
Nicholas A. Stobbe

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File #: 140074

December 8, 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: Richard Williams v. PPL Electric Utilities Corporation
Docket No. C-2022-3036864

Dear Secretary Chiavetta:

Attached for filing are the Preliminary Objections of PPL Electric Utilities Corporation to the Complaint of Richard Williams in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully,



Nicholas A. Stobbe

NAS/dmc
Attachments

cc: Certificate of Service

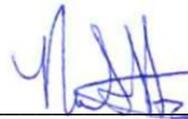
CERTIFICATE OF SERVICE

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 FIRST-CLASS MAIL

Richard Williams
76 Green Rd.
Montrose, PA 18801

Date: December 8, 2022



Nicholas A. Stobbe

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Richard Williams,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2022-3036864
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.101, YOU MAY ANSWER THE ENCLOSED PRELIMINARY OBJECTIONS WITHIN TEN (10) DAYS OF THE DATE OF SERVICE HEREOF. YOUR ANSWER TO THE PRELIMINARY OBJECTIONS 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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Michael J. Shafer (ID # 205681)
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nstobbe@postschell.com

Date: December 8, 2022

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Richard Williams,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2022-3036864
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**PRELIMINARY OBJECTIONS OF
PPL ELECTRIC UTILITIES CORPORATION TO THE
COMPLAINT OF RICHARD WILLIAMS**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, comes PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) and hereby files these Preliminary Objections, 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 the Richard Williams (“Complainant”) in its entirety and with prejudice as against PPL Electric.

In general, the Complaint alleges that the Complainant is receiving “harassing telemarketing calls.” (Complaint ¶ 4.) The Complaint also explicitly notes that those calls are from a “[s]upplier.” (Complaint ¶ 7.) Nothing in the Complaint alleges any unlawful conduct by PPL Electric. Moreover, the Complainant is not an electric distribution customer of the Company and, therefore, lacks standing to pursue any claims against PPL Electric.

As explained herein, the Commission should summarily dismiss the Complaint with prejudice as against PPL Electric because the Complainant: (1) does not allege that PPL Electric has violated the Public Utility Code, the Commission’s regulations, a Commission Order, or its

Commission-approved tariff; and (2) does not have standing to pursue a Complaint 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. On November 18, 2022, PPL Electric was served with the above-captioned Complaint. The issues raised in the Complaint pertain to “harassing telemarketing calls” to the Complainant from an unidentified “supplier.” (Complaint ¶¶ 4, 7.) A true and correct copy of the Complaint is attached hereto as **Appendix A**.¹

3. In addition to PPL Electric, the Complaint lists “American Electric + Gas” and “First Choice Program” as respondents. (Complaint ¶ 2.)

4. The Complainant is not an electric distribution customer of PPL Electric.

5. The Complainant’s service address in Montrose, Susquehanna County, Pennsylvania is not in PPL Electric’s service territory.

6. The only areas in Susquehanna County where PPL Electric is authorized to serve are the Boroughs of Forest City and Union Dale and the Townships of Clifford and Herrick.²

¹ In Paragraph 1 of the Complaint, the Complainant lists a non-PPL Electric utility account number. That portion of the Complaint has been redacted to protect potentially confidential information.

² See PPL Electric Tariff, Supp. No. 102 to Electric Pa. P.U.C. No. 201, Fourth Revised Page No. 4B.

7. PPL Electric herein files these Preliminary Objections to the Complaint.

8. For the reasons explained below, PPL Electric respectfully requests that the Commission summarily dismiss the Complaint with prejudice as against PPL Electric because: (a) the Complainant does not allege that PPL Electric has violated the Public Utility Code, the Commission's regulations, a Commission Order, or its Commission-approved tariff and, therefore, the Complaint is legally insufficient (52 Pa. Code § 5.101(a)(4)); and (b) the Complainant does not have standing to pursue a Complaint against PPL Electric because he is not a customer of the Company (52 Pa. Code § 5.101(a)(7)).

II. STANDARD OF REVIEW

9. 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).

10. 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. Cmwltth., 910 A.2d 775, 781 (Pa. Cmwltth. 2006) (citing *Dep't of Gen. Servs. v. Bd. of*

Claims, 881 A.2d 14 (Pa. Cmwlth. 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. Cmwlth. 2007). Notwithstanding, any doubt must be resolved in favor of the non-moving party. *Stilp*, at 781.

11. 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).

12. Further, a complaint must be able to recover under the law to survive a preliminary objection. *Milliner v. Enck*, 709 A.2d 417, 418 (Pa. Super. 1998) (“[a] preliminary objection should be sustained only where it appears with certainty that, upon the facts averred, the law will not allow the plaintiff to recover.”)

