



Graig M. Schultz

33 S. Seventh Street, P.O. Box 4060
Allentown, PA 18105

Phone: 610/820-5450 • Fax: 610/820-6006
gschultz@grossmcginley.com

ATTORNEYS

MALCOLM J. GROSS
PAUL A. MCGINLEY
HOWARD S. STEVENS
DONALD LaBARRE, JR.
J. JACKSON EATON, III
MICHAELA A. HENRY
PATRICK J. REILLY
ANNE K. MANLEY
SUSAN ELLIS WILD*
VICTOR F. CAVACINI
THOMAS E. REILLY, JR.
STUART T. SHMOOKLER
JAMES A. RITTER
JOHN F. GROSS
ROBERT A. ALPERT
ALLEN I. TULLAR
RAYMOND J. DeRAYMOND
THOMAS A. CAPEHART
KIMBERLY G. KRUPKA
KIMBERLY A. SPOTTS-KIMMEL
ANDREW H. RALSTON, JR.
LOREN L. SPEZIALE*†
CHARLES J. FONZONE
JENNIFER L. WEED Δ*
SAMUEL E. COHEN*
MICHAEL J. BLUM* *
GRAIG M. SCHULTZ*
ZACHARY R. FOWLER
NICOLE M. O'HARA*
CHRISTOPHER W. GITTINGER
DAVID W. CROSSON*

Of Counsel:
THE HON. JOHN P. LAVELLE (Ret.)
MARIANNE S. LAVELLE

*Also admitted in NY
*Also admitted in NJ
*Also admitted in DC
*Also admitted in MD
*Also admitted in MA
Δ Also admitted in TX
*Also admitted in NM

Allentown Office:
33 S. Seventh Street
P.O. Box 4060
Allentown, PA 18105
Phone: 610/820-5450
Fax: 610/820-6006

Easton Office:
101 Larry Holmes Drive, Suite 202
Easton, PA 18042
Phone: 610/258-1506
Fax: 610/258-0701

Emmaus Office
111 East Harrison Street, Suite 2
Emmaus, PA 18049
Phone: 610/967-1030
Fax: 610/967-0622

Lehighon Office
415 Mahoning Street
Lehighon, PA 18235
Phone: 610/377-0500

April 9, 2015

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Brenda Smith v. PPL Electric Utilities Corporation
Docket No: F-2015-2472890

Dear Ms. Chiavetta:

Enclosed for eFiling in the above-captioned matter are Preliminary Objections on behalf of PPL Electric Utilities Corporation.

Please note that this filing was eFiled with the Commission on the date indicated above.

Very truly yours,

GRAIG M. SCHULTZ

GMS/cl
Enclosure

cc: Brenda Smith (w/encl.)
Amy M. Bellizia (w/encl.) via email only
Kim Safford (w/encl.) via email only

00713897.DOCX

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

BRENDA SMITH,
Complainant,

vs.

PPL ELECTRIC UTILITIES CORPORATION,

Respondent.

COMPLAINT DOCKET

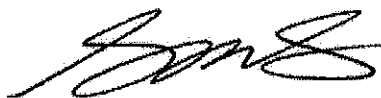
NO. F-2015-2472890

NOTICE TO PLEAD

**To: Brenda Smith
159 Alva Drive
Harrisburg, PA 17112**

Pursuant to 52 Pa. Code Section 5.101(d), you are hereby notified that you have ten (10) days from the date of service of the within PRELIMINARY OBJECTIONS OF PPL ELECTRIC UTILITIES CORPORATION within which to file a written answer with the Secretary of the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17120, and that if you fail to so file a written answer within ten (10) days from the date of service, Respondent's Preliminary Objections may be granted without further notice.

GROSS MCGINLEY, LLP



BY: _____

GRAIG M. SCHULTZ, ESQUIRE
Attorney ID # 207123
Attorney for Respondent
PPL Electric Utilities Corporation
33 S. Seventh Street; P O Box 4060
Allentown PA 18105-4060
Ph. (610) 820-5450; Fax (610) 820-6006

Date: April 9, 2015

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

BRENDA SMITH,

Complainant,

vs.

