

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Barry Kaplan	:	
	:	
v.	:	F-2024-3050324
	:	
PPL Electric Utilities Corporation	:	

CONTINUANCE ORDER

On July 18, 2024, Barry Kaplan (Mr. Kaplan or Complainant) filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (PPL or Company), Docket No. F-2024-3050324. Mr. Kaplan’s Formal Complaint was served on PPL on August 1, 2024. In his Formal Complaint, Mr. Kaplan states that the utility is threatening to shut off his service or has already shut off his service; there are incorrect charges on his bill; he is having a reliability, safety or quality problem with his utility service; his service was shut off without notice; and he had wires down and they were never connected. As relief, Mr. Kaplan requests a new refrigerator and payment for food.

On August 21, 2024, PPL filed an answer to Mr. Kaplan’s Formal Complaint. PPL admitted that Complainant’s service was terminated on May 1, 2024. PPL denies that termination of Complainant’s service was in violation of the Public Utility Code, the Commission’s regulations, or the Company’s Commission-approved tariff. PPL also denies that Mr. Kaplan’s electric service bills contain incorrect charges and that the Company has not provided the Complainant with reasonable service. PPL admits that on May 29, 2024 wires located at Mr. Kaplan’s service address were downed when branches fell and pulled on the lines. However, PPL denies the downed wires were PPL electric facilities.

Also on August 21, 2024, PPL filed preliminary objections to Mr. Kaplan’s Formal Complaint. In its preliminary objections, which included a notice to plead, PPL argued that the Commission does not have the power to award monetary damages. Therefore, PPL asserts Mr. Kaplan’s request for monetary damages, i.e., a new refrigerator and payment for

food, is impertinent matter and should be stricken from the Formal Complaint, and Complainant should be prohibited from introducing evidence at a hearing regarding alleged damages.

On August 29, 2024, the Commission issued a motion judge assignment notice, assigning me to this proceeding.

No response to the preliminary objections has been received.

On September 4, 2024, I issued an order granting PPL's preliminary objections, striking the request for monetary damages from Mr. Kaplan's Formal Complaint and prohibiting Mr. Kaplan from introducing evidence regarding alleged damages at a hearing.

Also on September 4, 2024, the Commission issued an initial telephonic hearing notice setting a call-in telephonic hearing for this matter for October 21, 2024 at 10:00 a.m. In anticipation of that hearing, I issued a prehearing order on September 4, 2024, setting forth various rules that would govern the October 21, 2024 hearing.

On September 30, 2024, I received a fax from Mr. Kaplan, requesting that the hearing scheduled for October 21, 2024 be continued due to medical issues. PPL did not oppose the request for a continuance. By e-mail sent to both parties on September 30, 2024, I granted Mr. Kaplan's request for a continuance. The purpose of this order is to memorialize granting Mr. Kaplan's 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). Furthermore, 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). 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 *Fruemento v. Unemployment Comp. Bd. of Review*, 351 A.2d 631 (Pa. 1976)).

In this case, there is good cause for a continuance to be granted. Mr. Kaplan stated that he cannot focus due to ongoing medical issues. Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them. *Schneider v. Pa. Pub. Util. Comm'n.*, 479 A.2d 10 (Pa. Cmwlth. 1984) (*Schneider*). This is Mr. Kaplan's first request for a continuance and PPL does not object to the request for a continuance. Therefore, good cause exists to grant the continuance. However, due process is not unlimited. *See Schneider*. Parties are expected to participate in a rescheduled hearing.

Additionally, although Mr. Kaplan's request for a continuance was not presented as a written 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 PPL did not object to Mr. Kaplan's request for a continuance, I find it appropriate to disregard Mr. Kaplan not filing his request for a continuance as a motion

In the interim, the parties are encouraged to pursue settlement discussions. Commission policy promotes settlements. 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).

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