



Duquesne Light

Our Energy... Your Power

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March 4, 2011

Via Electronic Filing

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

RE: Albert S. Merritt v. Duquesne Light Company
Docket No. F-2009-2122659

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Answer to Complainant's Petition. A copy of this document has been served upon Complainant in accordance with Commission regulations.

Sincerely,

Krysiya Kubiak
Assistant General Counsel
Duquesne Light Company

encs

cc: Albert S. Merritt (w/enclosure)
Special Agent (w/enclosure)

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ALBERT S. MERRITT,)	
)	
Complainant,)	
)	
v.)	Docket No. F-2009-2122659
)	
DUQUESNE LIGHT COMPANY,)	
)	
Respondent.)	

RESPONDENT’S ANSWER TO COMPLAINANT’S PETITION

TO THE HONORABLE COMMISSION:

NOW comes Respondent Duquesne Light Company, by and through its attorney Krysia Kubiak, pursuant to Section 5.572(e) of the Pennsylvania Public Utility Commission regulations, 52 Pa. §5.572(e), and files this Answer to Complainant Albert Merritt’s Petition for Reconsideration of Special Agent Eranda Vero’s Initial Decision entered September 29, 2010. For the reasons set forth below, Duquesne Light Company opposes Mr. Merritt’s Petition.

I. INTRODUCTION

Albert Merritt has filed a Petition seeking Reconsideration of Special Agent Vero’s September 29, 2010 Initial Decision in the above-captioned docket. In the Initial Decision, Special Agent Vero ordered Complainant to make monthly payments consisting of his current bill plus one sixth of the balance accrued in his account,

beginning with the first billing due date following the entry of a final Commission Order in this case.

II. ANSWER

A. *Complainant's Petition to Reconsider Fails to Meet the Procedural Requirements of the Pennsylvania Code.*

Procedurally, Complainant's Petition contains numerous deficiencies. The Petition is not structured appropriately, it was not served upon Respondent, and it was not filed in a timely manner.

Section 5.572(a) directs petitioners to "specify, in numbered paragraphs, the findings or orders involved, and the points relied upon by petitioner, with appropriate record references and specific requests for the findings or order desired." 52 Pa. §5.572(a). Instead, the Petition takes the form of a brief letter and makes no specific requests except for a payment agreement that is "more realistic."

Section 5.572(b) states that "[a] copy of every petition...shall be served upon each party to the proceeding." 52 Pa. §5.572(b). Complainant failed to serve a copy of the Petition upon Respondent. Respondent was only made aware of the Petition by a Secretarial Letter dated February 24, 2011.

Section 5.572(c) states that "[p]etitions for reconsideration...shall be filed within 15 days after the Commission order involved is entered." 52 Pa. §5.572(c). The Initial Decision in this matter was entered on September 29, 2010, and Complainant's Petition was not filed until November 29, 2010, placing it outside of the period when petitions can be received.

B. The Initial Decision Correctly Applied The Responsible Utility Customer Protection Act to this Proceeding.

Although Complainant's Petition does not dispute any specific findings of law or fact, the primary request that he makes is for a payment agreement with a longer duration. Complainant's Petition requests "a payment that is more realistic." This request fails to recognize that the Commission does not have discretion in setting the length of amortization periods, and that the Commission must follow applicable laws. Respondent submits that Special Agent Vero correctly interpreted and applied the law.

In the Initial Decision, Special Agent Vero wrote that The Responsible Utility Customer Protection Act ("The Act"), 66 Pa. C.S. §1401, *et seq.*, "provides strict guidelines that the Commission must follow in handling customer complaints." I.D. at 7-8. Section 1405 reads that the length of time for a customer to resolve an unpaid balance on an account that is subject to a payment agreement shall not extend beyond "[s]ix months for customers with a gross monthly household income level exceeding 300% of the Federal poverty level." 66 Pa. C.S. §1405(b)(4).

Complainant offered testimony regarding his household income at the hearing in this matter on March 18, 2010. Special Agent Vero wrote, "[b]ased upon information Complainant provided in his testimony, the annual gross income of Mr. Merritt's household of four adult individuals is \$133,200.00" I.D. at 10. This income is more than 600% of the Federal poverty level. I.D. at 10.

Therefore, when Special Agent Vero ordered that Complainant "shall make monthly payments consisting of his current bill plus one sixth (1/6th) of the balance

accrued in his account,” The Act was correctly applied. I.D. at 13. A six-month payment agreement is the only agreement that the Act empowers the Commission to make. To grant Complainant’s Petition would violate the provisions of the Act.

C. Complainant has Flouted Commission Orders and has Failed to Pay Undisputed Bills.

Complainant has violated Pennsylvania regulations by his failure to pay his undisputed bills and he has failed to make a good faith effort to reduce the balance on his account. Instead, he has taken advantage of the termination hold that his complaints have afforded him, and since this dispute originated, his balance has grown by several thousand dollars.

