

Exception To The Initial Decision – Docket C-2010-2155056

I disagree with the judges conclusion that PP&L's actions weren't deceptive. Ref.- Page 11 – first criterion.

In the Brickner case (C2009-2105583) the complainants sought to confirm (through multiple phone calls) the continued existence of the RTS rate when they purchased their home, that it would transfer with their purchase, and remain for as long as they kept the electric storage system in use in their home. PP&L assured them that this rate would continue despite the fact they knew drastic changes were on the horizon. These folks paid a premium for their house based on PP&L's assurances. This constitutes willful deceptive behavior.

Respondent's exhibit, section 3, page 217, second paragraph states: "The OTS (Office of Trial Staff) also proposes an investigation of the RTS rate schedule – partly from the concern that some customers were induced to go to this service with overly optimistic promises." This shows a pattern of behavior that mirrors how this product was sold to us by Mr. Dave Weidman. A guarantee that the rate was for the life of the house, as long as this heating system was in use, and transferable upon sale. The original owners of the Brickner's house must have been under this illusion since it was part of the sales agreement.

I was never apprised of the fact that this rate was codified by a tariff, or that this tariff only guaranteed the rate for 10 years. As for transferable upon sale, what selling point is there when that discounted rate is only temporary? Since filing my formal complaint over a year ago I have come across numerous people who chose the RTS system based on these same false promises. The Bob Diehl case (C2009-2149261) is another example that these are not isolated instances but a calculated marketing strategy.

From the bottom of page 8 through page 9 the judge outlines how PP&L was aware that this program was not working as anticipated before I built my house yet continued to entice people into purchasing this product.

On page 11, the third criterion, the judge deemed PP&L's conduct not to be negligent but **intentional**. Since intent was the motive their conduct is not only deceptive but quite possibly fraud. Webster's definition of fraud is as follows:

- 1a) ... "in law, **intentional deception** to cause a person to give up property or some lawful right."
- 3) "constructive fraud; in law, a fraud that is involved in the act or contract which though not originating in any actual evil or fraudulent design, has a **tendency to deceive or mislead other persons, to violate public or private confidence**, or to impair or injure the public interests."

This behavior violates the PUC's own "PA Energy Consumer Bill of Rights." (exhibit 3)
"The right to be protected from unfair, deceptive, fraudulent and anti-competitive practices of providers of electric and natural gas service."

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S OFFICE

As the US Bill of Rights is the foundation for the US Constitution, is not the PA Energy Consumer Bill of Rights the foundation for the pertinent regulations contained in the titles of the PA Code?

It has become painfully clear to me that despite proving my case through the burden of evidence and persuasion, that existing law prohibits the return of my rate.

On page 8 – through the decision of Lloyd vs. Pa Publ. Util. – to continue the rate would require other customers to subsidize the RTS customers – a violation of the code.

On page 3, #10 – the RTS rate is a publicly filed PPL tariff; it is not individual contract.

So PP&L did not violate any code in discontinuing the discounted rate as proffered, but did violate the code by providing inadequate service (page 9). This decision follows the dictates of law but does not address the financial harm caused as the judge fully admits (page 8). I ask the commission to sustain that PP&L did violate the PUC PA Energy Consumer Bill of Rights through intentional deceptive/fraudulent behavior so I can seek financial redress through civil litigation.

Sincerely,
Robert Dunham

A handwritten signature in cursive script that reads "Robert Dunham". The signature is written in black ink and is positioned below the typed name.



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