

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Nieves Abad	:	
	:	
v.	:	C-2024-3047163
	:	
PPL Electric Utilities Corporation	:	

ORDER
DENYING MOTION FOR SANCTIONS

This matter was initiated on February 12, 2024, through a Formal Complaint filed by Nieves Abad (“Mr. Abad”) against PPL Electric Utilities Corporation (“PPL”), wherein he complained of PPL utility poles located on his property.

On January 30, 2025, Mr. Abad filed a Motion for Sanctions.

Pursuant to the Commission’s regulations, a motion for sanctions may be answered within 5 days of service. 52 Pa. Code § 5.371(b).

On February 10, 2025, a prehearing conference was held with both parties present. Outstanding procedural matters were discussed during this conference, including Mr. Abad’s Motion for Sanctions, which had not been answered by PPL at that point.

On February 12, 2025, PPL filed a Motion for Leave to File Answer to Complainant’s Motion for Sanctions *Nunc Pro Tunc* (“Motion for Leave”).

Also on February 12, 2025, PPL filed an Answer *Nunc Pro Tunc* of PPL Electric Utilities Corporation to the Motion for Sanctions of Nieves Abad (“Answer *Nunc Pro Tunc*”).

On February 18, 2025, Mr. Abad filed an Objection to PPL’s Motion for Leave.

DISCUSSION

Motion for Leave

In its Motion for Leave, PPL requests that its Answer, which was also filed on February 12, 2025, be accepted for filing *nunc pro tunc*. PPL's Answer to the Motion for Sanctions was due February 4, 2025.

The Commission's regulations provide that a presiding officer at any stage of an action or proceeding may waive a requirement of this subpart when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party. 52 Pa. Code § 1.2(c). The Commission's regulations further state that these liberal construction provisions apply with particularity in proceedings involving pro se litigants. 52 Pa. Code § 1.2(d).

The substantive rights of Mr. Abad will not be adversely affected by granting the Motion for Leave. Granting the Motion for Leave will not unnecessarily delay resolution of the Formal Complaint because (1) an evidentiary hearing has not been scheduled for this case as of the date of this Order, and (2) PPL filed its Answer *Nunc Pro Tunc* on the same date as it filed its Motion for Leave. Furthermore, I did not rule on the Motion for Sanctions prior to PPL's filing of its Motion for Leave and Answer *Nunc Pro Tunc*. Granting the Motion for Leave and accepting for filing PPL's Answer *Nunc Pro Tunc* so that it can be considered will aid me in my disposition of the Motion for Sanctions.

PPL's Motion for Leave will be granted in the Ordering paragraphs below.

Motion for Sanctions

Mr. Abad's Motion for Sanctions contains 26 numbered paragraphs, and a request for the Commission to sanction PPL "for each day of non-compliance for each offense, order PPL to disclose documents, order PPL to correct the incorrect interrogatories and/or depositions,

and/or grant to the Complainant such other relief as is just and reasonable under the circumstances.”

In paragraphs 1-3, Mr. Abad complains of the delay in PPL responding to certain written deposition questions propounded by Mr. Abad. Mr. Abad states that the delay in PPL responding to his discovery caused him resources, extended discovery times, and has put him at an unfair disadvantage.

To recite the relevant procedural history, on August 19, 2024, Mr. Abad served discovery titled the “Written Deposition of John Rosato Upon Respondent by Nieves Abad” and the “Written Deposition of Tim R. Roberts Upon Respondent by Nieves Abad” on PPL. On September 3, 2024, PPL objected to most of these written deposition questions. On September 15, 2024, Mr. Abad served discovery titled the “Written Deposition of Bill Farber Upon Respondent by Nieves Abad” on PPL. On September 26, 2024, PPL objected to most of these written deposition questions. On December 16, 2024, Mr. Abad filed “Motion to Compel Discovery Set II” seeking responses to his written deposition questions directed to John Rosato, Tim R. Roberts, and Bill Farber.¹

On December 23, 2024, PPL filed its “Petition for Extension of Time of PPL Electric Utilities Corporation”, seeking an extension of time to file an Answer to the “Motion to Compel Discovery Set II.” On December 24, 2024, the Commission issued my Order Granting PPL’s Petition for Extension of Time. On January 2, 2025, PPL filed its “Answer of PPL Electric Utilities Corporation to the Motion to Compel Discovery of Nieves Abad.”