III. PRELIMINARY OBJECTIONS

A. PRELIMINARY OBJECTION NO. 1 – THE COMPLAINT SHOULD BE DISMISSED WITH PREJUDICE BECAUSE THE COMPLAINT IS LEGALLY INSUFFICIENT

13. PPL Electric incorporates by reference Paragraphs 1 through 12 as if fully set forth herein.

14. A complaint is legally insufficient where the complaint does not allege a violation of the Public Utility Code, the Commission’s regulations, a Commission Order, or the utility’s Commission-approved tariff. *See* 66 Pa.C.S. § 701; *see also Nixon v. West Penn Power Co.*, 2012 Pa. PUC LEXIS 923, Docket No. C-2011-2270951 (Initial Decision issued May 29, 2012), *became final without further Commission action* (Final Order entered July 17, 2012).

15. Moreover, a Complaint is legally insufficient when it appears to list the wrong respondent. *See Stabley v. Philadelphia Gas Works*, 2010 Pa. PUC LEXIS 231, Docket No. F-2010-2186368 (Initial Decision issued July 29, 2010), *became final without further Commission action* (Final Order entered Oct. 1, 2010).

16. Here, the Complaint does not allege any facts related to PPL Electric. Rather, the sole allegations in the Complaint are related to the marketing practices of an unidentified “supplier.” (Complaint ¶¶ 4, 7.)

17. Indeed, the Complaint explicitly acknowledges that PPL Electric is not responsible for the “harassing telemarketing calls,” noting that “[i]ts [sic] a Supplier.” (Complaint ¶¶ 4, 7.)

18. PPL Electric is not a party to the alleged third-party contacts between the Complainant and the “supplier” in question.

19. PPL Electric has no authority over the marketing practices of electric generation suppliers.

20. Therefore, the Complaint is legally insufficient as against PPL Electric because it states no claim upon which relief may be granted as against PPL Electric.

B. PRELIMINARY OBJECTION NO. 2 – THE COMPLAINT SHOULD BE DISMISSED WITH PREJUDICE AS AGAINST PPL ELECTRIC BECAUSE THE COMPLAINANT DOES NOT HAVE STANDING TO PURSUE THE COMPLAINT AGAINST PPL ELECTRIC

21. PPL Electric incorporates by reference Paragraphs 1 through 20 as if fully set forth herein.

22. Pennsylvania courts and the Commission have held that a person or entity has standing when the person or entity has a direct, immediate, and substantial interest in the subject matter of a proceeding. *Joint Application of Pennsylvania-American Water Co. and Evansburg Water Co. for Approval of the transfer, by sale, of the water works property and rights of*

Evansburg Water Co. to Pennsylvania-American Water Co., Docket Nos. A-212285F0046/47 and A-210870F01 (Opinion and Order entered July 9, 1998); *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 282-284 (1975); *Waddington v. Pa. PUC*, 670 A.2d 199, 202 (Pa. Cmwlth. 1995); *Landlord Service Bureau, Inc. v. Equitable Gas Co.*, 79 Pa. PUC 342 (1993); *Re Equitable Gas Co.*, 76 Pa. PUC 23 (1992).

23. The Commission has found that requiring a person or entity to have a direct, immediate and substantial interest in the subject matter of a proceeding helps avoid frivolous, harassing lawsuits whose costs are ultimately borne, at least in part, by utility ratepayers. *See Pa. PUC v. Nat'l Fuel Gas Distrib. Corp.*, 73 Pa. PUC 552 (1990).

24. Consistent with the above, the Commission has repeatedly held that a Complainant must be a customer of the respondent in order to have standing to file a complaint against the respondent. *See Re: Pennsylvania American Water Co.*, 85 Pa. P.U.C. 548 (1995); *Pa. PUC v Marietta Gravity Water Co.*, 87 Pa. P.U.C. 864 (1997).

25. Moreover, the Commission has previously dismissed a complaint against PPL Electric brought by a complainant who was not a customer of PPL Electric. *See Coggins v. PPL Electric Utilities Corp.*, 2013 Pa. PUC LEXIS 892, Docket No. C-2012-2312785 (Opinion and Order entered July 18, 2013).

26. The Complainant is not an electric distribution customer of PPL Electric.

27. In the Complaint, the Complainant lists a service address that is not in PPL Electric's certificated service territory. (Complaint ¶ 1.)

28. Additionally, the Complainant lists a non-PPL Electric utility account number in the Complaint. (Complaint ¶ 2.)

29. Accordingly, the Complaint should be dismissed with prejudice as against PPL Electric because the Complainant lacks standing to file the Complaint against PPL Electric.