PPL ELECTRIC UTILITIES CORPORATION,

Respondent.

COMPLAINT DOCKET

NO. F-2015-2472890

PRELIMINARY OBJECTIONS OF PPL ELECTRIC UTILITIES CORPORATION

PPL Electric Utilities Corporation (“Respondent PPL Electric”), by and through its attorneys of record, Gross McGinley, LLP, hereby raises the following Preliminary Objections to the Complaint of Brenda Smith (“Complainant”), pursuant to 52 Pa. Code § 5.101, and in support thereof, alleges as follows:

1. Respondent PPL Electric hereby incorporates those averments set forth in its Answer and New Matter contemporaneously filed in the above-captioned case as if more fully set forth at length.
2. Complainant filed a Complaint against Respondent PPL Electric alleging that Blue Pilot Energy, her electric supplier, failed to notify her of a variable rate increase after ninety (90) days, and therefore, she was billed at a higher rate than the lowest possible rate from January 2014 to April 2014, without his knowledge. *See* Complaint at ¶¶ 4-5, a true and correct copy of which is attached hereto as **Exhibit “A”**.
3. Preliminary objections are properly filed by a respondent when the complaint is legally insufficient. 52 Pa. Code § 5.101(a)(4).

4. The provision at 52 Pa. Code § 5.101(a)(4) serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of a case exists, a hearing is unnecessary. *See Lehigh Valley Power Committee v. Pennsylvania Public Utility Commission*, 563 A.2d 557, 564 (Pa. Cmwlth. 1989).

5. Preliminary objection practice before the Public Utility Commission (the “Commission”) is analogous to Pennsylvania civil practice regarding preliminary objections. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 WL 932315 (Pa. P.U.C. July 18, 1994).

6. Preliminary objections in civil practice requesting dismissal of a pleading will be granted only where the right to relief is clearly warranted and free from doubt. *Interstate Traveller Services, Inc. v. Pa. Dept. of Environment Resources*, 406 A.2d 1020, 1022 (Pa. 1979). The Commission follows this standard. *See Montague v. Philadelphia Electric Company*, 0088 WL 1534888, 66 Pa. PUC 24 (Pa. P.U.C. January 6, 1988).

7. The Commission may not rely upon the factual assertions of the moving party but must accept as true for purposes of disposing of the motion all well pleaded, material facts of the nonmoving party, as well as every inference from those facts. *Commonwealth of Pennsylvania v. Bell Telephone Co. of Pa.*, 551 A.2d 602, 604 (Pa. Cmwlth. 1988).

8. Given this, the Commission must view the complaint in the light most favorable to the complainant and should dismiss the complaint only if it appears that the complainant would not be entitled to relief under any circumstances as a matter of law. *See Equitable Small Transportation Intervenors, supra*.

9. The Commission regulations state that a person may file a formal complaint claiming a violation of a statute that the Commission has jurisdiction to administer. *See* 52 Pa. Code § 5.21(a)

10. Additionally, the regulations authorize the Commission to dismiss a complaint if a hearing is not necessary and authorizes preliminary objections to be filed in response to a complaint. *See* 52 Pa. Code § 5.21(d)

11. Complainant's Complaint alleges that Blue Pilot Energy increased her rates without Complainant's knowledge. *See* Complaint at ¶¶4-5. As a result, Complainant alleges that she paid higher rates from January 2014 through and including April 2014. *Id.* Because of this, Complainant appears to request a refund from Blue Pilot Energy because it allegedly promised Complainant that she would be charged a lower rate. *Id.*

12. In order to be legally sufficient, a complaint must set forth "...an act done or omitted to be done by a person subject to the jurisdiction of the Commission, in violation, or claimed violation of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission." *See* 52 Pa. Code § 5.21(a).

