2015-2488903, *et al.* (Order entered Aug. 24, 2016) (approving the transfer of Met-Ed’s and Pennsylvania Electric Company’s transmission assets to MAIT).

dismiss the Complaint because the Complaint is against the wrong public utility and, therefore, legally insufficient.

## II. STANDARD OF REVIEW

6. 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).

7. 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. Cmwth.*, 910 A.2d 775, 781 (Pa. Cmwth. 2006) (citing *Dep't of Gen. Servs. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwth. 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. Cmwth. 2007). Notwithstanding, any doubt must be resolved in favor of the non-moving party. *Stilp*, at 781.

8. 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 OBJECTION**

#### **A. PRELIMINARY OBJECTION NO. 1 – THE COMPLAINT IS LEGALLY INSUFFICIENT AND SHOULD BE DISMISSED BECAUSE PPL ELECTRIC DOES NOT OWN OR OPERATE THE TRANSMISSION LINE AT ISSUE**

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

10. The Complaint should be dismissed because PPL Electric does not own or operate the transmission line and poles at issue in this proceeding.

11. As a matter of law, the Complainant must show that the named utility is responsible or accountable for the problem described in the Complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa PUC 196, 1990 Pa. PUC LEXIS 19, at \*8 (Order entered Feb. 8, 1990) (citing *Feinstein v. Phila. Suburban Water Co.*, 50 Pa. PUC 300 (1976)).

12. When “the Complaint fails to state a claim against the named respondent upon which the Commission may grant relief,” the Complaint is “insufficient as to substance,” and the “Respondent is entitled to judgment as a matter of law.” *Stabley v. Phila. Gas Works*, Docket No. F-2010-2186368, 2010 Pa. PUC LEXIS 231, at \*6 (July 29, 2010) (Initial Decision), *adopted without modification* (Order entered Oct. 1, 2010); *see Coggins v. UGI Cent. Penn Gas.*, Docket No. C-2012-2312796, 2012 Pa. PUC LEXIS 1497 (Sept. 10, 2012) (Initial Decision), *adopted without modification*, (Order entered Nov. 9, 2012).

13. After reasonable investigation, PPL Electric has determined the transmission line that the Complainant requests be relocated underground is owned and operated by Met-Ed or MAIT.

14. Photographs of the transmission line's pole tags, which show that PPL Electric does not own and operate the transmission line and poles, are attached to the Company's Answer and New Matter as Appendix A.

15. Accordingly, PPL Electric has no authority to alter, remove, or underground the transmission line at issue.

16. Therefore, the Complainant has failed to state a claim against PPL Electric upon which the Commission may grant relief. *See Rok*, 527 A.2d at 214; *Stilp*, 910 A.2d at 781.

17. Thus, the Complaint is legally insufficient and should be dismissed pursuant to 52 Pa. Code § 5.101(a)(4).

**IV. CONCLUSION**

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the above-captioned Formal Complaint filed by Antonina Piano at Docket No. C-2021-3028345 be dismissed in its entirety pursuant 52 Pa. Code § 5.101(a)(4).

Respectfully submitted,



Kimberly A. Klock (ID # 89716)  
Michael J. Shafer (ID # 205681)  
PPL Services Corporation  
Two North Ninth Street  
Allentown, PA 18101  
Phone: 610-774-2599  
Fax: 610-774-4102  
E-mail: [kklock@pplweb.com](mailto:kklock@pplweb.com)  
[mjshafer@pplweb.com](mailto:mjshafer@pplweb.com)

Devin T. Ryan (ID # 316602)  
Nicholas S. Stobbe (ID # 329583)  
Post & Schell, P.C.  
17 North Second Street, 12<sup>th</sup> Floor  
Harrisburg, PA 17101-1601  
Phone: 717-731-1970  
Fax: 717-731-1985  
E-mail: [dryan@postschell.com](mailto:dryan@postschell.com)  
[nstobbe@postschell.com](mailto:nstobbe@postschell.com)

Date: September 27, 2021

Attorneys for PPL Electric Utilities Corporation

## VERIFICATION

I, JOSEPH B. LOOKUP, being the Director of Asset Management 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: September 27, 2021

  
Joseph B. Lookup (Sep 27, 2021 11:38 EDT)

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Joseph B. Lookup