

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jeffrey Tobias	:	
	:	
v.	:	C-2024-3049220
	:	
PPL Electric Utilities Corporation	:	

CONTINUANCE ORDER

On May 15, 2024, Jeffrey Tobias (Mr. Tobias or Complainant) filed a Formal Complaint against PPL Electric Utilities Corporation (PPL). The Formal Complaint was served on May 23, 2024. In his Complaint, Mr. Tobias asserts that he is having a reliability, safety or quality problem with his utility service. Specifically, Mr. Tobias states that his neighbor’s pine tree in his airspace completely takes over his service pole, putting major pressure on his electric service line. As relief, Mr. Tobias states that he needs his neighbor to hire a tree trimmer to take pressure off his electric line so it doesn’t snap and tree limbs are removed from his airspace.

On June 12, 2024, PPL filed an answer to Mr. Tobias’s Complaint. PPL denies that it can be required to trim the tree the Complainant references in his Complaint. PPL avers that it lacks sufficient knowledge as to the Complainant’s beliefs or concerns as to the alleged danger or nature of the tree in question, and its effect on PPL’s service line running between the Complainant’s property and the Complainant’s neighbor’s property. PPL denies that it is responsible for vegetation growing into the Complainant’s airspace and avers that the requests for relief are unrelated to PPL.

Also on June 12, 2024, PPL filed preliminary objections to Mr. Tobias’s Complaint. PPL’s preliminary objections included a notice to plead. PPL requests that the Formal Complaint be dismissed for lack of Commission jurisdiction pursuant to 52 Pa. Code § 5.101(a)(1) and because it is legal insufficient pursuant to 52 Pa. Code § 5.101(a)(4).

Specifically, PPL asserts that the Commission lacks jurisdiction because Complainant is requesting that his neighbor, rather than PPL, perform the requested relief. PPL asserts the Formal Complaint is legally insufficient because the Formal Complaint fails to allege any violations by PPL. No response to PPL's preliminary objections has been filed.

On July 12, 2024, a motion judge assignment notice was issued, assigning me as the presiding officer. On August 8, 2024, I issued an order, denying PPL's preliminary objections.

On August 9, 2024, the Commission issued an initial telephonic hearing notice setting a call-in telephonic hearing for this matter for October 2, 2024 at 10:00 a.m. In anticipation of that hearing, I issued a prehearing order on August 8, 2024, setting forth various rules that would govern the October 2, 2024 hearing.

On September 24, 2024, I received an e-mail from counsel for PPL, requesting a continuance of the October 2, 2024 evidentiary hearing. Counsel for PPL stated that PPL requests a continuance of the evidentiary hearing because it believes the parties have largely reached a settlement in principle, thereby resolving the complaint. However, PPL needs some time to effectuate the settlement, and anticipates that a certificate of satisfaction filing will be made by PPL in the coming weeks. Counsel for PPL also stated that Mr. Tobias agreed with the request for a continuance.

Section 5.483 of the Commission's regulations provides presiding officers with the authority to regulate the course of proceedings. 52 Pa.Code § 5.483(a). Presiding officers are required to conduct fair and impartial hearings and maintain order. 52 Pa.Code § 5.485(a). Except as otherwise provided by statute, requests for continuance of hearings or for extension of time in which to perform an act required or allowed to be done at or within a specified time by this title or by order of the Commission or presiding officer, shall be by motion in writing, timely filed with the Commission, stating the facts on which the application rests. 52 Pa.Code § 1.15(b). Only for good cause shown will requests for continuance be considered. *Id.* The Commission has recognized the Pennsylvania Supreme Court's definition of good cause as

“conduct which is reasonable under all the circumstances, thereby justifying the [c]laimant’s actions.” *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (Order entered November 4, 2020); *In re Application of Penn Access Corporation and Digital Direct of Pittsburgh, Inc.*, 1992 Pa. PUC LEXIS 56 (Pa. P.U.C. 1992) (citing *Frumento v. Unemployment Comp. Bd. of Review*, 351 A.2d 631 (Pa. 1976)).

In this case, there is good cause for the continuance request to be granted and for the hearing scheduled for October 2, 2024 to be continued. PPL avers that it is working on resolving the issues raised in Mr. Tobias’s complaint. Therefore, Mr. Tobias may receive the relief he seeks without the parties and Commission needing to expend additional resources to address his complaint. Also, the Commission strongly encourages settlement. 52 Pa. Code § 5.231. Good cause exists to grant the request to allow for possible settlement and avoid unnecessary expenditure of parties’ resources.

Additionally, although PPL’s request for a continuance was not presented as a motion, the Commission’s regulations are to be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding and the presiding officer may, at any stage, disregard an error or defect of procedure which does not affect the substantive rights of parties. 52 Pa.Code § 1.2(a). Since Mr. Tobias agreed with PPL’s request for a continuance, I find it appropriate to disregard PPL not filing its request for a continuance as a motion.

Parties are encouraged to continue to pursue settlement discussions. Even if the parties are unable to settle this case, they may still resolve some of the questions or issues during their discussions. If the parties reach an agreement on all issues, a formal hearing will not be necessary. The parties are also reminded that the presiding officer may participate in settlement discussions upon agreement of all parties. 52 Pa.Code § 5.223(c); *see also*, 52 Pa.Code § 5.231(c).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the evidentiary hearing scheduled for October 2, 2024 is cancelled;
2. That if a certificate of satisfaction has not been filed by October 18, 2024, parties shall provide me a status update on the resolution of the Formal Complaint.

Date: September 26, 2024

/s/
John M. Coogan
Administrative Law Judge

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