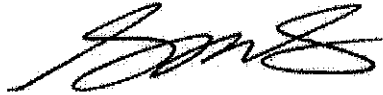
13. In this case, the Complaint does not allege any facts that could be construed as a violation by Respondent PPL Electric of any statute, regulation or order which the Commission has jurisdiction to administer.

14. As such, the Complaint is legally insufficient, and therefore, must be denied and dismissed with prejudice.

WHEREFORE, PPL Electric Utilities Corporation, respectfully requests that the PUC deny and dismiss Complainant's Complaint as to PPL Electric.

DATE: 04/09/15

GROSS MCGINLEY, LLP



BY: _____

GRAIG M. SCHULTZ, ESQUIRE
Attorney ID # 207123
Attorney for Respondent
PPL Electric Utilities Corporation
33 S. Seventh Street; P O Box 4060
Allentown PA 18105-4060
Ph. (610) 820-5450; Fax (610) 820-6006

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

BRENDA SMITH,
Complainant,

vs.

PPL ELECTRIC UTILITIES CORPORATION,

Respondent.

COMPLAINT DOCKET

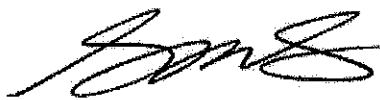
NO. F-2015-2472890

CERTIFICATE OF SERVICE

This is to certify that the PRELIMINARY OBJECTIONS on behalf of PPL ELECTRIC UTILITIES CORPORATION was mailed to counsel/complainant of record on behalf of Respondents by first class United States mail, postage on this the 9th day of April, 2015.

BRENDA SMITH
159 ALVA DRIVE
HARRISBURG, PA 17112

GROSS MCGINLEY, LLP



BY: _____

GRAIG M. SCHULTZ, ESQUIRE
Attorney ID # 207123
Attorney for Respondent
PPL Electric Utilities Corporation
33 S. Seventh Street; P O Box 4060
Allentown PA 18105-4060
Ph. (610) 820-5450; Fax (610) 820-6006

EXHIBIT "A"

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: March 20, 2015

Brenda Smith
Complainant

v.

Blue Pilot Energy LLC
and
PPL Electric Utilities Corp
Respondent

Complaint Docket
No: F-2015-2472890

FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

TO: Blue Pilot Energy LLC

TAKE NOTICE:

1. You have twenty (20) days from the above date served to either: (a) satisfy this complaint or (b) file with the **Secretary of the Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120**, one original written answer, under oath, as required by 52 Pa. Code Section 5.61, which either admits or specifically denies the allegations in the complaint. You must also serve one copy of the answer upon the complainant. In accordance with 52 Pa. Code Section 1.56(a), **the date served is the mailing date appearing at the top of this Notice.**

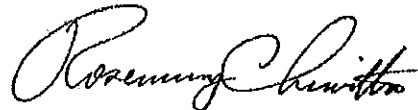
2. In accordance with 52 Pa. Code Section 5.61, if you fail to either satisfy or settle this complaint, or to file an answer or other responsive pleading within twenty (20) days of the above date served, you will be deemed to have admitted all the allegations in this complaint. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or may impose a fine or other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq. If you are a customer of a utility, the Commission may enter an order setting forth a payment schedule or authorize termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy or settle this complaint, you must file with the Commission, within twenty (20) days from the above date served, a certified statement of satisfaction as required by 52 Pa. Code Section 5.24. Such certified statement must describe the basis on which this complaint was satisfied and any settlement agreement between the parties must be made in writing and attached to the certified statement. Such certified statement must be filed with the Secretary of the Commission at the address set forth in paragraph 1 above. Upon the Commission's receipt of a certified statement of satisfaction from all

complainants, this complaint may be dismissed in accordance with 66 Pa. C.S. Section 703(a) (unless the Commission determines that a dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint).

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or impose a fine or other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq. If you are a customer of a utility, the Commission may enter an order setting forth a payment schedule or authorize termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and a decision. If, after hearing on the issues, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or imposes a fine or other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq. If you are a customer of a utility, the Commission may enter an order setting forth a payment schedule or authorize termination of utility services. When imposing a penalty, the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.