While Informal Complaints are pending, customers are required to pay their undisputed bills. The Code states, “Pending the outcome of an informal complaint, the disputing party shall be obligated to pay that portion of a bill which is not honestly disputed.” 52 Pa. §56.181(1). Complainant’s Informal Complaint did not dispute any portion of his bills.

Similarly, while Formal Complaints are pending, customers are required to pay their current and undisputed bills. The Code states that when a BCS payment agreement is under appeal, “when current bills are not at issue, the ratepayer will be responsible for payment of current, undisputed bills pending review.” 52 Pa. §56.174(3). The Code further states that when a Formal Complaint is pending, “Prior to the hearing on a formal complaint... the ratepayer shall be required to pay that amount which the Consumer

Services Representative determines is not reasonably disputed.” 52 Pa. §56.181(2). The Formal Complaint that Complainant filed also did not dispute the bills.

When Complainant filed an Informal Complaint on May 27, 2009, his account had a balance of \$1,436.50. That dispute was closed on June 19, 2009, and Complainant was advised to pay his budget bill plus \$240, beginning with the July 2009 due date. Respondent received no further contact until served with the above-captioned Formal Complaint on August 4, 2009. At that time, Complainant’s balance was \$1,781.62.

On November 16, 2009, Special Agent Vero issued a Prehearing Order. This Order instructed the customer that he must make payments for current usage while the complaint is pending. At that time, Complainant’s balance was \$2,480.87. A hearing was held on March 18, 2010, and at that time, Complainant’s balance was \$2,799.67.

Special Agent Vero issued an Initial Decision on September 29, 2010. At that time Complainant’s balance was \$3,831.33. Rather than complying with the Initial Decision and making payments to reduce his arrearage, or even paying his current bills, Complainant filed a Petition for Reconsideration and allowed his account balance to climb several hundred dollars higher.

Since filing an Informal Complaint, Complainant has made seven payments, and three of those payments have been for less than the most recent monthly bill. Complainant’s account balance currently stands at \$4,244.53, and Complainant’s Petition states that the payment agreement detailed in the Initial Decision would be “an unrealistic payment schedule for me.” However, Complainant’s balance is consistently increasing as a result of his failure stay current with his monthly bills. Since Complainant is avoiding payment of his utility bill, the longer that Complainant is able to delay the

payment agreement going into effect, the higher his balance will be, and the higher his monthly payments will be.

The Commission has historically reacted with harsh disapproval toward utility customers who abuse the protections offered by the Commission's complaint process and flout Commission Orders to pay their undisputed bills. The Commission has stated, "we emphasize that the obligation of the complainant to continue to pay the consumption portion of the payment arrangement remains in place." *Charles Stammel v. PG Energy, a Division of Southern Union Co.*, Docket No. C-20027994, 2003 Pa. PUC LEXIS 20 (May 21, 2003).

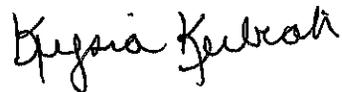
The Commission has ruled that it is unacceptable for a Complainant to cease to make payments while a Complaint is pending. It held, "Our regulations require that customers continue to pay current bills and/or all undisputed amounts during a pendency of a complaint. See, *52 Pa. Code Sec. 56.174(3), 56.181*... However, in practice, some complainants decrease or cease entirely to make their payments on undisputed portions of bills during the pendency of disputes. This practice cannot be permitted to continue." *Betty Claypool v. T.W. Phillips Gas & Oil Co.*, Docket No. Z-00248730, 1995 Pa. PUC LEXIS 160 (December 22, 1995).

As Complainant has not only failed to address his arrearage, but has also failed to pay his undisputed bills, Respondent respectfully requests that the Commission issue a Final Order as soon as is possible in this matter. Complainant has used his right to file a complaint with the Commission as a means to abandon his responsibilities as a utility customer. He has violated Commission Orders and has increased his debt; these actions have gone against both public interest and his own private interest.

III. CONCLUSION

Respondent submits that Special Agent Vero's Initial Decision is consistent with the requirements of The Responsible Utility Customer Protection Act. Complainant's Petition for Reconsideration does not advance any arguments for why the Act should not apply in this Formal Complaint. Additionally, Complainant has demonstrated a history of abuse of the termination hold that Respondent has placed upon his account for the pendency of this dispute. The longer that a final Commission Order is delayed, the higher Complainant's balance will grow, and the more burdensome the eventual payment agreement will become. Respondent respectfully requests that the Commission deny this Petition for Reconsideration and issue a Final Order with all due haste.

Respectfully submitted,



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