



LEGAL SERVICES

800 Cabin Hill Drive
Greensburg, PA 15601-1689
PH: (724) 838-6210
FAX: (724) 830-7737
jmunsch@alleghenyenergy.com

VIA FEDEX NEXT DAY

May 24, 2010

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

RECEIVED

MAY 24 2010

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Gwendolyn Parham v. West Penn Power Company
Complaint Docket No. C-2009-2122686

Dear Secretary Chiavetta:

Enclosed find an original and nine copies of West Penn Power Company's Reply Exceptions in the above-captioned proceeding.

Very truly yours,

A handwritten signature in cursive script that reads 'John L. Munsch'.

John L. Munsch
Attorney

JLM:her

Enclosures

cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GWENDOLYN PARHAM	:	
Complainant,	:	
	:	
v.	:	Complaint Docket No. C-2009-2122686
	:	
WEST PENN POWER COMPANY,	:	
Respondent.	:	

REPLY EXCEPTIONS OF WEST PENN POWER COMPANY

Gwendolyn Parham (Complainant) filed a formal Complaint against West Penn Power Company (West Penn or Company) on July 27, 2009, contending that she received a bill in March of 2009 that was excessive and inaccurate. West Penn filed its Answer on August 24, 2009, denying the material allegations of the Complaint but admitting that the Company issued Complainant a bill in March 2009 for \$1188.20. A hearing was held March 18, 2010, before Administrative Law Judge (ALJ) Susan D. Colwell. West Penn presented one witness, Tammy Taylor, the Company's customer relations manager, who sponsored three exhibits. The Complainant appeared pro se and presented 25 exhibits.

The ALJ issued an Initial Decision on April 28, 2010, finding that there was insufficient evidence to support a finding that the Company violated the Public Utility Code, the Commission's Regulations, or an outstanding Order of the Commission. The Complainant filed Exceptions on or about May 12, 2010. By Secretarial Letter dated May 14, 2010, the Commission extended the period for West Penn to file Reply Exceptions because it did not appear that the Company was served a copy of the Exceptions.

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Background

Several of the ALJ's findings of fact are important for an understanding of the Company's position. Complainant lives in her Belle Vernon, Pennsylvania, modular house from the end of June until the beginning of September, returning the week of Thanksgiving to turn on her heat. FF 30, 33. The Complainant has electric heat. FF. 31. After the Complainant filed her Complaint the Company performed a meter test on its meter serving the Complainant's residence and found the meter to be registering usage accurately. FF. 47. The ALJ also pointed out in her discussion that she agreed with the Company witness that the Complainant's electricity consumption is consistent from year to year, without dramatic fluctuations or major increases – it is only when the Complainant's electric heat is in use that the consumption has soared the last two winters. ID. p. 12.

Reply Exceptions

The Complainant's Exceptions present five specific, numbered points to which the Company responds in numbered fashion.

1. The Complainant points out that the ALJ, in her comparison of Complainant's bills and usage over three years, entered the February 12, 2008 bill of \$210.62 as a charge when, in fact, the bill was canceled when the next meter reading was lower. The Complainant is technically correct that the Company issued a credit to Complainant in February of 2008 in the amount of \$210.62, which offset Complainant's charges over the next five billing months. Company Exhibit 1. Thus, the Company agrees with Complainant's point that the \$210.62 "charge" by the Company in February 2008 was later canceled. However,

the Company fails to see the relevance of the distinction. The fact that the February 2008 bill of \$210.62 was not a charge is a distinction that doesn't affect the accuracy or rationale of the ALJ's decision. The February 2008 bill was not used by the ALJ in her comparison of the dollar amounts of bills. When the ALJ compares the dollar amounts of the bills, she only compares the period of November 2008 through March 2009 to the period of December 2009 through March 2010. ID. 11. In the ALJ's comparison of electric usage in the month of March for the years 2008, 2009 and 2010 the ALJ accurately compared the Complainant's average daily kilowatt-hour consumption. ID. 11

2. The Complainant points out that her heat and air conditioning are on the same unit so that if something is wrong with her furnace the air conditioning would also be affected and she would see the same problem in summer. This point is not made in the record. Nevertheless, an important point is that the Complainant lives in her house during the summer, but not during the winter. FF. 30. She had day-to-day control of her air conditioning, but not of her heat. If the heat had been set high when she left for the winter she would not have control over the heat for the remainder of the winter.