On January 8, 2025, the Commission issued my Order Granting in Part and Denying in Part Complainant’s Motion to Compel Discovery Set II. In this Order, I ordered PPL to respond to the written deposition questions that it did not object to. Specifically, I ordered that PPL provide full and complete responses to “Written Deposition of Tim R. Roberts Upon Respondent by Nieves Abad” questions 1-5, “Written Deposition of John Rosato Upon

¹ The dates cited above are based on the dates the Certificates of Service were filed with the Commission’s Secretary.

Respondent by Nieves Abad” questions 1-5, and “Written Deposition of Bill Farber Upon Respondent by Nieves Abad” questions 1-6, 8-10, 22-29, and 34-38, by January 16, 2025.

On January 16, 2025, PPL filed a Certificate of Service indicating that it served responses to the above written deposition questions relating to Tim R. Roberts, John Rosato, and Bill Farber on January 16, 2025. PPL noted in its Certificate of Service that John Rosato retired effective January 1, 2025, but that Danielle Pedulla-Hasz, Lead Human Resources Business partner for PPL, provided answers to the questions directed to John Rosato based on Mr. Rosato’s personnel file.

Mr. Abad complains of the delay in PPL responding to his written deposition questions directed to Tim R. Roberts, John Rosato, and Bill Farber that were not objected to. Mr. Abad appropriately filed a motion to compel responses to these questions, which I granted via Order. PPL complied with my Order and served answers to the not objected to questions as evidenced by its filing of its Certificate of Service with the Commission on January 16, 2025. Although Mr. Abad claims that he could not continue with his discovery upon these individuals until he received these answers, there is nothing preventing Mr. Abad from serving discovery upon these individuals going forward. I note that no evidentiary hearing is currently set in this proceeding as of the date of this Order, so therefore I am not convinced that the delay in receiving these not objected to answers has prejudiced Mr. Abad in any way.

In paragraphs 4-6, Mr. Abad complains of interrogatories and deposition questions not yet answered by PPL. PPL in its Answer *Nunc Pro Tunc* acknowledges that there is discovery that has not yet been answered by PPL, but states that it is working on answering Mr. Abad’s discovery requests. PPL also states that Mr. Abad has served thousands of discovery requests and filed a number of Motions and that its resources for answering these requests is limited.

I note that PPL is under a continuing obligation to provide answers to interrogatories not objected to. 52 Pa. Code § 5.342(f). While I acknowledge that the deadlines for PPL to answer or respond to certain discovery requests propounded by Mr. Abad has passed,

I also consider the fact that no evidentiary hearing is currently scheduled in this case, that Mr. Abad has served hundreds of discovery requests upon PPL, and that PPL stated that it is currently working to secure answers to the discovery requests it has not yet answered. The circumstances surrounding this case lead me to be lenient in regards to the deadlines set in forth in the Commission's regulations. Mr. Abad may file additional motion to compel answers to discovery, or motions for sanctions for failure to answer discovery, in the future, however, I ask that parties attempt to resolve discovery disputes amongst themselves, to the extent possible.

In paragraphs 7-15, Mr. Abad complains of receiving answers to his written deposition questions that have not been notarized, taken under oath, or verified. PPL in its Answer *Nunc Pro Tunc* acknowledged that it has submitted answers without oath and notarization but claims that it has remedied some of these answers and is working to remedy other answers.