IV. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the above-captioned Complaint filed by Richard Williams at Docket No. C-2022-3036864 be dismissed in its entirety and with prejudice against PPL Electric Utilities Corporation pursuant to 52 Pa. Code §§ 5.101(a)(4) and (7).

Respectfully submitted,



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nstobbe@postschell.com

Date: December 8, 2022

Attorneys for PPL Electric Utilities Corporation

APPENDIX A

**FORMAL COMPLAINT FILED BY RICHARD
WILLIAMS AGAINST PPL ELECTRIC UTILITIES
CORPORATION**

(Account Number Redacted)

PENNSYLVANIA PUBLIC UTILITY COMMISSION

RCVD PUC SEC BLR
NOV 15 2022 @ 11:32

Formal Complaint

Filing this form begins a legal proceeding and you will be a party to the case.
If you do not wish to be a party to the case, consider filing an informal complaint.

To complete this form, please type or print legibly in ink.

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name Richard Williams

Street/P.O. Box 76 Green Rd Apt #

City Montrose State Pa Zip 18801

County Susquehanna

Telephone Number(s) Where We Can Contact You During the Day (required):

(570) 278 0982 (home) (570) 533 3838 (mobile)

E-mail Address (required): N/A

Utility Account Number (from your bill) [REDACTED]

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name

Street/P.O. Box

City State Zip

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

PP&L / American Electric & Gas / First Choice program

3. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- | | |
|--|---|
| <input checked="" type="checkbox"/> ELECTRIC | <input type="checkbox"/> STORM WATER |
| <input type="checkbox"/> GAS | <input type="checkbox"/> WASTEWATER/SEWER |
| <input type="checkbox"/> WATER | <input type="checkbox"/> TELEPHONE/TELECOMMUNICATIONS (local, long distance) |
| <input type="checkbox"/> STEAM HEAT | <input type="checkbox"/> MOTOR CARRIER (e.g. taxi, moving company, limousine) |

4. Reason for Complaint

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. Your complaint may be dismissed without a hearing if you do not provide specific information.

- The utility is threatening to shut off my service or has already shut off my service.

- I would like a payment agreement.

- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.

- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.

- Other (explain).

Harassing telemarketing calls / up to 10x's per day and not
my utility Co.

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

5. Requested Relief

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

Stop Calling, I've been on the no call list, had my info blocked from my utility company's end. Contacted Law enforcement, PUC, PPL, American Elec & Gas,

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

6. Protection From Abuse (PFA)/ Domestic Violence

Has a court granted you a "Protection From Abuse" order or any other order which provides clear evidence of domestic violence against you that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection From Abuse" order or any other order for your personal safety or welfare?

YES

NO

If your answer to the above question is "yes," attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. Prior Utility Contact

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES

NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES

NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

Its a Supplier. Everyone says its not them. P&L even turned it over to their fraud dept, they call from Wilkes Barre exchange but last four digits are always different. The number is connected to "Global Internet Technologies"

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. Legal Representation

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer in this matter, provide your lawyer's name, address, telephone number, and e-mail address, (all required contact information). Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name _____

Street/P.O. Box _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address _____

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

9. **Verification and Signature**

You must sign your complaint. Individuals filing a Formal Complaint **must** print or type their name on the line provided in the verification paragraph below and **must** sign and date this form in **ink**. If you do not sign the Formal Complaint, the PUC **will not accept it**.

Verification:

I Richard Williams, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect 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).


(Signature of Complainant)

11/4/22
(Date)

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification **must** be signed by an authorized officer or authorized employee. If the Formal Complaint is **not signed** by one of these individuals, the PUC **will not accept it**.

10. **How to File Your Formal Complaint**

Electronically. You must create an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

Mail. Mail the completed form with your original signature and any attachments, by certified mail, priority mail, or overnight delivery to this address and retain the tracking information as proof of submission:

Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120

If you are appealing a BCS decision: follow the directions in the cover letter you received from the Secretary's Bureau with the formal complaint form. **ONLY** Formal complaints appealing a BCS decision can be filed by fax, email or overnight delivery to meet filing deadlines. **All other formal complaints MUST be efiled or mailed.**

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your Formal Complaint for your records.

Williams
76 Green Rd.
Montrose Pa 18801

LEHIGH VALLEY PA 180

12 NOV 2022 PM 4 2



Secretary
Pa. Public Utilities Comm.
400 N. Street
Harrisburg Pa 17120

17120-007999



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.

December 8, 2022


Beth A. Fronheiser