

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Richard Myers	:	
	:	
v.	:	Docket No. C-2024-3045577
	:	
PPL Electric Utilities Corporation	:	

**INTERIM ORDER
TO SHOW WHY THE FORMAL COMPLAINT SHOULD NOT BE DISMISSED**

This Order is issued pursuant to the authority granted to presiding officers at 52 Pa. Code § 5.483 (relating to authority of presiding officers to regulate the course of the proceeding), and directs that the Complainant, Richard Myers, must respond to this Order and show why the Formal Complaint should not be dismissed.

Complaint

On January 19, 2024, Richard Myers (Complainant) filed a Formal Complaint (Complaint) against PPL Electric Utilities Corporation (Respondent or PPL) with the Pennsylvania Public Utility Commission (Commission). In his Complaint, Mr. Myers states that he has initiated the process of relocating the smart meter mounted on his house to his front yard/roadside property line. Complainant argues that PPL is being unreasonable because it will not allow him to use the existing utility poles to connect the relocated smart meter and, instead, is requiring him to install two additional utility poles which would be redundant and unnecessarily increase his costs. For relief, Complainant requested that the Commission order Respondent to allow him to use the existing utility poles to reconnect the smart meter.

On February 8, 2024, Respondent timely filed an answer denying the material allegations of fact and conclusions of law in the Complaint, and requesting that the Complaint be dismissed with prejudice.

On February 13, 2024, an Interim Order was issued by the Chief Administrative Law Judge referring this matter to the mediation unit of the Office of Administrative Law Judge (OALJ).

Certificates of Satisfaction/Objections

On April 25, 2024, Respondent filed a Certificate of Satisfaction, in which PPL certified that Mr. Myers advised that he no longer wishes to pursue the Complaint.

On or about May 7, 2024, Complainant filed a reply to the Certificate of Satisfaction stating:

Correct, I have withdrawn my request to use PPL Electric poles to reconnect service when I relocate my smart meter farther from my house, but I do so under duress. I believe PUC's ruling that smart meter installations are mandatory is an illicit act....

May 6, 2024 Objection at 1.

On November 8, 2024, PPL filed a Certificate of Satisfaction, which stated that Respondent and Complainant jointly certified that the smart meter had been relocated farther from Mr. Myer's home and the Complaint can be closed.

On November 12, 2024, Complainant filed a reply to the second Certificate of Satisfaction, stating his disagreement with closing his complaint because the relocation of the smart meter from his house to his front yard "does not eliminate the risk of harm to me or anyone on my lawn." As relief, Mr. Myers requests:

Please direct PPL and PUC to show me the tests and scientific studies that prove all the thousands of scientific studies, researchers, victims and physicians reporting harms are wrong. Then I will sign a Certificate of Satisfaction to close my Complaint.

November 12, 2024 Objection at 1.

By Initial Call-In Telephone Hearing Notice dated November 21, 2024, a telephonic hearing was scheduled for January 14, 2025, and the matter was assigned to me.

Prehearing Conference Order and Notice

Based on my review of the parties' filings, I determined it would be helpful to hold a prehearing conference to give the parties an opportunity to identify issues and address procedural matters. Accordingly, on December 4, 2024, the Commission issued a Hearing Type Change Notice, converting the January 14, 2025, evidentiary hearing to a prehearing conference.

Also on December 4, 2024, I issued a Prehearing Conference Order, which directed parties and counsel to attend the conference fully prepared for a useful discussion about the scope and status of outstanding problems in this case, and how the case will go forward.

All the notices and orders including the Initial Call-In Telephone Hearing Notice, the Hearing Type Change Notice, and the Prehearing Conference Order were eServed to the Complainant. All three documents provided the date, time and call-in information for the prehearing conference. Further, the Prehearing Conference Order provided notice that:

Failure of a party to participate in the conference, after being served with notice of the date, time, and location thereof, without good cause shown, shall constitute a waiver of all objections to the agreements reached, and an order or ruling with respect thereto. 52 Pa. Code § 5.222(e).

Failure to appear at the prehearing conference and respond to pleadings

The prehearing conference was convened as scheduled at 10:00 a.m. on January 14, 2025. Mr. Peter J. Kramer, Esquire, appeared for PPL. The Complainant did not appear. I recessed the conference for fifteen minutes to allow time for the Complainant to appear. The Complainant did not call into the prehearing conference or communicate with me

or the OALJ to ask for a continuance or explain why he did not participate. Therefore, the prehearing conference proceeded in Complainant's absence.

During the prehearing conference, I advised counsel for Respondent that I would deem the statements in Mr. Myers' written objections to the two Certificates of Satisfaction to be an amendment to the Complaint (Amended Complaint).¹ On their face, those statements appear to expand the scope of the complaint and requested relief beyond the original Complaint.

