

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Zoila Strand	:	
	:	
v.	:	
	:	F-2024-3050558
PPL Electric Utilities Corporation	:	

ORDER
DENYING PRELIMINARY OBJECTION

HISTORY OF THE PROCEEDING

On July 12, 2024, Zoila Strand (Complainant or Ms. Strand) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (PPL or Respondent) alleging incorrect charges on her bill.

On August 26, 2024, PPL filed an Answer and New Matter (Answer) to the Complaint. In its Answer, PPL either admitted or denied the various averments of the Complaint. In particular, PPL admitted that it informed the Complainant that she is carrying an arrearage balance on her account but denied that this balance is incorrect or not the responsibility of the Complainant.

In its New Matter, PPL alleged that the Commission lacks jurisdiction over this matter because the Complainant filed a Chapter 13 Bankruptcy Petition on March 31, 2022, that is still active. Accordingly, PPL requested that the Complaint be dismissed for lack of jurisdiction. PPL's New Matter was endorsed with a Notice to Plead, advising the Complainant she had 20 days to file a reply to the New Matter. The Complainant did not file a reply to the New Matter.

Also on August 26, 2024, PPL filed a Preliminary Objection to the Complaint, wherein, PPL reiterated its argument that the Complaint should be dismissed because the Commission lacks subject matter jurisdiction due to the Complainant's active Chapter 13 Bankruptcy Petition proceeding. PPL's Preliminary Objection was endorsed with a Notice to Plead, advising the Complainant she had 10 days to file a written answer to the objection. The Complainant did not file a response to PPL's Preliminary Objection.

On September 30, 2024, the Commission issued a Motion Judge Assignment Notice, assigning this proceeding to me.

PPL's Preliminary Objection is now ready to be ruled upon. For the reasons discussed below, the Preliminary Objection will be denied and the case will be scheduled for a hearing.

DISCUSSION

The Commission's Rules of Administrative Practice and Procedure provide for the filing of Preliminary Objections. 52 Pa. Code § 5.101. Commission Preliminary Objection practice is comparable to Pennsylvania civil practice respecting the filing of preliminary objections. *Equitable Small Transp. Intervenor v. Equitable Gas Co.*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994). PPL averred in its Preliminary Objection that the Commission lacks jurisdiction over this matter. The Commission's Rules provide, in relevant part:

§ 5.101. Preliminary objections.

(a) *Grounds.* Preliminary objections are available to parties and may be filed in response to a pleading except motions and prior preliminary objections. Preliminary objections must be accompanied by a notice to plead, must state specifically the legal and factual grounds relied upon and be limited to the following:

(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).

In deciding preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the Complainant, recovery or relief is possible. *Dept. of Auditor Gen., et al v. State. Emps. Ret. Sys.*, 836 A.2d 1053, 1064 (Pa. Cmwlt. 2003); *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105 (Pa. Cmwlt. 1996). Any doubt must be resolved in favor of the non-moving party (Ms. Strand) by refusing to sustain the preliminary objections. *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlt. 2002). All of the non-moving party's averments in the complaint must be viewed as true for purposes of deciding the preliminary objections, and only those facts specifically admitted may be considered against the non-moving party. *Ridge v. State Emps. Ret. Bd.*, 690 A.2d 1312 (Pa. Cmwlt. 1997).

In its New Matter and Preliminary Objection, PPL contends that the Commission does not have jurisdiction over the Complaint because she has an active Chapter 13 Bankruptcy Petition pending. PPL's position would be correct if the Complainant was seeking a payment arrangement. However, in the instant Complaint, the Complainant is not seeking a payment arrangement. Rather, the Complaint specifically alleges that there are incorrect charges on her bills. Moreover, the Complaint also includes references to a potentially faulty meter as well as possible enrollment issues with an electric generation supplier (EGS).

When accepting as true all well pleaded material facts in the Complaint, as well as every reasonable inference from those facts, and viewing the Complaint in the light most favorable to the Complainant, the Complainant has raised several issues that implicate PPL's "reasonableness of service" obligations under Section 1501 of the Code, 66 Pa. C.S. § 1501, which are outside the Chapter 13 Bankruptcy Petition. As a result, the Commission retains jurisdiction over these issues.

Additionally, it is also relevant that the Complainant is not represented by counsel. Commission precedent supports allowing unrepresented complainants an opportunity to be heard orally, and not have their case dismissed on the basis of a preliminary pleading. *Richard Carlock v. The United Telephone Company of Pennsylvania*, Docket No. F-00163617, Order (entered July 14, 1993)(holding that in many cases unrepresented complainants can explain their dispute orally much better than they can communicate their grievance in written form and to deny unrepresented complainants a meaningful opportunity to be heard in such cases can be viewed as a gross abuse of authority); citing, *Halpern v. The Bell Telephone Company of Pennsylvania*, Docket No. C-00923950, Order (entered October 1992) and *William Schleisher v. The Bell Telephone Company of Pennsylvania*, Docket No. F-00161252 (adopted at Public Meeting December 17, 1992); see also, *John M. Gera v. PPL Electric Utilities Corporation*, Docket No. C-20054657, Opinion and Order (entered November 2, 2005).¹

Based on the foregoing, I conclude that PPL has failed to show that the Complainant would not be entitled to relief under any circumstance as a matter of law. Accordingly, PPL's Preliminary Objection seeking the dismissal of the Complaint for lack of jurisdiction will be denied.

¹ The Commission's decision in *Carlock* was subsequently clarified to allow ALJ's the discretion to dispose of the pleadings in a proceeding provided that the action is neither arbitrary nor capricious, and that it is in accordance with the law. *John A. Graham Jr. v. Philadelphia Suburban Water Company and Bell Atlantic-Pennsylvania, Inc.*, Docket No. C-00957557, Opinion and Order (entered June 12, 1996).

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