3. The Complainant contends in Exception No. 3 that her brother did not see the meter spinning quickly when he turned the heat on in December 2009, possibly contradicting the Company's statement that a meter reader indicated that the meter was "flying." FF. 45. The Complainant's assertion that her brother did not see the meter spinning quickly is unpersuasive, even if correct, because the brother may have viewed the meter on a day when the heat was not running.

4. The Complainant contends in Exception No. 4 that the Company's attorney did not want to discuss events of August 20, 2009, the day that the Company removed the Complainant's meter to be tested, but that the Company nevertheless offered an exhibit of the meter test of August 20, 2009. Company Exhibit 2. The Company's Exhibit No. 2, evidencing that the Complainant's meter tested as accurately recording usage is certainly relevant to the proceeding and was properly admitted without objection. What the Company's attorney said or did not say to Complainant in the settlement discussion prior to the hearing is inadmissible under Commission rules regarding settlement discussions. 52 Pa. Code §5.231.

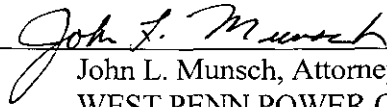
5. In Exception No. 5 the Complainant contends that the Company retaliated against her for complaining about her bills in January of 2010 by issuing an excessive estimated bill later that same month. The Company does not retaliate against customers for complaining about bills, and no evidence of such conduct was presented at the hearing.

WHEREFORE, West Penn Power Company submits that the Initial Decision in the above-captioned proceeding is correct, that the evidence does not support a finding of a violation of the Public Utility Code, Commission regulations or any outstanding Order, and that the Complainant's Exceptions should be denied.

Respectfully submitted,

Date: May 24, 2010

By:



John L. Munsch, Attorney for
WEST PENN POWER COMPANY,
d/b/a ALLEGHENY POWER
800 Cabin Hill Drive
Greensburg, PA 15601
(724) 838-6210
Pa. I.D. No. 31489

Pennsylvania Public Utility Commission;
Re: Gwendolyn Parham v. West Penn Power Company; Docket No. C-2009-2122686

CERTIFICATE OF SERVICE

I hereby certify that I have this day served by first-class mail, postage prepaid, the foregoing **Exceptions** addressed as follows:

Administrative Law Judge Susan D. Colwell
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

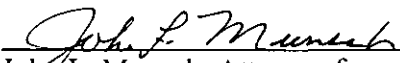
Gwendolyn Parham
26-51 95 St., Apt Pvt
East Elmhurst, NY 11369

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SECRETARY'S BUREAU

Date: May 24, 2010


John L. Munsch, Attorney for
WEST PENN POWER COMPANY,
d/b/a ALLEGHENY POWER
800 Cabin Hill Drive
Greensburg, PA 15601
(724) 838-6210

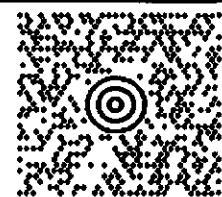
H RIDDLE
724-838-6269
ALLEGHENY POWER
800 CABIN HILL DR
GREENSBURG PA 15601

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SHIP TO:

ROSEMARY CHIAVETTA, SECRETARY
724-838-6269
PENNSYLVANIA PUBLIC UTILITY COMMISS
400 NORTH STREET
COMMONWEALTH KEYSTONE BUILDING
HARRISBURG PA 17120-0200



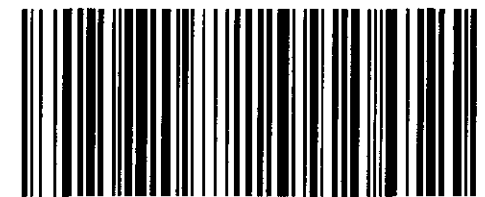
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