



Duquesne Light

Our Energy... Your Power

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Jennifer L. Allison
Attorney

January 18, 2012

Via Electronic Filing

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

RE: Theodore Presutti v. Duquesne Light Company
Docket Nos. F-2010-2174509, C-2010-2177251

Dear Secretary Chiavetta:

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

Sincerely,

Jennifer L. Allison
Duquesne Light Company

encs

cc: Theodore Presutti (w/enclosure)
Administrative Law Judge Mary D. Long (w/enclosure)
Office of Special Assistants (w/enclosure)

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

THEODORE PRESUTTI,)	
)	
Complainant,)	
)	
v.)	Docket Nos. F-2010-2174509
)	C-2010-2177251
)	
DUQUESNE LIGHT COMPANY,)	
)	
Respondent.)	

**RESPONDENT'S DUQUESNE LIGHT COMPANY'S
REPLY EXCEPTIONS**

AND NOW comes Respondent Duquesne Light Company, by and through its attorney Jennifer L. Allison, and files the following Reply to Complainant's Exceptions to the Initial Decision:

BACKGROUND

Theodore Presutti filed a formal complaint, docketed at F-2010-2174509, against Duquesne Light Company ("Duquesne Light") on May 4, 2010. He contended that he had been overcharged for electric utility service in 2008 and 2009, especially in the winter months. On May 17, 2010, Mr. Presutti filed a second formal complaint against Duquesne Light which was docketed at C-2010-2174509. The second complaint also alleged that he had been overcharged, but included bills from 2010, as well as a request for a payment agreement. On June 11, 2010,

Duquesne Light filed a motion to consolidate the two complaints. On May 20, 2011, the motion was granted. On September 27, 2011, an initial telephonic hearing was held in the matter before Administrative Law Judge Mary D. Long. On December 20, 2011, an Initial Decision was served on all parties. Administrative Law Judge Long made thirteen Findings of Fact and three Conclusions of Law. The Initial Decision sustained the formal complaints to the extent that they requested a payment arrangement and dismissed them in all other respects. On January 7, 2012, Complainant filed Exceptions to the Initial Decision.

Mr. Presutti has an extremely poor payment history. When he filed a formal complaint on May 4, 2010 (the first of two formal complaints), his Duquesne Light account balance was \$1,916.16. Duquesne Light Ex. 1 at 5. Since his first formal complaint was filed, he has made three payments that total \$340.00. Duquesne Light Ex. 1 at 5-6. At the time of the initial hearing, his Duquesne Light account balance was \$6,359.60. Duquesne Light Ex. 1 at 6. Since the initial hearing, he has failed to make a single payment, and his account balance is currently \$7,564.20.

SUMMARY OF EXCEPTIONS

Complainant's Exceptions are structured as commentary to the Initial Decision, and many of his points are repeated numerous times. After careful review, Respondent believes that the Exceptions can be summarized as follows:

1. In separate months, Complainant was billed different dollar amounts for the same kilowatt hour consumption. For this reason, he alleges that he is not being billed for consumption.

2. Complainant alleges that the monthly bill that Duquesne Light provides to residential customers contains excessive rates and surcharges. Complainant further alleges that multiple components to a monthly bill are not in the interest of justice.
3. Complainant alleges that Duquesne Light sets its rates capriciously, and that the Pennsylvania Public Utility Commission does not provide meaningful oversight.
4. Complainant alleges that he paid a discounted rate for electric utility service in 2006, and for this reason, he alleges that he should continue paying the same rate indefinitely.

In its reply exceptions, Respondent will address the main arguments that Complainant made, as described in the summary of exceptions.

REPLY TO EXCEPTIONS

A. Complainant is billed according to his consumption.

The record reflects that Complainant was billed for the electricity that he consumed.

Administrative Law Judge Long stated, “[T]here is no evidence that the Complainant’s bills were improperly calculated or that he did not consume the electricity for which he was billed.” ID at 5.

Complainant’s meter recorded his consumption accurately. Administrative Law Judge Long, in Finding of Fact 8, stated, “Mr. Presutti’s meter has been tested twice by Duquesne Light, in March 2009 and July 2011. Both tests revealed that the meter was operating within an acceptable range and was registering Mr. Presutti’s consumption accurately. (N.T. 79, 90).” ID at 3. Additionally, Administrative Law Judge Long stated, in Finding of Fact 6, “Mr. Presutti’s annual daily average electricity consumption remains consistent from year to year, ranging from an average of 75.3 to 84.5 kWh. (N.T. 50-51; Duquesne Light Ex. 4)” ID at 3.

Customer bills are calculated by multiplying the number of kilowatt hours that a customer used in a month by the supply rate, the transmission rate, and the distribution rate. Tr. at 89. In addition, residential customers pay several monthly surcharges. Tr. at 74.

Mr. Presutti claims that his Duquesne Light bills were not calculated properly because he used the same number of kilowatt hours in several months, and the monthly charges were different. Duquesne Light's witness Ribeka Garrity testified that if a rate or surcharge changed, the bill would change accordingly. One example is that Mr. Presutti was billed for the consumption of 1,640 kilowatt hours of electricity on May 6, 2011, June 7, 2011, and September 7, 2011, and the bill was for a different dollar amount each month. Duquesne Light Ex. 1 at 6. Ms. Garrity explained in detail that changes in the transmission rate, the customer education surcharge, and the energy efficiency surcharge caused the changes in the monthly bills. Tr. at 77-78. During the initial hearing, Ms. Garrity repeated this analysis on many of Complainant's monthly bills. In each instance, Mr. Presutti's bill was properly calculated in accordance with Commission-approved rates and surcharges.

