

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lacey Bundschuh	:	
	:	
v.	:	F-2024-3048153
	:	
PPL Electric Utilities Corporation	:	

**ORDER SUSTAINING IN PART, AND DENYING IN PART, RESPONDENT’S  
PRELIMINARY OBJECTIONS**

**HISTORY OF THE PROCEEDING**

On March 25, 2024, Lacey Bundschuh (“Complainant”) filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) against PPL Electric Utilities Corporation (“Respondent”). Complainant checked the box on the Complaint form indicating that there were incorrect charges on her bill. Complainant goes on in her Complaint to raise issues concerning high billing, misapplied payments, switching suppliers without consent, payment arrangements, and cancelled and reissued bills. The Commission served the Complaint on Respondent on April 4, 2024.

On April 24, 2024, Respondent filed an Answer to the Complaint, admitting or denying the allegations of the Complaint, and requesting dismissal of the Complaint.

Also on April 24, 2024, Respondent filed Preliminary Objections to the Complaint. In its Preliminary Objections, Respondent sought dismissal of the Complaint pursuant to 52 Pa. Code § 5.101(5), arguing that Complainant failed to join necessary parties. Respondent claimed that in 2023, Complainant received electric generation supply service from three suppliers in Constellation NewEnergy Inc. (“Constellation”), Inspire Energy Holdings LLC (“Inspire”), and Respond Power LLC (“Respond”), and argued that many of the issues raised in the Complaint pertain to the rates and switching practices provided by these suppliers.

Complainant's failure to name these suppliers as respondents to the Complaint, Respondent argued, constitutes failure to join necessary parties to the proceeding. Respondent concluded its Preliminary Objections by requesting dismissal of the Complaint.

On June 12, 2024, the Commission issued a Motion Judge Assignment Notice, assigning the matter to me as Presiding Officer.

Respondent's Preliminary Objections are procedurally ready to be ruled upon. For the reasons discussed below, the Preliminary Objections will be sustained in part, and denied in part.

### DISCUSSION

Respondent in this matter filed Preliminary Objections to the Formal Complaint. The Commission's regulations provide that preliminary objections are available to parties and may be filed in response to a pleading. 52 Pa. Code § 5.101(a). The grounds for preliminary objections are limited to those set forth as follows:

- (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).

Commission procedure regarding the disposition of preliminary objections is similar to the procedure utilized in Pennsylvania civil practice. A preliminary objection in civil practice seeking dismissal of a pleading will be granted only where relief is clearly warranted and free from doubt. *Pennsylvania State Lodge, Fraternal Order of Police v. Dept. of Conservation & Natural Resources*, 909 A.2d 413 (Pa. Cmwlth. 2006), *aff'd*, 592 Pa. 304, 924 A.2d 1203 (2007).

The Commission may not rely upon the factual assertions of the moving party but must accept as true for purposes of disposing of the motion all well pleaded, material facts of the nonmoving party, as well as every inference from those facts. *County of Allegheny v. Commonwealth of Pennsylvania*, 490 A. 2d 402 (Pa. 1985); *Commonwealth of Pennsylvania v. Bell Telephone Co. of Pa.*, 551 A.2d 602 (Pa. Cmwlth. 1988). The Commission must view the complaint in this case in the light most favorable to the Complainant and should dismiss the complaint only if it appears that the Complainant would not be entitled to relief under any circumstances as a matter of law. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

Here, Respondent's Preliminary Objections assert nonjoinder of a necessary party pursuant to 52 Pa. Code § 5.101(a)(5), arguing that Complainant failed to join Constellation, Inspire, and Respond as necessary parties to this proceeding.

In her Complaint, Complainant raises several issues; at least one of which appears to implicate electric generation suppliers who are not currently respondents to this proceeding. Specifically, Complainant states in her Complaint that: "I want PPL to stop changing "supply" company w/o prior authorization." Complaint ¶ 5. Therefore, the Complaint contains an allegation that Complainant's electric generation supplier has been changed without her consent. Complainant did not name any supplier as respondent in the Complaint. In its Answer and Preliminary Objections, Respondent asserts that Complainant received electric generation supply service from Constellation, Inspire, and Respond in 2023.

