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June 10, 2024

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

**Re: Ya Davi LLC v. FirstEnergy Pennsylvania Electric Company**  
**Docket No. C-2024-3048451**

Dear Secretary Chiavetta:

Enclosed please find the Motion to Dismiss of FirstEnergy Pennsylvania Electric Company. This document has been served on the Complainant as shown in the Certificate of Service.

Please contact me if you have any questions regarding this matter.

Very truly yours,



Daniel A. Garcia

DAG/krak

Enclosures

c: As Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**YA DAVI LLC**

v.

**FIRSTENERGY PENNSYLVANIA  
ELECTRIC COMPANY**

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**Docket No. C-2024-3048451**

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**NOTICE TO PLEAD**

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TO: Ya Davi LLC  
c/o Prakash (Peter) Patel

Pursuant to 52 Pa. Code § 5.63, you are hereby notified that, if you do not file a written response denying or correcting the enclosed Motion to Dismiss of FirstEnergy Pennsylvania Electric Company within twenty (20) days from service of this Notice, the facts set forth by FirstEnergy Pennsylvania Electric Company in the Motion may be deemed to be true, thereby requiring no other proof. All pleadings, such as a Reply to Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for FirstEnergy Pennsylvania Electric Company, and where applicable, the Administrative Law Judge or Special Agent presiding over the case.

**File with:**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**With a copy to:**

Administrative Law Judge Jeffrey Watson  
Pennsylvania Public Utility Commission  
Piatt Place, Suite 220  
301 Fifth Avenue  
Pittsburgh, PA 15222

Daniel A. Garcia  
FirstEnergy Service Company  
76 South Main Street  
Akron, OH 44308  
[dagarcia@firstenergycorp.com](mailto:dagarcia@firstenergycorp.com)

Dated: June 10, 2024

  
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Daniel A. Garcia

**BEFORE THE  
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**Docket No. C-2024-3048451**

**MOTION TO DISMISS  
THE FORMAL COMPLAINT OF YA DAVI LLC**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, FirstEnergy Pennsylvania Electric Company (“FE PA” or the “Company”), on behalf of its Penelec Rate District,<sup>1</sup> by and through its attorney, Daniel A. Garcia, files this Motion to Dismiss, pursuant to 52 Pa. Code §5.103. In support, FE PA avers as follows:

**I. Introduction**

Ya Davi LLC (“Complainant”) is a business entity registered on May 8, 2009 with the Pennsylvania Bureau of Corporations. Ya Davi LLC is required at this stage of the proceeding to be represented by an attorney at law in accordance with 52 Pa. Code §§ 1.21-1.23. In this Motion, FE PA seeks the dismissal of the above-captioned Formal Complaint filed by Prakash (Peter) Patel on behalf of Ya Davi LLC.

**II. Factual Background**

1. The instant Formal Complaint, filed against FE PA and served on April 16, 2024, relates to non-residential electric service provided to Ya Davi LLC at 515 South Avenue,

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<sup>1</sup> On January 1, 2024, FirstEnergy Corp.’s Pennsylvania operating companies (i.e., Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company) merged into FirstEnergy Pennsylvania Electric Company. Due to the merger transaction, the affected operating companies’ tariffs were consolidated into a single tariff, with each former operating company’s rates becoming its own rate district. As such, the customers of the former Pennsylvania Electric Company have their own separate and distinct rate district under FirstEnergy Pennsylvania Electric Company’s tariff.

Bradford, Pennsylvania 16701 (“Service Location”) under Account No. 100079289557 (“Account”).

2. The Complainant established service on June 29, 2009.

3. On May 6, 2024, the Company filed an Answer and New Matter denying the material allegations therein. In its Answer and New Matter, the Company alleged, *inter alia*, that the Complainant is a Pennsylvania corporation and not represented by an attorney as required by the Commission’s regulations.

4. A Call-In Telephonic Hearing Notice was issued on May 23, 2024 and scheduled a telephonic hearing for July 1, 2024, before Administrative Law Judge Jeffrey Watson.

5. The Call-In Telephonic Hearing Notice specifically states: “**REPRESENTATION.** If you are an individual, you may represent yourself or you may have an attorney represent you. All others, including a partnership, corporation, trust, association, or governmental agency or subdivision, must be represented by an attorney licensed to practice law in Pennsylvania, or admitted pro hac vice. Only an attorney may represent someone else.”

