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Nicholas A. Stobbe

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File #: 140074

March 24, 2022

***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: Eugene Pelleschi v. PPL Electric Utilities Corporation  
Docket No. F-2022-3031247**

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Dear Secretary Chiavetta:

Enclosed please find the Preliminary Objection of PPL Electric Utilities Corporation to the Complaint of Eugene Pelleschi for filing in the above-referenced proceeding. Copies are being provided per the Certificate of Service.

Respectfully submitted,



Nicholas A. Stobbe

NAS/dmc  
Attachments

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**

Eugene Pelleschi  
1232 Vallamont Dr. NW  
Williamsport, PA 17701  
[epelleschi@aol.com](mailto:epelleschi@aol.com)

Dated: March 24, 2022



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Nicholas A. Stobbe

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Eugene Pelleschi,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. F-2022-3031247
	:	
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 FILE AN ANSWER TO 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.

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Date: March 24, 2022

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Eugene Pelleschi,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. F-2022-3031247
	:	
PPL Electric Utilities Corporation	:	
	:	
Respondent.	:	
	:	

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**PRELIMINARY OBJECTION OF  
PPL ELECTRIC UTILITIES CORPORATION TO THE  
COMPLAINT OF EUGENE PELLESCI**

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AND NOW, comes PPL Electric Utilities Corporation (“PPL Electric”) 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 Complaint filed by Eugene Pelleschi (“Complainant”) be dismissed in its entirety as against PPL Electric. In support thereof, PPL Electric states as follows:

**I. BACKGROUND**

1. PPL Electric furnishes electric distribution, transmission, and default 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. PPL Electric is a “public utility,” an “electric distribution company,” and a “default service provider” as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 102, 2803.

2. By Secretarial Letter dated March 4, 2022, PPL Electric was served with the above-captioned Complaint. Most of the issues raised in the Complaint pertain to the rates charged for the competitive electric generation supply provided by one of the Complainant's electric generation suppliers ("EGSs") and a claim that the Complainant did not agree to transfer electric generation supply service to that EGS. (Complaint ¶¶ 4-5.)

3. PPL Electric herein files this Preliminary Objection to the Complaint. For the reasons explained below, PPL Electric respectfully requests that the Complaint be dismissed in its entirety pursuant to Section 5.101(a)(5) of the Commission's regulations, 52 Pa. Code § 5.101(a)(5), due to the nonjoinder of a necessary party, *i.e.*, the EGS at issue.

## **II. STANDARD OF REVIEW**

4. 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).

5. 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. Serv. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwlth. 2005)); accord *Complaint of Nat'l Fuel Gas Distrib. Corp. and Petition for an Order to Show Cause*, Docket No. P-00072343 (December 26, 2007). 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). For preliminary objections to be sustained, it must appear with certainty that the law will permit no recovery, and any doubt must be resolved in favor of the non-moving party. *Stilp*, at 781.

### **III. PRELIMINARY OBJECTION**

#### **A. THE COMPLAINT FAILS TO JOIN A NECESSARY PARTY**

6. PPL Electric incorporates by reference Paragraphs 1 through 5 as if fully set forth herein.

7. According to the Complaint and following further investigation by PPL Electric, the Complainant was a shopping customer who received competitive electric generation supply service from two individual EGSs during the time period in question. (Complaint ¶¶ 4-5.)

8. The Complainant also alleges that he was “transferred from [his] Electric Supplier, Verde Energy, to a higher KWH rate with another company without [his] knowledge, permission, or request.” (Complaint ¶ 4.)

9. During the one-year period prior to the Complaint’s filing, the Complainant received electric generation supply service from two separate EGSs.

10. Specifically, the Complainant received electric generation supply service from: (1) Verde Energy USA Pennsylvania LLC (“Verde”) from October 12, 2021, to November 19, 2021<sup>1</sup>; and (2) Titan Gas, LLC d/b/a Titan Gas and Power d/b/a CleanSky Energy d/b/a Clean Sky Energy (“CleanSky”) from November 19, 2021, to November 30, 2021.<sup>2</sup>

11. Most of the issues raised in the Complaint pertain to the rates charged for the competitive electric generation supply service provided by CleanSky as well as a claim that the Complainant did not consent to switch electric generation supply service from Verde to CleanSky. (Complaint ¶¶ 4-5.)

12. As relief, the Complainant requests a credit from PPL Electric to account for the difference in generation supply service rates charged by CleanSky and PPL Electric as opposed to his contract rate with Verde, for the period November 19, 2021, through October 12, 2022. (Complaint ¶ 5.)

13. However, the Complainant failed to name CleanSky as a respondent in the Complaint. (*See* Complaint ¶ 2.)

14. Under Pennsylvania law, “a necessary party is one whose presence, while not indispensable, is essential if the court is to resolve completely a controversy and to render complete relief.” *Pa. Human Relations Comm’n v. Phila. Sch. Dist.*, 651 A.2d 177 (Pa. Cmwlth. 1993) (citation omitted.)

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<sup>1</sup> Verde is a licensed EGS that is authorized to offer, render, furnish or supply electricity or electric generation services in the Commonwealth of Pennsylvania, including within PPL Electric’s service territory. *See License Application of Verde Energy USA, Inc. for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Supplier of Retail Electric Power*, Docket No. A-2010-2151038 (Order entered March 25, 2010).

<sup>2</sup> CleanSky is a licensed EGS that is authorized to offer, render, furnish or supply electricity or electric generation services in the Commonwealth of Pennsylvania, including within PPL Electric’s service territory. *See Application of Titan Gas LLC dba Titan Gas and Power for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Supplier of Retail Electric Power*, Docket No. A-2016-2530633 (Order entered May 19, 2016).

15. Here, CleanSky is a necessary party to this proceeding, given the Complainant's allegations and requested relief.

16. The Complainant alleges that he did not elect to switch electric generation supply service from Verde to CleanSky and that he should receive a credit to account for the difference between Verde and CleanSky's rates charged during the period November 19, 2021, through October 12, 2022. (Complaint ¶¶ 4-5.)

17. Therefore, the Commission's determination in this case could affect CleanSky because CleanSky provided electric generation supply service to the Complainant during the period relevant to the Complaint.

18. As such, without CleanSky, the Commission cannot resolve the dispute or award relief concerning: (1) the Complainant's switch from Verde to CleanSky; and (2) the difference between Verde and CleanSky's charges for competitive electric generation supply service.

19. Based on the foregoing, the Complainant has failed to join a necessary party, *i.e.*, CleanSky, in this proceeding. Therefore, the Complaint should be dismissed pursuant 52 Pa. Code § 5.101(a)(5).

**IV. CONCLUSION**

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the Complaint be dismissed in its entirety.

Respectfully submitted,



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Date: March 24, 2022

Attorneys for PPL Electric Utilities Corporation

**VERIFICATION**

I, BETH A. FRONHEISER being the Credit & Collections Manager 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.

March 24, 2022

  
Beth A. Fronheiser