

Robert M. Cohen
ATTORNEY AT LAW
CORPORATE LAW OFFICES

PHOENIX PLAZA
Professional Office Suites
22 East Union Street
Wilkes-Barre, Pennsylvania 18701

telephone 570.822.9006
facsimile 570.822.2004

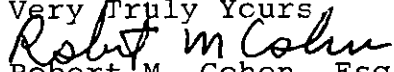
March 14, 2012

Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265 (obtained Certificate of Mailing)

RE: Thom Greco d/b/a Phoenix Estates v. PPL Electric Utilities Corporation
Formal Complaint Docket C-2011-2229033

Dear Sir/Madam:

Please find enclosed an original and nine copies of Complainant's Exceptions to Initial Decision of Administrative Law Judge Ember S. Jandebeur dated February 27, 2012, as well as CD Rom of same, in the above case. I also send one copy of same under cover of this letter to the below, this date. Thank you.

Very Truly Yours,

Robert M. Cohen, Esq.

cc The Office of Special Assistants, P.U.C. (w. enc.)
Kimberly Krupka, Esq. (w. enc.)

RECEIVED

MAR 14 2012

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

THOM GRECO
D/B/A PHOENIX ESTATES

Complainant

v.

PPL ELECTRIC UTILITIES
CORPORATION

Respondent

FORMAL COMPLAINANT DOCKET

C-2011-2229033

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**COMPLAINANT THOM GRECO d/b/a PHOENIX ESTATES' EXCEPTIONS
TO INITIAL DECISION OF ADMINISTRATIVE LAW JUDGE
EMBER S. JANDEBEUR, DATED FEBRUARY 27, 2012**

Now comes above Complainant, by and through his undersigned counsel, and files the following exceptions to the above initial decision on the above docketed complaint, as follows:

1. The parties placed a Stipulation on the record at the hearing that Complainant's employee, Mary Tencza, notified PPL about the February 11, 2011 payment on that very date, which was prior to the date of the February 14, 2011 electric shutoff by Respondent at Complainant's premises. The Administrative Law Judge gives exceedingly short shrift to said Stipulation of the parties, in footnote 2 of page 8 of the Decision. In fact, there is not only no finding of fact reflecting said Stipulation of the parties, but findings of fact 16 and 17 on page 3 of the Decision finding that no such call was made ignore and directly contradict said Stipulation of the parties. Furthermore, at the end of the second full paragraph of the Discussion on page 8 of the Decision said Stipulation of the parties is ignored and directly contradicted in the sentence: "Only after that call (emphasis in the original) [post-termination call by an affected tenant of

Complainant] did the Complainant's employee Ms. Tencza call PPL". In the Discussion on page 8 of the Decision in the last sentence of the first paragraph it is stated that there is no record of the call being received by PPL, which while true, directly ignores the Stipulation of the parties. In the last paragraph of page 8 of the Decision the next to last full sentence "There is no documentation of a call from either the Complainant or Ms. Tencza to PPL customer service on February 11" also ignores said Stipulation of the parties as well. Complainant, Thom Greco also testified said February 11, 2011 pre-termination call to PPL was made by Ms. Tencza confirming Complainant's payment made that day. While said testimony could be discounted or rejected by the Administrative Law Judge, it was error for said Judge not only to ignore, but to directly contradict, the Stipulation to the contrary by the parties themselves under the particular circumstances of this case. 52 Pa. Code Section 5.234(a) makes stipulations of fact at a hearing binding on the parties to the stipulation with respect to the matters therein stipulated. Therefore, all evidence presented by PPL at the hearing that the pre-termination call by Ms. Tencza was not documented in their notes should not have been presented or admitted into evidence (as directly contrary to the Stipulation of the parties that the call was made), and it was error by the Administrative Law Judge to have relied upon said evidence. Furthermore, while 52 Pa. Code 5.234(c) allows the Commission to disregard a stipulation of fact of the parties (thus impliedly allowing the Administrative Law Judge to do so as well), Complainant submits that Ms. Tencza's inability to testify in detail concerning the pre-termination telephone call (stipulated as being made by the parties) due to the denial of Complainant's continuance requests in order for her to be able to testify at the hearing (see Paragraph 6 hereafter) made the Administrative Law

Judge's rejection and contradiction of the Stipulation of the parties an abuse of discretion under these circumstances, as Ms. Tencza's testimony would have greatly expanded on and detailed the circumstances of the call.