6. As of the filing of this Motion, no attorney has filed an Entry of Appearance in the instant proceeding.

### **III. Corporate Status**

7. Representation before the Commission is governed by the Commission’s regulations.<sup>2</sup> These regulations provide that “[i]n adversarial proceedings, partnerships, corporations, trusts, associations, agencies, political subdivisions and government entities shall be

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<sup>2</sup> 52 Pa. Code §§ 1.21-1.23.

represented only by . . . an attorney.”<sup>3</sup> An adversarial proceeding begins with the filing of an Answer.<sup>4</sup>

8. A non-attorney owner/operator of a limited liability corporation may file a formal complaint pleading, without an attorney, but thereafter must be represented by counsel.<sup>5</sup>

9. The Commission’s obligation to require attorneys in adversarial proceedings for parties other than individual *pro se* proceedings is well-settled:

In Pennsylvania, the Supreme Court is responsible for regulating the practice of law, and this Commission is bound by the Supreme Court’s rules. The only persons authorized to practice law in Pennsylvania are as follows: (1) persons fully admitted to the Pennsylvania Bar; (2) persons admitted *pro hac vice* under Rule 301; and (3) persons qualified as certified legal interns under Rule 321. The Pennsylvania Supreme Court in *Shorz v. Farrell*, 327 Pa. 81, 193 A.20 (1937), held that if the nature of an administrative hearing is to determine questions of fact or interpretation of administrative law, then the hearing is of a judicial character. Any participation in such a hearing constitutes the practice of law. Accordingly, it would be unlawful to allow non attorney representation in adversarial proceedings before the Commission.

*James and Judith Simon v. Franklin Water Company*, Docket No. C-00956589

(Order entered January 29, 1996).

10. Consequently, a corporation that files a formal complaint with the Commission must obtain counsel to proceed with all other aspects of the proceeding, including, without limitation, responsive pleadings, discovery, testimony preparation, attendance at hearing, examination of witnesses and briefing.

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<sup>3</sup> 52 Pa. Code § 1.21.

<sup>4</sup> 52 Pa. Code § 1.8; *New Fizon Catering, Inc. v. PECO Energy Company*, Docket Nos. C-2008-2065498 and C-2008-2079076 (Order entered June 24, 2009).

<sup>5</sup> *Tyler Run, LLC v. Penelec*, Docket No. C-200438888 (Order entered January 5, 2005) and *Snyderville Community Development Corporation v. Philadelphia Gas Works*, Docket No. C-20055032 (Order entered July 31, 2006).

11. At this point, the Company is required to incur the time and expense to prepare for a full evidentiary hearing without knowing if the Complainant will even be represented by counsel.

12. In order to minimize any further prejudice, time and/or expense by the Company, the Complainant should be ordered to have a Pennsylvania licensed attorney file an Entry of Appearance within ten (10) days of the issued order, or the proceeding will be dismissed.

WHEREFORE, for the foregoing reasons, FirstEnergy Pennsylvania Electric Company, respectfully requests that the Commission:

a) Enter an order directing the Complainant to have a Pennsylvania licensed attorney enter an appearance on behalf of Ya Davi LLC within ten (10) days of the issued order; and

b) Dismiss the Formal Complaint in this proceeding if a Pennsylvania licensed attorney does not enter an appearance on behalf of Ya Davi LLC in compliance with any applicable order.

Respectfully submitted,

Dated: June 10, 2024



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Attorney No. 311503  
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(724) 838-6416  
dagarcia@firstenergycorp.com

Counsel for FirstEnergy Pennsylvania Electric Company, Penelec Rate District

**BEFORE THE  
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**YA DAVI LLC**

**v.**

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**Docket No. C-2024-3048451**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the Motion to Dismiss of FirstEnergy Pennsylvania Electric Company upon the individual listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by electronic mail as follows:

Ya Davi LLC  
c/o Prakash (Peter) Patel  
[econolodgebradford@gmail.com](mailto:econolodgebradford@gmail.com)

Administrative Law Judge Jeffrey Watson  
[jeffwatson@pa.gov](mailto:jeffwatson@pa.gov)

Dated: June 10, 2024



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Counsel for FirstEnergy Pennsylvania Electric  
Company, Penelec Rate District