BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Edward J. Smith Post 3428 Veterans of Foreign Wars of the United States, Inc. c/o Terri Jacobs Complainant,	C-2025-3052969 **SFE ENERGY PENNSYLVANIA, INC.'S PRELIMINARY OBJECTIONS**
v.	Filed on behalf of Respondent SFE Energy Pennsylvania, Inc.
SFE Energy Pennsylvania, Inc., Respondent.	Counsel of record for this party: Samantha Brutout, Esq. Pa. ID. No. 203553 sbrutout@dfllegal.com Dingess, Foster Luciana, Davidson & Chleboski LLP 20 Stanwix Street Third Floor Pittsburgh, PA 15222 (412) 926-1800

To: Edward J. Smith Post 3428 Veterans of Foreign Wars of the United States, Inc. c/o Terri Jacobs

You are hereby notified to file a written response to SFE Energy Pennsylvania, Inc.'s Preliminary Objections within ten (10) days from service thereof or a judgment may be entered against you.

Date: March 3, 2025

Respectfully submitted,

/s/ Samantha L. Brutout

Dingess, Foster, Luciana, Davidson & Chleboski LLP
Samantha L. Brutout, PA ID. No. 203553
(sbrutout@dfllegal.com)
20 Stanwix Street
Third Floor
Pittsburgh, Pennsylvania 15222
T: (412) 926-1816
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Counsel for SFE Energy Pennsylvania, Inc.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Edward J. Smith Post 3428 Veterans of Foreign Wars of the United States, Inc. c/o Terri Jacobs	)	
Complainant,	)	
v.	)	C-2025-3052969
SFE Energy Pennsylvania, Inc.,	)	
Respondent.	)	

SFE ENERGY PENNSYLVANIA, INC.'S PRELIMINARY OBJECTIONS

AND NOW, comes the Respondent, SFE Energy Pennsylvania, Inc., by and through its counsel, Samantha Brutout, Esquire, and the law firm of Dingess, Foster, Luciana, Davidson & Chleboski LLP and hereby files the following Preliminary Objections:

1. On or about January 8, 2025, Complainant, Edward J. Smith Post 3428 Veterans of Foreign Wars of the United States, Inc. c/o Terry Jacobs ("VFW Post 3428"), filed a formal complaint (the "Formal Complaint") with the Pennsylvania Public Utility Commission ("PUC"), against Respondents, SFE Energy Pennsylvania, Inc. ("SFE Energy"). *See,* Formal Complaint of VFW Post 3428. SFE Energy was served with the Formal Complaint on or about January 26, 2025.

2. On or about February 1, 2025, SFE Energy filed a Petition for Extension of Time to request more time to investigate and potentially resolve this Formal Complaint. This Petition for Extension was granted by the PUC on or about February 3, 2025. SFE Energy's answer or other responsive pleading would now be due on March 3, 2025.

3. In Paragraph 9 of VFW Post 3428's Formal Complaint, attorney Jonathan DeWald from the law firm of McNerney, Page, Vanderlin, and Hall was listed as the attorney of record

representing VFW Post 3428. Accordingly, Mr. DeWald was served with the notice of appearance for SFE Energy's counsel and the Request for Extension of Time.

4. When the PUC granted the Request for Extension of Time, Mr. DeWald was served with a copy of the Order granting the Request for Extension of Time. In response to the PUC's email, Mr. DeWald notified the PUC that he had "not otherwise located an entry of appearance for me" in this matter. *See*, Exhibit A, email exchange between PUC and Mr. DeWald dated February 6, 2025. Additionally, Mr. DeWald stated, "To my knowledge, I am not counsel of record." *Id.*

5. In response, the PUC stated:

> Please clarify your message below. The attached formal complaint filed by the Complainant names you as the legal representation for the Complainant.
>
> Please know this is a matter between you and your client. Once resolved, and if you are not serving as legal representation for the Complainant, then the Complainant is required to file with my office an amendment to the formal complaint at the above docket removing you as legal representation. The amendment correcting the complaint form should be signed and dated by Ms. Jacobs who filed the complaint. Otherwise, to move forward with legal representation, you will need to file a Notice of Appearance at the above docket number.

