

Michael J. Shafer
Senior Counsel

PPL
Two North Ninth Street
Allentown, PA 18101-1179
Tel. 610.774.2599 Fax 610.774.4102
MJShafer@pplweb.com



E-File

January 10, 2022

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17120-3265

**Re: Pennsylvania Public Utility Commission, Bureau of Investigation
 and Enforcement v. Discount Power, Inc.
 Docket No. M-2021-3022658**

Dear Secretary Chiavetta:

Enclosed for filing on behalf of PPL Electric Utilities Corporation ("PPL Electric") please find PPL Electric's Answer to Discount Power, Inc.'s Motion to Strike in the above referenced matter.

Pursuant to 52 Pa. Code § 1.11, the enclosed document is to be deemed filed on January 10, 2022 which is the date it was filed electronically using the Commission's E-filing system.

If you have any questions, please do not hesitate to contact me.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Michael J. Shafer", written over a light blue horizontal line.

Michael J. Shafer

Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
Complainant,	:	
	:	Docket No. M-2021-3022658
v.	:	
	:	
Discount Power, Inc.,	:	
	:	
Respondent.	:	

**ANSWER OF PPL ELECTRIC UTILITIES CORPORATION TO
DISCOUNT POWER, INC.’S MOTION TO STRIKE**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to Section 5.61 of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code § 5.61, PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) hereby files this Answer to Discount Power, Inc.’s (“DPI”) Motion to Strike PPL Electric’s Comments on the proposed Settlement in the above-captioned proceeding.

As explained herein, DPI’s Motion to Strike should be denied. DPI’s Motion to Strike is based on an incorrect statement of law—that interested parties must have legal standing to file comments in a Commission proceeding. In actuality, interested parties regularly file comments in Commission proceedings and do not have to establish legal standing. Further, it is well-established that submitting comments does not grant intervenor or party status.

Moreover, PPL Electric has not filed a petition to intervene in this proceeding. Rather, PPL Electric simply filed Comments pursuant to the Commission’s October 28, 2021 Tentative

Opinion and Order, which allowed “interested parties” to “file comments concerning the proposed Settlement” reached by the Commission’s Bureau of Investigation and Enforcement (“I&E”) and DPI. Given that DPI is licensed to operate in PPL Electric’s service territory, and the underlying claims involve a PPL Electric distribution customer, the Company believes its Comments will help the Commission as it evaluates the proposed Settlement.

Notwithstanding, PPL Electric clarifies that it is not advocating for the Commission to reject the proposed Settlement. The Company merely submitted Comments for the Commission to consider before rendering a Final Order approving or rejecting the proposed Settlement, which is consistent with the October 28, 2021 Tentative Opinion and Order. The Commission is free to accept or reject the suggestions outlined in PPL Electric’s Comments.

For these reasons, and as explained in more detail herein, DPI’s Motion to Strike should be denied.

I. INTRODUCTION

1. On August 27, 2021, I&E and DPI filed a Joint Petition for Approval of Settlement.

2. On October 28, 2021, the Commission entered a Tentative Opinion and Order, in which it ordered that: (1) the Tentative Opinion and Order as well as the Joint Petition for Approval of Settlement, including the Statements in Support attached thereto, be published in the *Pennsylvania Bulletin* and served on the Office of Consumer Advocate and Office of Small Business Advocate; and (2) interested parties could file comments concerning the proposed Settlement within 25 days after the documents were published in the *Pennsylvania Bulletin*.

3. On December 8, 2021, PPL Electric filed Comments on the Tentative Opinion and Order.

4. On December 10, 2021, Michael Zimmerman filed Comments on the Tentative Opinion and Order. Also, PPL Electric filed the Certificate of Service for its Comments.

5. On December 21, 2021, DPI filed a Motion to Strike PPL Electric's Comments and a Motion to Strike Mr. Zimmerman's Comments.

6. On December 23, 2021, I&E filed a letter stating that it would not be filing Answers to DPI's Motions to Strike.

7. PPL Electric hereby timely files its Answer to DPI's Motion to Strike PPL Electric's Comments.

II. ANSWER

8. The Commission should deny DPI's Motion to Strike PPL Electric's Comments.

9. DPI requests that PPL Electric's Comments be stricken because PPL Electric lacks standing. (DPI Motion, pp. 5-6.) Specifically, DPI alleges that PPL Electric failed to "identify any direct, substantial or immediate interest that the Company has in the outcome of the proceeding" and that PPL Electric cannot "represent the interests of its distribution customers." (DPI Motion, pp. 5-6.)

