**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lawrence Kingsley :

:

v. : C-2020-3019763

:

PPL Electric Utilities Corporation :

**ORDER**

This Order is issued pursuant to the authority of presiding officers under the Commission’s regulations at 52 Pa. Code § 5.483.

On January 28, 2022, an Order was issued in this case dismissing, with prejudice, Complainant Lawrence Kingsley’s Motion to Compel filed November 1, 2021.

On January 31, 2022, Complainant filed a document titled, “Motion for Reconsideration and for Adverse Presumption.” That document is essentially an attempt to override PPL’s Answer to Complainant’s Motion to Compel which PPL Electric Utilities Corporation filed *nunc pro tunc* on January 13, 2022, and to have the presiding officer reverse the January 28, 2022 Order so as to allow Complainant to make an inference or inferences based on the silence of an adverse party (PPL) or in the absence of evidence (i.e. an “adverse presumption”). An adverse presumption could only be made if Complainant’s Motion to Compel had been granted (it was denied, with prejudice) and if PPL then refused to provide what was requested by a Motion to Compel and then directed by the judge’s order. To establish an adverse presumption, Complainant’s Motion to Compel would first have to have been granted (which it was not), and PPL would have to have ignored a judge’s order directing PPL to produce testimony or evidence. In other words, Complainant is essentially asking for the imposition of sanctions on PPL on the basis of Complainant having merely filed a Motion to

Compel, which PPL is not required to respond to under the terms of the Order of January 28, 2022. See 52 Pa. Code § 5.371. The Motion is without basis in law or fact.

On February 1, 2022, Complainant made two additional filings titled, respectively, Motion to Amend, and Amended Motion for Reconsideration and for Adverse Presumption. With the exception of one immaterial change, these filings are essentially the same as Complainant’s January 31, 2022, filings.

Pleadings allowed before the Commission may be found at 52 Pa. Code, Chapter 5. There is no legal basis for a party to file what is essentially an “objection,” to the Answer to a Motion to Compel, and so the Order of January 28, 2022, will not be reconsidered. Such a filing as has now been made by Complainant is not allowed under the Commission’s regulation at 52 Pa. Code § 5.1, Pleadings Allowed. There is no procedural regulation that allows a reply or answer to an Answer to a Motion to Compel, nor is there a procedure for reconsideration by a presiding officer of a presiding officer’s Order denying a Motion to Compel. Complainant’s Motion to Compel was dismissed with prejudice as was explained in the Order of January 28, 2022.

To the extent that the Complainant’s January 31, 2022, filing constitutes an objection to PPL’s late filing of its Answer, Complainant has provided no basis that would allow me to grant his objection.

THERFORE,

IT IS ORDERED:

1. That the Complainant’s, “Motion for Reconsideration and for Adverse Presumption,” is denied.

2. That the Complainant’s, “Motion to Amend,” and “Amended Motion for Reconsideration and for Adverse Presumption,” are denied.

3. That Complainant’s objection to the filing *nunc pro tunc* of PPL’s Objection to the Motion to Compel is denied.

Date: February 3, 2022 \_\_\_\_\_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dennis J. Buckley

Administrative Law Judge

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