Rosemary Chiavetta
Secretary

(SEAL)

Certified Mail
Return Receipt Requested

Timely

BCS: 3249126
BLUE PILOT ENERGY

Must be returned by March 16, 2015

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

Filing this form begins a legal proceeding and you will be a party to the case.
If you do not wish to be a party to the case, consider filing an informal complaint.

To complete this form, please type or print legibly in ink.

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name Brenda Smith

Street/P.O. Box 159 ALVA DR Apt # _____

City HARRISBURG State Pa Zip 17112

County Dauphin

Telephone Number(s) Where We Can Contact You During the Day:

(717) 671-4430 (home)

(717) 829-1107 (mobile)

E-mail Address (optional): N/A

Utility Account Number (from your bill) 72900-68000 PPL

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name N/A

Street/P.O. Box _____

City _____ State _____ Zip _____

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

Blue Pilot Energy / PPL

RECEIVED
2015 MAR 15 AM 10:40
PA P.U.C.
SECRETARY'S BUREAU

3. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- ELECTRIC
- GAS
- WATER
- STEAM HEAT
- WASTEWATER/SEWER
- TELEPHONE/TELECOMMUNICATIONS (local, long distance)
- MOTOR CARRIER (e.g. taxi, moving company, limousine)

4. Reason for Complaint

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. Your complaint may be dismissed without a hearing if you do not provide specific information.

The utility is threatening to shut off my service or has already shut off my service.

I would like a payment agreement.

Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.

Handwritten notes:
Jan to Feb 2014 BPE 4490 KWH Charge \$2456.48
Feb to Mar 2014 BPE 4490 KWH Charge \$1900.03
Mar to April 2014 BPE 4490 KWH Charge \$1570.79

Handwritten note:
At this time BPE charged 3.165 per kWh

I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.

Other (explain).

Dear Sir/Madam,

I've worked in retail for over twenty years. In 2006 I stop working to move my mother in due to dementia. In 2008 my son had premature twin sons, they moved in. My life was and still is quite busy. We have always (Robbed Peter to pay Paul) My electric bill has always been a struggle. We got behind \$2000 one time and PUC help out with a budget plan \$25.00 in addition to current usage, with that BPL charged \$28. Late fee. We weren't getting any where. Never able to catch up. When Blue Planet Energy called, and told me that they would shop around for the lowest Rate possible I believe them. I felt as though this was a way to save money and get caught up. I didn't ask the right questions. Never did they say anything about 90 days or a variable rate. I realize now why would they! Looking over my bills

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

5. **Requested Relief**

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

Ideally the rate per kWh should be at the lowest rate, because that is what was promise.

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

6. Protection From Abuse (PFA)

Has a court granted a "Protection From Abuse" order that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection From Abuse" order for your personal safety or welfare?

YES

NO

If your answer to the above question is "yes," attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. Prior Utility Contact

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES

NO

Case# 3249126 Earnestine
was the person name

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES

NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

- c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. **Legal Representation**

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer in this matter, provide your lawyer's name, address, telephone number, and e-mail address, if known. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name _____

Street/P.O. Box _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address (if known) _____

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

9. Verification and Signature

You must sign your complaint. Individuals filing a Formal Complaint **must** print or type their name on the line provided in the verification paragraph below and **must** sign and date this form in **ink**. If you do not sign the Formal Complaint, the PUC **will not accept it**.

Verification:

I Brenda L Smith, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Brenda L Smith
(Signature of Complainant)

3-1-2015

(Date)

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification **must** be signed by an authorized officer or authorized employee. If the Formal Complaint is **not signed** by one of these individuals, the PUC **will not accept it**.

10. Two Ways to File Your Formal Complaint

Electronically. You must create an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

Note: If you are appealing your Bureau of Consumer Services (BCS) decision, you must file your formal complaint by mail.

Mail. Mail the completed form with your original signature and any attachments, by certified mail, first class mail, or overnight delivery to this address:

Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120

Note: Formal Complaints sent by fax or e-mail will **not** be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your Formal Complaint for your records.