Id.

6. Mr. DeWald then responded, "I have not filed an entry of appearance and have not [sic] intention of doing so." *Id.*

7. The PUC responded:

> Then please inform your client of that fact.
>
> Ms. Jacobs; please file a written amendment with my office signed and dated by you as soon as possible removing Mr. DeWald as your legal representative. If you wish to name a different attorney to represent the VFW, you may do so.

Id.

8. As of the date of the filing of these Preliminary Objections, SFE Energy has not been served with an amended Formal Complaint removing Mr. DeWald as attorney for VFW Post 3428 or otherwise been advised of a replacement attorney for Mr. DeWald.

9. 52 Pa. Code § 5.101(a)(2) permits respondents to file preliminary objections to formal complaints for "[f]ailure of a pleading to conform to this chapter" of the PUC regulations.

10. Additionally, 52 Pa. Code § 5.101(a)(5) permits respondents to file preliminary objections to formal complaints for "[l]ack of capacity to sue."

11. 52 Pa. Code § 5.101(a)(3-4) also permit respondents to file preliminary objections to formal complaints for "[i]sufficient specificity of a pleading" and "[l]egal insufficiency of a pleading," respectively.

12. A formal complaint before the PUC qualifies as a pleading. *See* 52 Pa. Code § 5.1(a)(2) ("The pleadings in an action before the [Public Utility] Commission include . . . [a] [f]ormal complaint").

13. As outlined above in Paragraphs 5 and 7, the PUC ordered Ms. Jacobs to file an amended complaint either removing Mr. DeWald at VFW Post 3428's legal representation or filing an amended formal complaint replacing Mr. DeWald as legal representation. *See*, Exhibit A.

14. As of the date of the filing of these preliminary objections, Ms. Jacobs and/or VFW Post 3428 have failed to serve SFE Energy with an amended formal complaint either removing Mr. DeWald as VFW Post 3428's legal representation or filing an amended complaint replacing Mr. DeWald as legal representation.

15. As a result, the existing Formal Complaint fails to conform to Chapter 52 of the Pa. Code and should be dismissed and VFW Post 3428 should be ordered to amend their Formal Complaint.

16. Additionally, 52 Pa. Code § 1.21(b) also provides that, persons in adversarial proceedings shall be represented in accordance with § 1.22, which requires representation by an attorney at law admitted to practice before the Supreme Court of Pennsylvania. 52 Pa. Code § 1.21(b) (emphasis added); 52 Pa. Code § 1.22(a) (emphasis added).

17. The PUC's regulations define "person" as "individuals, corporations, partnerships, associations, joint ventures, other business organizations," etc., and define "adversarial proceeding" as "[a] proceeding initiated by a person to seek authority, approvals, tariff changes, enforcement, fines, remedies or other relief from the Commission which is contested by one or more other persons and which will be decided on the basis of a formal record." 52 Pa. Code § 1.8.

18. 52 Pa. Code § 1.21(b) permits individuals to represent themselves in adversarial proceedings. Corporations, partnerships, associations, joint ventures, other business organizations, however, must be represented by an attorney admitted to practice before the Supreme Court of Pennsylvania in any adversarial proceeding. 52 Pa. Code § 1.21(b)

19. The address provided for VFW Post 3428 in the Formal Complaint has been listed as a Domestic Nonprofit Corporation with the Commonwealth of Pennsylvania since July 15, 2003. *See* Pennsylvania Department of State Website Business Entity Search, screenshot of which is attached as Exhibit B.

20. Moreover, pursuant to the PUC's ruling in *New Fizon Catering, Inc. v. PECO Energy Co.*, Docket Nos. C-2008-2065498 & C-2008-2079076 (Order entered June 24, 2009) (New Fizon), as a result of SFE Energy's filing of these Preliminary Objections, this matter is now an adversarial proceeding and VFW Post 3428 should be ordered to obtain an attorney licensed to practice law in Pennsylvania or admitted *pro hac vice*.