2. Finding of Fact 19 on page 4 of the Decision that "The Complainant did not choose to pay PPL directly which would have confirmed payment and foreclosed termination" is not supported by any evidence of record, and is improperly included in this Decision.

3. Finding of Fact 20 on page 4 of the Decision that "The Complainant provided no reason for choosing to pay at United Check Chasing [an authorized payment center of PPL, ignored by this finding] rather than PPL" is irrelevant, and is improperly included in this Decision.

4. Finding of Fact 22 on page 4 of the Decision that "Complainant has a cash flow problem" is irrelevant, and is improperly included in this Decision.

5. Finding of Fact 23 on page 4 of the Decision that "The Complainant's account history revealed chronic late payments" is irrelevant, and is improperly included in this Decision.

6. The denial of Complainant's October 7, 2011 request for continuance, as well as the denial of the reaffirmed request for continuance made by Complainant at the October 18, 2011 hearing, both requests based on Complainant's employee, Mary Tencza, R.N.'s inability to attend the hearing due to her need to attend to hospice patients, was exceedingly prejudicial to Complainant, as the Decision evidences, and it was an abuse of discretion by the Administrative Law Judge to deny said requests. Ms. Tencza's critical factual testimony would have greatly exceeded and amplified on the


Stipulation of the parties at the hearing that she called PPL pre-termination on February 11, 2011, which Stipulation of the parties was ignored and directly contradicted by the Administrative Law Judge, as argued above.

7. The Decision ignores the testimony of Complainant that PPL checked only one telephone number provided by Ms. Tencza, in Complainant's attempt to corroborate the February 11, 2011 pre-termination telephone call Ms. Tencza made to PPL to corroborate the payment Complainant made that day, as Ms. Tencza was uncertain which telephone number she had called from, when making the aforesaid call.

8. Conclusion of Law 4 on page 9 of the Decision that Complainant failed to prove that PPL is responsible for the instant Complaint is error, for the reasons stated above.

WHEREFORE, Complainant requests that the above Decision be reversed and that Complainant be provided the relief requested in his Complaint. Alternatively, Complainant requests reversal and a remand in order to allow Ms. Tencza to testify.

Dated: 3/14/12


Robert M. Cohen, Esq.
Professional Office Suites
22 East Union St.
Wilkes-Barre, PA 18701
(570) 822-9006
PA I.D. #445551
Attorney for Complainant

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

THOM GRECO	:	FORMAL COMPLAINANT DOCKET
D/B/A PHOENIX ESTATES	:	
	:	
Complainant	:	C-2011-2229033
v.	:	
	:	
PPL ELECTRIC UTILITIES	:	
CORPORATION	:	
	:	
Respondent	:	

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MAR 14 2012

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

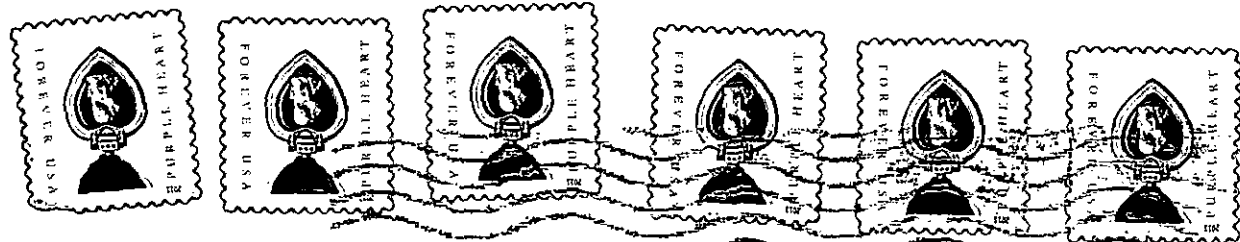
I, Robert M. Cohen, Esquire, Counsel for Complainant, hereby certifies that I have served a true and correct copy of Complainant's Exceptions to Initial Decision of Administrative Law Judge Dated February 27, 2012, via First Class Mail, postage prepaid, this date shown below, to the following:

*Kimberly Krupka, Esquire
Gross, McGinley, LLP
33 South Seventh Street
PO Box 4060
Allentown, PA 18105-4060*


Robert M. Cohen, Esquire
Professional Office Suites
22 E. Union Street
Wilkes-Barre, PA 18701
(570) 822-9006
Attorney for Complainant

Date: 3/14/12

Robert M. Cchen, Esq.
Professional Office Suites
22 East Union St.
Wilkes-Barre, PA 18701



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WED 14 MAR 2012 PM

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