

**REGER RIZZO  
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ATTORNEYS AT LAW

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July 25, 2024

**Via Electronic Filing**

Rosemary Chiavetta, Esquire  
Secretary  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Docket No. C-2024-3049031  
Potoka Trucking v. FirstEnergy Pennsylvania Electric Company  
Motion to Dismiss of FE PA (West Penn Rate District)**

Dear Secretary Chiavetta:

Attached for filing is the Motion of FirstEnergy Pennsylvania Electric Company to dismiss the Formal Complaint filed by Denise Schreckengost on behalf of Potoka Trucking (Complainant) in the above-referenced proceeding.

A copy of the Motion to Dismiss has been forwarded to the Complainant in the manner indicated on the attached Certificate of Service.

If there are any questions, please contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/co  
Enclosures

cc: Special Agent Michal Mroczka, PA Public Utility Commission [w/encls.]  
Tori Giesler, Esquire, FirstEnergy Service Company [w/encls.]  
Denise Schreckengost, Potoka Transportation [w/encls.]

**Re: Docket No. C-2024-3049031  
Potoka Trucking v. FirstEnergy Pennsylvania Electric Company  
Motion to Dismiss of FE PA (West Penn Rate District)**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served upon the person(s) listed below, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

**Via Electronic Mail**

Denise Schreckengost, Potoka Transportation  
[potokatrucking@verizon.net](mailto:potokatrucking@verizon.net)

Dated: July 25, 2024

  
Margaret A. Morris, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

POTOKA TRUCKING

v.

FIRSTENERGY PENNSYLVANIA ELECTRIC  
COMPANY

:  
:  
:  
:  
:  
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Docket No. C-2024-3049031

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code § 5.103, you are hereby notified that if you do not file a written response to 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 to Dismiss may be granted. All pleadings, such as an Answer to the Motion to Dismiss, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for FirstEnergy Pennsylvania Electric Company, Margaret A. Morris, Esq., and Special Agent Michael Mroczka presiding over this proceeding.

**File by Mail or e-file with:**

Rosemary Chiavetta, Esquire  
Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**With a copy to:**

Margaret A. Morris, Esquire  
Reger Rizzo & Darnall LLP  
Cira Centre, 13<sup>th</sup> Floor  
Philadelphia, PA 19104  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

Special Agent Michael Mroczka  
[micmroczka@pa.gov](mailto:micmroczka@pa.gov)

Date: July 25, 2024



Margaret A. Morris, Esquire  
Attorney ID No. 75048  
Reger Rizzo & Darnall LLP  
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2929 Arch Street  
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(215) 495-6524 (tel.)  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

*Counsel for FirstEnergy Pennsylvania Electric  
Company (West Penn Rate District)*

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

POTOKA TRUCKING	:	
	:	
v.	:	Docket No. C-2024-3049031
	:	
FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY	:	
	:	

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**MOTION OF FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY  
TO DISMISS THE FORMAL COMPLAINT OF POTOKA TRUCKING**

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TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

West Penn Rate District, now FirstEnergy Pennsylvania Electric Company,<sup>1</sup>  
(Respondent, FE PA, or Company), by and through its attorneys, Reger Rizzo and Darnall, LLP,  
files this Motion to Dismiss, pursuant to 52 Pa. Code §5.103. In support, the Company avers as  
follows:

**I. Introduction**

1. In this Motion, the Respondent seeks the dismissal of the Formal Complaint captioned *Potoka Trucking v. FirstEnergy Pennsylvania Electric Company* filed by Denise Schreckengost on behalf of Potoka Trucking (Complainant), a business entity registered on or about July 25, 1996. As a Pennsylvania corporation with the Pennsylvania Bureau of Corporations, Potoka Trucking, Inc. 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.

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<sup>1</sup> On January 1, 2024, FirstEnergy'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.

## **II. Factual Background**

2. The Formal Complaint was filed against the Company on May 15, 2024, and relates to non-residential electric service provided in the Complainant's name to 340 Bridgeport Road, Mount Pleasant, Pennsylvania (Service Location) under Account No. 100090940659 (Account).

3. On June 4, 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. A copy of the Complainant's corporate status with the Commonwealth of Pennsylvania is provided as Attachment 1.

4. A Hearing Notice, dated July 23, 2024, was issued for the Initial Call-in Telephonic Hearing on October 3, 2024, before Special Agent Michael Mroczka (Special Agent Mroczka).

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

## **III. Corporations Must be Represented by Counsel**

6. Representation before the Commission is governed by the Commission's regulations at 52 Pa. Code §§ 1.21-1.23. These regulations provide that "[i]n adversarial proceedings, partnerships, corporations, trusts, associations, agencies, political subdivisions and government entities shall be represented only by . . . an attorney." 52 Pa. Code § 1.21. An adversarial proceeding begins with the filing of an Answer. 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).

7. 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. *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).

8. 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).

9. 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.

10. At this point, the Company is required to incur the time and expense of preparing for a full evidentiary hearing without knowing if counsel will even represent the Complainant.

11. 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 Potoka Trucking Inc. 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 Potoka Trucking, Inc. in compliance with any applicable order.

Respectfully submitted,



Margaret A. Morris, Esq.

Attorney ID No. 75048

Reger Rizzo & Darnall LLP

Cira Centre, 13<sup>th</sup> Floor

2929 Arch Street

Philadelphia PA 19104

(215) 495-6524 tel.

[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

Dated: July 25, 2024

*Counsel for FirstEnergy Pennsylvania Electric  
Company (West Penn Rate District)*

Docket No. C-2024-3049031  
Potoka Trucking v. FirstEnergy Pennsylvania Electric Company  
(West Penn Rate District)

Attachment 1

Business Entity Filing



Request  
Certificate

<i>Initial Filing Date</i>	07/25/1996
<i>Status</i>	Active
<i>Formed In</i>	PENNSYLVANIA
<i>Filing Type</i>	Domestic Business Corporation
<i>Filing Subtype</i>	Business
<i>Registered Office</i>	83 E HILLIS ST YOUNGWOOD, PA 15697-0 County: Westmoreland
<i>Officers</i>	President CHARLES W POTOKA 83 E HILLIS STREET YOUNGWOOD PA 15697  Vice President LONNIE POTOKA 83 E HILLIS STREET YOUNGWOOD PA 15697  Secretary DENISE A SCHRECKENGOST 83 E HILLIS STREET YOUNGWOOD PA 15697  Treasurer DENISE A SCHRECKENGOST 83 E HILLIS STREET YOUNGWOOD PA 15697