WHEREFORE, Respondent, SFE Energy Pennsylvania, Inc., respectfully requests the Commission to sustain the foregoing Preliminary Objections and enter the attached order dismissing VFW Post 3428's existing Formal Complaint, order them to file an Amended Complaint pursuant to the requirements of Chapter 52 of the Pa. Code, and order them to obtain an attorney licensed to practice law in Pennsylvania or admitted *pro hac vice*.

Date: March 3, 2025

Respectfully submitted,

/s/ Samantha L. Brutout

Dingess, Foster, Luciana, Davidson & Chleboski LLP
Samantha L. Brutout, PA ID. No. 203553
(sbrutout@dfllegal.com)
20 Stanwix Street
Third Floor
Pittsburgh, Pennsylvania 15222
T: (412) 926-1816
F: (412) 926-1801

Counsel for SFE Energy Pennsylvania, Inc.

Exhibit A

From: Chiavetta, Rosemary
To: DeWald, Jonathan; Samantha Brutout; vfw3428@gmail.com
Cc: Hodge, Christine
Subject: RE: [External] RE: Edward J. Smith Post 3428 VFW v. SFE Energy Pennsylvania at Docket Number C-2025-3052969
Date: Thursday, February 6, 2025 9:15:48 AM

Then please inform your client of that fact.

Ms. Jacobs: please file a written amendment with my office signed and dated by you as soon as possible removing Mr. DeWald as your legal representative. If you wish to name a different attorney to represent the VFW, you may do so.

Secretary Rosemary Chiavetta, Esq.
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17120
rchiavetta@pa.gov

From: DeWald, Jonathan <jdewald@mpvhlaw.com>
Sent: Thursday, February 6, 2025 9:00 AM
To: Chiavetta, Rosemary <rchiavetta@pa.gov>; sbrutout@dfllegal.com; vfw3428@gmail.com
Cc: Hodge, Christine <christhodg@pa.gov>
Subject: RE: [External] RE: Edward J. Smith Post 3428 VFW v. SFE Energy Pennsylvania at Docket Number C-2025-3052969

Attorney Chiavetta:

My e-mail was to address the last sentence of your e-mail: "Otherwise, to move forward with legal representation, you will need to file a Notice of Appearance at the above docket number."

As noted in my e-mail, I have not filed an entry of appearance and have not intention to do so.

Thank you,

Jon

SINCE 1939

Jonathan L. DeWald, Esquire | Partner
McNerney, Page, Vanderlin & Hall
433 Market Street, Williamsport, PA 17701 | www.mpvhlaw.com
O: 570.326.6555 F: 570.567.1127

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From: Chiavetta, Rosemary <rchiavetta@pa.gov>
Sent: Thursday, February 6, 2025 8:56 AM
To: DeWald, Jonathan <jdewald@mpvhlaw.com>; sbrutout@dfllegal.com; vfw3428@gmail.com
Cc: Hodge, Christine <christhodg@pa.gov>
Subject: RE: [External] RE: Edward J. Smith Post 3428 VFW v. SFE Energy Pennsylvania at Docket Number C-2025-3052969

Attorney DeWald:

Please clarify your message below. The attached formal complaint filed by the Complainant names you as legal representation for the Complainant.

Please know this is a matter between you and your client. Once resolved, and if you are not serving as legal representation

for the Complainant, then the Complainant is required to file with my office an amendment to the formal complaint at the above docket number removing you as legal representation. The amendment correcting the complaint form should be signed and dated by Ms. Jacobs who filed the complaint. Otherwise, to move forward with legal representation, you will need to file a Notice of Appearance at the above docket number.