Given the allegations raised in the Complaint that her electric generation supplier has been changed without her consent, Complainant's electric generation suppliers should be joined in this matter as necessary, or indispensable parties so that they may respond to the allegations.

An indispensable party is "one whose rights are so directly connected with and affected by litigation that he must be a party of record to protect such rights, and his absence renders any order or decree of court null and void for want of jurisdiction" *Columbia Gas Transmission Corp. v Diamond Fuel Company*, 464 Pa. 377, 379 (Pa. 1975). The failure to join an indispensable party goes to the court's jurisdiction and, if not raised by the parties, should be raised *sua sponte*. *Posel Redevelopment Authority of Philadelphia*, 72 Pa. Cmwlth 115, 121 (Pa. Cmwlth. 1983). The Pennsylvania Supreme Court has established that "the basic inquiry in determining whether a party is indispensable concerns whether justice can be done in the absence of a third party... In order to make the analysis, however, one must refer to the nature of the claim and the relief sought." *Cry, Inc. v. Mill Service Inc.*, 536 Pa. 462, 468-469 (Pa. 1994). Constellation, Inspire, and Respondent are indispensable parties to this proceeding because the dispute concerning whether Complainant's electric generation supplier has been changed without her consent cannot be resolved without the participation of the suppliers. Any form of relief granted as it relates to this dispute would impact the rights of these suppliers.

Accordingly, Respondent's Preliminary Objections are granted to the extent that Complainant's electric generation suppliers shall be joined as necessary/indispensable parties to this proceeding. The Preliminary Objections are denied to the extent that they request dismissal of the Complaint for failure to join a necessary party.

In a separate Order, Constellation, Inspire, and Respond will be joined as indispensable parties to this proceeding. The Commission's Secretary's Bureau will be directed to serve the Complaint to these parties, who will be given twenty (20) days from the date of service to file an Answer to the Complaint.

In the interim, the parties are reminded that Commission policy promotes settlements. 52 Pa. Code § 5.231(a). The parties are encouraged to commence settlement discussions amongst themselves for this proceeding as early as possible.

ORDER

THEREFORE,

IT IS ORDERED:

1. That PPL Electric Utilities Corporation's Preliminary Objections filed in the matter of Lacey Bundschuh v. PPL Electric Utilities Corporation, Docket No. F-2024-3048153, are sustained to the extent that Constellation NewEnergy Inc., Inspire Energy Holdings LLC, and Respond Power LLC, are indispensable parties that will be joined as parties to this proceeding.

2. That PPL Electric Utilities Corporation's Preliminary Objections filed in the matter of Lacey Bundschuh v. PPL Electric Utilities Corporation, Docket No. F-2024-3048153, are denied to the extent that they seek dismissal of the Formal Complaint.

3. That a separate Order will be issued joining Constellation NewEnergy Inc., Inspire Energy Holdings LLC, and Respond Power LLC, as indispensable parties to this proceeding.

Date: June 27, 2024

/s/  
Alphonso Arnold III  
Administrative Law Judge

**F-2024-3048153 - LACEY BUNDSCHUH v. PPL ELECTRIC UTILITIES CORPORATION**

LACEY BUNDSCHUH  
36 SHERMAN AVENUE  
SEASIDE HEIGHTS NJ 08751  
609.366.2572  
bundsчуhlacey@yahoo.com  
Served by USPS First-Class Mail

KIMBERLY A KLOCK ESQUIRE  
PPL SERVICES CORP  
2 NORTH 9TH ST  
ALLENTOWN PA 18101  
**610.774.5696**  
kklock@pplweb.com  
Accepts eService

NICHOLAS A STOBBE ESQUIRE  
MEGAN E RULLI ESQUIRE  
POST & SCHELL PC  
17 N SECOND ST 12TH FLOOR  
HARRISBURG PA 17101-1601  
717.612.6033  
717.731.1970  
717.612.6012  
717.472.0466  
nstobbe@postschell.com  
mrulli@postschell.com  
Accepts eService  
*(Counsel represents PPL Electric Utilities Corporation)*