B. Monthly bills reflect the varied costs involved in the provision of residential electric service.

Duquesne Light's monthly bills for residential electric service clearly indicate the dollar amount that a customer needs to pay. However, in order to provide more information to the customer, further information is provided about the different rates and surcharges. Each element of the bill reflects a different expense.

Commission regulations require certain charges to be listed separately. 52 Pa. Code §54.4. Specifically, each of the following elements is listed on Duquesne Light's monthly bill:

generation charges, transmission charges, distribution charges, customer charges, transition charges, and taxes. 52 Pa. Code §54.4(3).

C. *Duquesne Light's rates are justified, and are subject to extensive and meaningful oversight from the Pennsylvania Public Utility Commission.*

Duquesne Light strongly disputes any suggestion that its rates are arbitrary or that they can be changed “at will.” Complainant is billed according to Duquesne Light’s Tariff. Duquesne Light Ex. 6. All of the rates established in the tariff have been approved by the Commission. Tr. at 74. The record reflects that all of the rates and surcharges that are part of a residential customer’s monthly bill have been approved by the Pennsylvania Public Utility Commission. Tr. at 74 and 75.

Pennsylvania law states, “Whenever the commission shall make any rule, regulation, finding, determination or order, the same shall be prima facie evidence of the facts found and shall remain conclusive upon all parties affected thereby, unless set aside, annulled or modified on judicial review.” 66 Pa. C.S. §316.

Where a customer is heard to complain about an existing rate, there is a strong presumption the pre-existing Commission approved rates are just and reasonable. *Duquesne Light Co., et al. v. Pa. P.U.C.*, 715 A. 2d 540 (Pa. Cmwlth. 1998); *Popowsky v. Pa. P.U.C.*, 669 A. 2d 1029, 1037 n. 14 (Pa. Cmwlth. 1995), *rev’d in part on other grounds*, 550 Pa. 449, 706 A. 2d 1197 (1997).

For a Complainant to overcome the presumption that Commission-approved rates are just and reasonable, he must establish by a preponderance of evidence that the previously approved rate is no longer reasonable. “A complainant seeking to evade the effect of an existing tariff

provision carries a very heavy burden to prove that the facts and circumstances have changed so drastically as to render the application of the tariff provision unreasonable.” *Shenango Township Board of Supervisors v. Pa. Public Util. Comm’n*, 606 A.2d 910, 913 (Pa. Cmwlth. 1996), see also *Zucker v. Pennsylvania Public Utility Commission*, 43 Pa. Commw. 207, 401 A.2d 1377 (Pa. Cmwlth. 1979), see also *Brockway Glass Co. v. Pennsylvania Public Utility Commission*, 63 Pa. Commw. 238, 437 A.2d 1067 (Pa. Cmwlth. 1981).

The record reflects that Duquesne Light’s rates have been approved by the Commission. Therefore, a presumption exists that company rates are just and reasonable. Duquesne Light respectfully submits that Mr. Presutti has not established by a preponderance of the evidence that Duquesne Light’s rates are no longer reasonable. Duquesne Light’s rates reflect the cost to serve the customer. Tr. at 75. Duquesne Light has used the tools available to help Mr. Presutti satisfy his account balance. The company has offered him payment arrangements, and referred him to its universal services programs, which include the Customer Assistance Program, Dollar Energy grants, LIHEAP grants, and Crisis grants. Tr. at 56.

D. Commission regulations require Complainant to be billed according to his rate class.

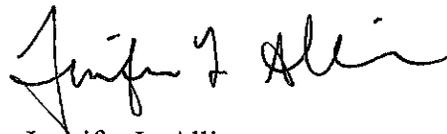
Mr. Presutti’s request to be “grandfathered” into previous rates would provide him with an unreasonable discount compared to other customers in his rate class who are paying current, Commission approved, rates. Pennsylvania law prohibits Duquesne Light from offering a preferential rate to Mr. Presutti. The statute states, “No public utility shall, as to rates, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation to any unreasonable prejudice or disadvantage.” 66 Pa. C.S. §1304.

Complainant continues to be billed as a residential heating customer. Recent changes to company rates reflect an effort to bring customer rates in line with market rates. Tr. at 75. Members of this rate class continue to receive a discount on distribution charges during the winter heating months. Tr. at 73.

CONCLUSION

Administrative Law Judge Long made accurate and relevant Findings of Fact and correct Conclusions of Law, when, in the Initial Decision, the Formal Complaint was dismissed. Respondent submits that for all of the reasons contained in its Answer, testimony, and herein, Complainant's exceptions should be denied.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jennifer L. Allison". The signature is fluid and cursive, with the first name being the most prominent.

Jennifer L. Allison
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Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

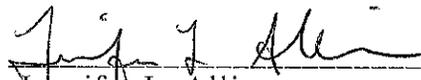
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participant listed below in accordance with the requirements of 52 PA. Code § 1.54 (relating to service by a participant).

Theodore Presutti
409 Forest Hill Road
Industry, PA 15052

Dated this 18th day of January 2012.


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