Secretary Rosemary Chiavetta, Esq.
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17120
rchiavetta@pa.gov

From: DeWald, Jonathan <jdewald@mpvhlaw.com>
Sent: Thursday, February 6, 2025 8:01 AM
To: Chiavetta, Rosemary <rchiavetta@pa.gov>; sbrutout@dfllegal.com; vfw3428@gmail.com
Cc: Hodge, Christine <christhodg@pa.gov>
Subject: [External] RE: Edward J. Smith Post 3428 VFW v. SFE Energy Pennsylvania

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Dear Attorney Chiavetta:

I have not otherwise located an entry of appearance for me, in the above-mattered. To my knowledge, I am not counsel of record.

Accordingly, I have nothing calendared for my involvement moving forward.

Thank you,

Jon

SINCE 1939

Jonathan L. DeWald, Esquire | Partner
McNerney, Page, Vanderlin & Hall
433 Market Street, Williamsport, PA 17701 | www.mpvhlaw.com
O: 570.326.6555 F: 570.567.1127

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From: Chiavetta, Rosemary <rchiavetta@pa.gov>
Sent: Monday, February 3, 2025 8:56 AM
To: sbrutout@dfllegal.com; DeWald, Jonathan <jdewald@mpvhlaw.com>; vfw3428@gmail.com
Cc: Hodge, Christine <christhodg@pa.gov>
Subject: FW: Edward J. Smith Post 3428 VFW v. SFE Energy Pennsylvania
Importance: High

Parties of Record:

The attached Secretarial Letter grants SFE Energy an extension to file a responsive pleading to the above captioned complaint. No further extensions will be granted without written agreement from both parties.

The request for extension filed by SFE Energy and the grant of extension have been placed on the record of the docket.

Secretary Rosemary Chiavetta, Esq.

Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17120
rchiavetta@pa.gov

This email has been scanned for spam and viruses. Click here to report this email as spam.

Exhibit B

An Official **Pennsylvania** Government Website

pennsylvania DEPARTMENT OF STATE

Business UCC Trademark CROP Login

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Business Search

As of 02/26/2025 we have processed all business filings received in our office through 02/18/2025.

Business Search Info:

Edward J. Smith Post 3428

Advanced

Results: 2

Filing Information	Initial Filing Date	Status	Entity Type	Formed In	Address
EDWARD J SMITH POST 3428 VETERANS OF FOREIGN WARS OF THE UNITED STATES, INC (3156727)	07/15/2003	Active	Domestic Nonprofit Corporation	PENNSYLVANIA	12 N MARKET ST REAR, MUNCY, PA 17756-
EDWARD J. SMITH, POST #3428, VETERANS OF FOREIGN WARS, INC. (332909)	01/01/1753	Active	Domestic Nonprofit Corporation	PENNSYLVANIA	21 SOUTH MAIN STREET, MUNCY, PA 0 -0

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BEFORE THE
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Edward J. Smith Post 3428 Veterans of Foreign Wars of the United States, Inc. c/o Terri Jacobs	)	
Complainant,	)	
v.	)	C-2025-3052969
SFE Energy Pennsylvania, Inc.,	)	
Respondent.	)	

ORDER

AND NOW, on this _____ day of _____, 2025, upon consideration of the Preliminary Objections made by SFE Energy Pennsylvania, Inc. to the Formal Complaint of JS3 Pizza LLC, it is hereby ORDERED, ADJUDGED, and DECREED that the said preliminary objections are GRANTED dismissing VFW Post 3428's existing Formal Complaint. VFW Post 3428 is further ordered to file an Amended Complaint pursuant to the requirements of Chapter 52 of the Pa. Code and to obtain an attorney licensed to practice law in Pennsylvania or admitted *pro hac vice*.

_____

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 3, 2025, the foregoing Preliminary Objections were served by electronic filing (to the Secretary) and email (to the Complainant) on the following:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

Edward J. Smith Post 3428 Veterans of Foreign Wars of the United States, Inc.
c/o Terri Jacobs
12 North Market Street Rear
Muncy, PA 17756
vfw3428@gmail.com

/s/ Samantha L. Brutout
Samantha L. Brutout