

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CARLET D. WARD,	§
	§ No. 136, 2013
Appellant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
DELMARVA POWER & LIGHT	§ in and for Kent County
COMPANY and DELAWARE	§ C.A. No. K12A-10-001
PUBLIC SERVICE COMMISSION,	§
	§
Appellees Below-	§
Appellees.	§

Submitted: May 15, 2013

Decided: May 20, 2013

Before **STEELE**, Chief Justice, **HOLLAND**, and **BERGER**, Justices

ORDER

This 20th day of May 2013, upon consideration of the appellant’s opening brief, the appellees’ motions to affirm, and the record below, it appears to the Court that:

(1) The appellant, Carlet Ward, filed this appeal from a decision of the Superior Court, dated February 19, 2013, which affirmed a Court of Common Pleas’ decision dismissing her complaint. The appellees, the Delaware Public Service Commission (“the Commission”) and Delmarva Power & Light Company (“DP&L”), each have filed a motion to affirm the

judgment below on the ground that it is manifest on the face of Ward's opening brief that her appeal is without merit. We agree and affirm.

(2) In 2012, Ward filed nearly identical complaints against DP&L and the Commission in both the Court of Common Pleas and the Court of Chancery. Ward's complaints sought monetary damages for alleged overpayments that Ward made to DP&L over a six year period.¹ The Court of Chancery dismissed Ward's complaint in July 2012, and this Court affirmed that decision on appeal.² On September 10, 2012, the Court of Common Pleas also dismissed Ward's complaint with prejudice for lack of subject matter jurisdiction and for failure to state a claim. Ward appealed that ruling to the Superior Court.

(3) The Superior Court upheld the Court of Common Pleas' dismissal of Ward's complaint for lack of subject matter jurisdiction. The Superior Court noted that Ward had filed a complaint with the Commission regarding DP&L's alleged overbilling and that the Commission investigated the complaint and found, after a hearing, that Ward had been properly billed. Ward could have appealed that ruling to the Superior Court, but she failed to

¹ Ward previously had filed a complaint with the Commission regarding DP&L's alleged overbilling. After an investigation and a hearing, the Commission determined that DP&L had properly billed Ward. Ward did *not* appeal that ruling to the Superior Court pursuant to the Administrative Procedures Act, DEL. CODE ANN. tit. 29, §§ 10102(4), 10142(a) (2003).

² *Ward v. Delmarva Power & Light*, 2012 WL 6598658 (Del. Dec. 17, 2012).

do so. Instead, she chose to file a complaint in the Court of Common Pleas, which lacked jurisdiction over her dispute.

(4) After careful consideration of the parties' respective contentions on appeal, we find it manifest that the judgment below should be affirmed for the reasons set forth in the Superior Court's decision dated February 19, 2013. Ward brought her complaint against DP&L for alleged overbilling to the Commission, which held a hearing and ruled that DP&L had properly billed Ward. Ward failed to appeal that decision to the Superior Court, which had exclusive jurisdiction to review the Commission's findings and conclusions.³ The Court of Common Pleas lacked jurisdiction to consider Ward's complaint against the Commission. Accordingly, we find no error in the Superior Court's decision affirming the Court of Common Pleas' dismissal of her complaint.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice

³ DEL. CODE ANN. tit. 29, §§ 10102(4), 10142(a) (2003).