Although Mr. Abad is correct in that answers to written deposition questions need be answered under oath and notarized (*see* 52 Pa. Code § 5.346(c)), Mr. Abad does not explain how PPL failing to comply with this regulation has caused Mr. Abad resources, extended discovery times, and has put Mr. Abad at an unfair advantage. Certainly, Mr. Abad could be prejudiced by PPL failing to comply with this regulation if answers that were not answered under oath and notarized were sought to be admitted at an evidentiary hearing. We are not yet at that stage in this proceeding and PPL stated that it is currently working on remedying this issue. Relying on PPL's commitment to remedy this issue, I will not order PPL to correct this issue in the Ordering paragraphs of this decision. This issue may be raised at a later stage if not corrected.

In paragraph 16, Mr. Abad claims that "Post & Schell has taken written depositions from all witnesses including PPL Electric Utilities Corp." in violation the Commission's regulations which states that "no deposition may be taken before a person who is a relative, employe or attorney of any of the parties, who is a relative or employe of the attorney, or who is financially interested in the action." 52 Pa. Code § 5.346(b). Mr. Abad's understanding of this regulation is incorrect.

The Commission's regulations state that "Within the United States or within a territory or possession subject to the dominion of the United States, *depositions other than by interrogatories* shall be taken before an officer authorized to administer oaths by the laws of the United States, of the Commonwealth or of the place where the examination is held, or before a person appointed by the presiding officer. A person so appointed shall have power to administer oaths and take testimony." 52 Pa. Code § 5.346(a) (emphasis added). The Commission's regulations go on to state that "Depositions by written questions need only be answered under oath and notarized." 52 Pa. Code § 5.346(c). In sum, the requirements with respect to the person before whom depositions may be taken applies to depositions that are taken in a manner other than by interrogatories, aka written depositions. Written depositions do not need to be answered before an officer who meets the requirements of 52 Pa. Code § 5.346(b).

In paragraph 17, Mr. Abad complains of certain answers to his written deposition questions directed to two separate individuals being the same, claiming that they collaborated with each other to answer the questions. PPL points in its Answer *Nunc Pro Tunc* that Mr. Abad has asked the same or similar questions of multiple PPL witnesses. PPL's point is well taken in this regard – witnesses providing similar or same answers to similar or same questions is not proof of collaboration between the witnesses.

In paragraphs 18-21, Mr. Abad complains of answers to discovery that he claims were insufficient or inaccurate. PPL in its Answer *Nunc Pro Tunc* argues that it answered the referenced discovery requests in the appropriate form and that if Mr. Abad is unsatisfied with the answers provided by PPL, then Mr. Abad can make follow-up requests or file a motion to compel. I agree with PPL in that if Mr. Abad feels that the answers provided to certain discovery requests were insufficient, he may serve follow-up requests to PPL, or a motion. As far as the inaccuracy of the answers that Mr. Abad complains of, Mr. Abad may appropriately address any factual inaccuracies at an evidentiary hearing held in this matter.

In paragraphs 22-26, Mr. Abad claims that PPL has withheld evidence from Mr. Abad, mostly relating to subcontractors. PPL in its Answer *Nunc Pro Tunc* argues that the

evidence Mr. Abad claims has been withheld has already been provided, or is information not available or in the possession of PPL. I agree with PPL that there are avenues that Mr. Abad can take to receive the information he seeks from PPL’s subcontractors. In fact, Mr. Abad filed an “Application for Subpoena” seemingly directed to receive information from said subcontractors. The Application will be addressed in due course.

Conclusion

For the reasons above, Mr. Abad’s Motion for Sanctions will be denied in the Ordering paragraphs below.

ORDER

THEREFORE,

IT IS ORDERED:

1. That PPL Electric Utilities Corporation’s Motion for Leave to File Answer to Complainant’s Motion for Sanctions Nunc Pro Tunc, filed on February 12, 2025, in the matter of Nieves Abad v. PPL Electric Utilities Corporation, Docket No. C-2024-3047163, is granted.

2. That Nieves Abad’s Motion for Sanctions, filed on January 30, 2025, in the matter of Nieves Abad v. PPL Electric Utilities Corporation, Docket No. C-2024-3047163, is denied.

Date: February 28, 2025

/s/
Alphonso Arnold III
Administrative Law Judge

C-2024-3047163 NIEVES ABAD V PPL ELECTRIC UTILITIES CORPORATION

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