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File #: 140074

March 29, 2023

***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: Lori L. Davis v. PPL Electric Utilities Corporation**  
**Docket No. C-2023-3038883**

Dear Secretary Chiavetta:

Attached please find the Preliminary Objection to be filed on behalf of PPL Electric Utilities Corporation in response to the Complaint of Lori L. Davis in the above-referenced proceeding. Copies are being provided per the Certificate of Service.

Respectfully submitted,



Megan E. Rulli

MER/kl  
Attachment

cc: Certificate of Service

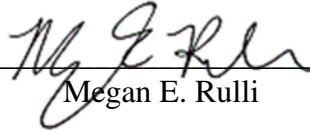
**CERTIFICATE OF SERVICE**

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 EMAIL AND FIRST-CLASS MAIL**

Lori L. Davis  
380 Davos Circle  
Zion Grove, PA 17985  
[LL2944@yahoo.com](mailto:LL2944@yahoo.com)

Date: March 29, 2023

  
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Megan E. Rulli

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lori L. Davis,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2023-3038883
	:	
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 29, 2023

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lori L. Davis,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2023-3038883
	:	
PPL Electric Utilities Corporation	:	
	:	
Respondent.	:	

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**PRELIMINARY OBJECTION OF  
PPL ELECTRIC UTILITIES CORPORATION TO THE  
COMPLAINT OF LORI L. DAVIS**

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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 Lori L. Davis (“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 9, 2023, PPL Electric was served with the above-captioned Complaint. In the Complaint, the Complainant asks for relief from “[u]nreasonable rate hikes” related to her electric generation supplier charges. (Complaint ¶ 4.)

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 and with prejudice as against PPL Electric 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.

6. 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 COMPLAINANT HAS FAILED TO JOIN A NECESSARY PARTY**

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

8. The Complaint should be dismissed because the Complainant has failed to join a necessary party.

9. 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.)

10. 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 EGS Independence Energy Group LLC d/b/a Cirro Energy (“Cirro Energy”), during the time period in question. (*See* Complaint ¶¶ 2, 4, 5.)

11. The Complainant named Cirro Energy as a respondent to the Complaint. (*See* Complaint ¶ 2.)

12. The Complainant alleges that she has experienced “[u]nreasonable rate hikes that doubled rates in a period of about 6 months.” (Complaint ¶ 4.)

13. The Complainant’s allegations concerning “rate hikes” are unrelated to electric distribution or default generation supply service provided by PPL Electric to the Complainant. (Complaint ¶ 4.)

14. As relief, the Complainant requests that her “rates” be “reset back to the June rates.” (Complaint ¶ 5.)

15. Here, Cirro Energy is a necessary party to this proceeding, given that the Complainant’s allegations and requested relief pertain directly to Cirro Energy.

16. The Commission’s determination in this case could affect Cirro Energy because Cirro Energy provided electric generation supply service to the Complainant during the period relevant to the Complaint, and the allegations in the Complaint are against Cirro Energy.

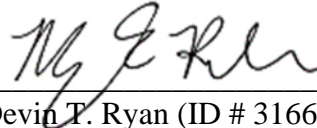
17. As such, without Cirro Energy, the Commission cannot resolve the dispute or award relief concerning the material allegations in the Complaint against Cirro Energy.

18. Based on the foregoing, the Complainant has failed to join a necessary party, *i.e.*, Cirro Energy, in this proceeding. Therefore, the Complaint should be dismissed in its entirety and with prejudice as against PPL Electric, 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 and with prejudice as against PPL Electric Utilities Corporation pursuant to 52 Pa. Code § 5.101(a)(5).

Respectfully submitted,



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mjshafer@pplweb.com

Date: March 29, 2023

Attorneys for PPL Electric Utilities Corporation

## VERIFICATION

I, DONNA E. WEBSTER, being a Lead CS Operations Specialist 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 29, 2023

*Donna E Webster*

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