
Nicholas A. Stobbe

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File #: 206729

June 26, 2024

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: Laurie and Anthony Conway v. PPL Electric Utilities Corporation
Docket No. F-2024-3049426

Dear Secretary Chiavetta:

Attached for filing is the Preliminary Objection of PPL Electric Utilities Corporation to the Complaint of Laurie and Anthony Conway 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 EMAIL AND FIRST-CLASS MAIL

Laurie and Anthony Conway
124 Oswayo Dr.
Pocono Lake, PA 18347
Ldouyon12@gmail.com

Dana Coulter
NextEra Energy Services Pennsylvania, LLC
601 Travis Street
Suite 1400
Houston, TX 77070
dana.coulter@nee.com
regulatorynes@gexaenergy.com

Date: June 26, 2024



Nicholas A. Stobbe

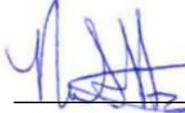
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Laurie & Anthony Conway,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. F-2024-3049426
	:	
PPL Electric Utilities Corporation	:	
	:	
Respondent.	:	
	:	

NOTICE TO PLEAD

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: June 26, 2024

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Laurie & Anthony Conway,	:	
	:	
Complainants,	:	
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v.	:	Docket No. F-2024-3049426
	:	
PPL Electric Utilities Corporation	:	
	:	
Respondent.	:	
	:	

**PRELIMINARY OBJECTION OF
PPL ELECTRIC UTILITIES CORPORATION TO THE
COMPLAINT OF LAURIE AND ANTHONY CONWAY**

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 Laurie & Anthony Conway (“Complainants”) 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 June 6, 2024, PPL Electric was served with the above-captioned Complaint. Many of the issues raised in the Complaint pertain to the rates charged for the competitive electric generation supply provided by the Complainants' former electric generation supplier ("EGS"), NextEra Energy Services Pennsylvania, LLC ("NextEra"). (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, *supra*, as if fully set forth herein.

7. According to the Complaint and following further investigation by PPL Electric, the Complainants were a shopping customer who received competitive electric generation supply service from NextEra between January 7, 2022 and February 9, 2024. (Complaint ¶¶ 4-5.)

8. The Complainants allege that PPL Electric “uses very deceptive billing practices by coersing [sic] customers into selecting alternative providers unknowingly.” (Complaint ¶ 4.)

9. As relief, the Complainants request to “have [their] bill recalculated using PPL [Electric’s] standard rates instead of the outside supplier rates for my usage during the time [they] was unaware of [their] energy supplier.” (Complaint ¶ 5.)

10. During the period germane to the allegations in the Complaint, the Complainants received electric generation supply service from NextEra.

11. Specifically, the Complainants received electric generation supply service from NextEra between January 7, 2022 and February 9, 2024.¹

12. Many of the issues raised in the Complaint pertain to the rates charged for the competitive electric generation supply service provided by NextEra as well as a claim that the Complainants did not consent or were coerced into receiving electric generation supply service from NextEra. (Complaint ¶¶ 4-5.)

13. As relief, the Complainant requests that PPL Electric “recalculate” their bill(s) to equal what the Complainants would have been paying had they been a default service customer of PPL Electric between January 7, 2022 and February 9, 2024. (Complaint ¶ 5.)

14. However, the Complainants failed to name NextEra as a respondent in the Complaint. (*See* Complaint ¶ 2.)

15. 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.)

16. Here, NextEra is a necessary party to this proceeding, given the Complainants’ allegations and requested relief.

17. Much of the Complaint hinges on the alleged rates charged by NextEra to the Complainants during their competitive enrollment with NextEra between January 7, 2022, and February 9, 2024. (Complaint ¶¶ 4-5.)

¹ NextEra 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 Gexa Energy Pennsylvania, LLC for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Supplier of Electric Power*, Docket No. A-2008-2060044 (Order entered May 23, 2009); *See also Amendment to Electric Generation Supplier License of Gexa Energy Pennsylvania, Inc.*, Docket No. A-2008-2060044 (Order entered Oct. 18, 2010).

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

19. As such, without NextEra, the Commission cannot resolve the dispute or award relief concerning the charges incurred by the Complainants while receiving competitive electric generation service from NextEra.

20. Based on the foregoing, the Complainants have failed to join a necessary party, *i.e.*, NextEra, 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 of Laurie & Anthony Conway be dismissed in its entirety or, alternatively, NextEra be joined as a necessary party to this proceeding.

Respectfully submitted,



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Date: June 26, 2024

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.

June 26, 2024


Beth A. Fronheiser