On January 22, 2025, I issued an Interim Order, which memorialized the procedural matters discussed at the prehearing conference. I afforded the Respondent twenty days to respond to any new issues raised by the Amended Complaint, which is the same amount of time as would have been provided for responding to a written amendment filed pursuant to 52 Pa. Code §§ 5.91-5.93.²

In the Interim Order, I also addressed preparation for evidentiary hearings by setting deadlines for the parties to: exchange information about any fact or expert witnesses; confer and attempt to agree on proposed dates for an evidentiary hearing; and file, jointly or separately, a status report that includes agreed-on, proposed hearing dates or the party's availability during the month of June 2025 for a hearing.

On February 11, 2025, Respondent timely filed an answer and new matter to the Amended Complaint. Also, on February 11, 2025, Respondent timely filed preliminary objections. The new matter and preliminary objections included notices to plead.³

In its answer, PPL denied the material allegations of fact and conclusions of law in the Amended Complaint. In its new matter, Respondent averred that, through the Amended Complaint, the Complainant is seeking to litigate the same or related factual and legal issues

¹ 52 Pa. Code § 5.91(a).

² 52 Pa. Code § 5.65(a).

³ 52 Pa. Code §§ 5.63(a) (replies to new matter to be filed within 20 days), 5.101(a), (f)(1) (answer to preliminary objections to be filed within 10 days).

that were raised or could have been raised in a prior complaint filed against PPL at Commission docket no. C-2017-2620710 (2017 Complaint), in which Mr. Myers challenged PPL's planned installation of a new automated metering infrastructure (AMI) meter at his service address. Respondent contends that the Amended Complaint is barred by 66 Pa.C.S. § 316, which prohibits a complainant from raising issues that were previously decided, as well as *res judicata* and collateral estoppel because claims and issues related to PPL's installation of AMI meter(s) at the Complainant's residence were or could have been raised and ruled on in the 2017 Complaint proceeding. Respondent requested that the Amended Complaint be dismissed with prejudice.

In its preliminary objections, PPL argues that the Amended Complaint is legally insufficient because it is barred by Section 316 and the relief requested in the Amended Complaint cannot be granted by the Commission.

The Complainant did not respond to Respondent's new matter or preliminary objections regarding the Amended Complaint.

Discussion

Failure to appear at a prehearing conference where the record does not reflect why the absence was unavoidable, as here, has been held by the Commission as grounds to dismiss the complaint. *See, e.g., Chenosky v. Metropolitan Edison Co.*, No. C-2019-3007622 (Opinion and Order entered Sept. 12, 2024) (dismissal on grounds that the complainant did not appear for a prehearing conference, or explain why appearance was unavoidable). However, in the instant case, the Complainant will be given an opportunity to explain why his Complaint should not be dismissed in light of his failure to appear at the prehearing conference and respond to Respondent's pleadings.

Therefore, the Complainant will be ORDERED TO SHOW why the Complaint in the above-captioned matter should not be DISMISSED, as prescribed below. Further, failure to timely respond to this Interim Order to Show Why the Formal Complaint Should Not Be Dismissed will result in dismissal of all matters raised in the original Complaint and Amended Complaint without a hearing.

THEREFORE,

IT IS ORDERED:

1. That the Complainant, Richard Myers, shall file with the Secretary's Bureau a response to this Interim Order to Show Why the Formal Complaint Should Not Be Dismissed, no later than 4:00 p.m. on March 25, 2025.

2. That, in his response, the Complainant shall specifically explain: (1) whether he wants to pursue his complaint and; if so, (2) what issues he intends to present evidence on at a hearing; and (3) why he did not appear at the prehearing conference on January 14, 2025.

3. That the Complainant, Richard Myers, shall email to the undersigned at egannon@pa.gov a copy of his response to this Interim Order to Show Why the Formal Complainant Should Not Be Dismissed, no later than 4:00 p.m. on March 25, 2025.

4. That the failure of the Complainant, Richard Myers, to timely respond to this Interim Order to Show Why the Formal Complaint Should Not Be Dismissed will result in dismissal of the Formal Complaint without a hearing.

5. That the Preliminary Objections of PPL Electric Utilities Corporation to the Amended Complaint of Richard Myers, filed on February 11, 2025, shall be held in abeyance

until the Complainant has responded to this Interim Order to Show Why the Formal Complaint Should Not Be Dismissed or the time has expired for doing so.

6. That the remaining deadlines in the Interim Order issued on January 22, 2025 are hereby suspended until further notice.

7. That the next appropriate step will be scheduled after the Complainant has responded to this Interim Order or the time has expired for doing so.

Date: March 5, 2025

_____/s/_____
Erin L. Gannon
Administrative Law Judge

C-2024-3045577 - RICHARD MYERS v. PPL ELECTRIC UTILITIES CORP
Revised 11/21/2024

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