10. Interested parties do not need to have legal standing to file comments in Commission proceedings. *See Petition of Morris-Rospond Assocs. for Declaratory Order*, 1986 Pa. PUC LEXIS 127, at *48-49 (Tentative Decision Mar. 11, 1986); *see also Joint Application of Bell Atlantic Corp. & GTE Corp. for Approval of Agreement and Plan of Merger*, 1999 Pa. PUC LEXIS 86, at *4-5 (Order entered Nov. 4, 1999).

11. When the Commission issues a tentative decision and solicits comments from interest parties, commenters are free to file comments without intervening or being granted party status. *See Morris-Rospond*, 1986 Pa. PUC LEXIS at *48 ("The filing of comments or exceptions will not be deemed to confer intervenor or party status upon entities filing such

documents.”); *see also Bell Atlantic*, 1999 Pa. PUC LEXIS at *4-5 (“On January 22, 1999, the ALJ issued an Order granting full party status to all the parties filing protests or petitions to intervene. Only TRA, who filed ‘comments,’ was not granted party status.”).

12. Here, PPL Electric filed Comments, not a petition to intervene, and has not otherwise requested to be granted intervenor or party status.¹

13. Instead, PPL Electric filed Comments pursuant to the Commission’s October 28, 2021 Tentative Opinion and Order, which allowed “interested parties” to “file comments concerning the proposed Settlement.” Tentative Opinion and Order, Ordering Paragraph 2.

14. Because DPI is licensed to operate in PPL Electric’s service territory, and the underlying claims involve a PPL Electric distribution customer, PPL Electric is an “interested party” that was permitted to file comments on the proposed Settlement.

15. Thus, the Commission should deny DPI’s unsupported attempt to apply legal standing to comments filed in a Commission proceeding.

16. Notwithstanding, even though PPL Electric believes that its Comments will help the Commission as it considers the proposed Settlement, PPL Electric clarifies that it is not advocating for the Commission to reject the proposed Settlement.

17. The Company simply wanted to provide suggestions for the Commission to consider before rendering a Final Order approving or rejecting the proposed Settlement, which is consistent with the October 28, 2021 Tentative Opinion and Order.

¹ Although PPL Electric is not seeking intervenor or party status, PPL Electric disagrees with DPI that the Company would not have standing to participate in this action. The case directly involves DPI’s operations in PPL Electric’s service territory. In fact, I&E and DPI stipulated to the fact that DPI’s agent told Mr. Mumford, a PPL Electric distribution customer, that “the supplier would be ‘chosen by PPL’” and that “‘nothing will be changing’ on the electric bill” issued by PPL Electric. Tentative Opinion and Order, Appx. A (Joint Petition for Settlement) ¶ 18. These alleged misrepresentations and others formed the basis of I&E’s Formal Complaint and had a direct, immediate, and substantial effect on PPL Electric, PPL Electric’s service, and its customer relationships. *See id.* ¶ 28. Therefore, PPL Electric would have standing to participate in this proceeding.

18. Through its Motion to Strike, DPI responds substantively to PPL Electric's Comments and argues why those suggestions should be rejected. (*See* DPI Motion to Strike, pp. 6-8.)


19. Therefore, as a practical matter, no need exists to strike PPL Electric's Comments from the proceeding.

20. The Commission is free to accept or reject PPL Electric's suggestions based on its review of PPL Electric's Comments and DPI's Motion to Strike.

21. For these reasons, PPL Electric respectfully requests that the Commission deny DPI's Motion to Strike.

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the Motion to Strike filed by Discount Power, Inc. be denied.

Respectfully submitted,



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: mjshafer@pplweb.com

Date: January 10, 2022

Attorney for PPL Electric Utilities Corporation

VERIFICATION

I, Bethany L. Johnson, being the Director Regulatory Affairs at PPL Services 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 that 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: January 10, 2022

Bethany L. Johnson