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June 7, 2012

VIA FEDERAL EXPRESS

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
Post Office Box 3265, 400 North Street
Harrisburg, PA 17105-3265

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JUN 7 2012

**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

**RE: Matthew Gillette v PPL Electric Utilities Corporation
No. F-2011-2266733**

Dear Ms. Chiavetta:

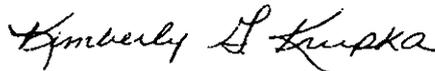
Enclosed for filing in the above-captioned matter are an original and nine (9) copies of the Reply of PPL Electric Utilities Corporation to Complainant, Matthew Gillette's Exceptions, along with the attached Certificate of Service.

Pursuant to 52 Pa. Code §1.11, the enclosed document is to be deemed filed on or before June 7, 2012.

I am also enclosing an extra copy of PPL's Reply. Please time-stamp this copy and return it to my office in the envelope provided.

Thank you for your cooperation in this matter.

Very truly yours,



KIMBERLY G. KRUPKA

KGK/dm

Enclosures

cc: Matthew Gillette (w/enclosure/via U.S. Mail)
Administrative Law Judge Ember S. Jandebour (w/enclosure-via U.S. Mail)
Ms. Kim Safford (w/enclosure); *via email only*

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MATTHEW GILLETTE,

COMPLAINANT,

VS.

PPL ELECTRIC UTILITIES CORPORATION,

RESPONDENT.

COMPLAINT DOCKET

NO. F-2011-2266733

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**PPL ELECTRIC UTILITIES CORPORATION'S REPLIES TO EXCEPTIONS
OF COMPLAINANT, MATTHEW GILLETTE**

AND NOW comes the Respondent, PPL Electric Utilities Corporation ("PPL Electric"), by and through its attorneys of record, Gross McGinley, LLP, and files the within Replies to Exceptions, alleging in support thereof as follows:

1. Denied. Complainant, Matthew Gillette, contends that ALJ Jandebour acted beyond her authority when she reviewed Complainant's re-billing de novo and determined that the law and regulations provide for a utility to re-bill for up to forty-eight months of previously unbilled service. Complainant's Exception is without legal support.

On September 6, 2011, Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission against PPL Electric contending that PPL Electric improperly re-billed him for prior unbilled usage. PPL Electric denied the re-billing was improper. When the parties were unable to resolve the dispute among themselves, a hearing was held before the Honorable Ember Jandebour on February 2, 2012.

During the hearing, PPL Electric presented substantial testimony, upon which the ALJ relied, concerning the malfunction of the meter, historical usage by Complainant, and the issuance of the re-bill. PPL Electric presented evidence, uncontroverted by Complainant, that the meter malfunctioned as of October 9, 2008. (N.T. at 26). Specifically, Complainant's account had been terminated for non-payment on September 18, 2008. (PPL Exhibits 1 and 2). Complainant then made payment on October 3, 2008 and service was restored. (PPL Exhibits 1 and 2). Commencing from the time of reconnect, Complainant's meter stopped recording usage and Complainant was receiving monthly bills for his basic customer charge only. (PPL Exhibit 1). On May 6, 2011, PPL replaced Complainant's meter. (PPL Exhibit 5). Thereafter, on May 25, 2011, PPL Electric issued a re-bill in the amount of \$1,051.04. As PPL Electric issued the re-bill on historical data that was several years old, in an effort to be overly conservative to the benefit of the Customer, PPL Electric issued the re-bill for only six (6) months of service, despite the meter malfunctioning for thirty (30) months.

Complainant's contention at the time of the hearing was that his usage after the meter was changed was considerably less than his recorded usage on the original meter (before it malfunctioned). According, Complainant requested that he be re-billed for six (6) months on the lower average usage shown on his most recent bills. PPL Electric contended that the re-bill was not in error, as PPL relied upon historical usage (the only usage available at the time the re-bill was issued). Moreover, PPL Electric contended that it has a right to re-bill for the entire thirty (30) months, and that any error in estimation was compensated for by the shortened duration of the re-bill.

As Complainant contested the re-bill, ALJ Jandebour reviewed the entire re-bill and entered her decision on May 10, 2012. In so doing, she correctly found that “No public utility, directly or indirectly, by any device whatsoever, or in anywise, demand or receive from any person . . . a greater or less rate for any service rendered or to be rendered by such utility than that specified in the tariff of such utility applicable thereto. 66 Pa.C.S. § 1303.” (Conclusion of Law 4). In applying the law to the specific facts of the case, the ALJ found that Complainant’s average usage, from before the meter malfunction and following the meter malfunction, was 608 kilowatt hours per month. As the meter failed to record usage for thirty (30) months, the ALJ found Complainant liable for the costs associated with provision of 18,240 kilowatt hours (608 kilowatts x 30 months). In so doing, the ALJ directed that the Complainant “must be charged the tariff rate for each month of service like any other customer.” (Decision at 7). Such findings and conclusions are supported by both the law and evidence presented.

Complainant contends in so much as he was only contesting one component of the re-billing, the ALJ was somehow constrained to review only that one limited component, as opposed to reviewing the entire re-billed amount. Recognizing that the re-bill was based on historical data, and as the re-bill was issued before PPL Electric accumulated months’ worth of data on the newly installed meter, PPL chose to be overly conservative and base the re-bill on a six month time frame. Both the estimated kilowatt usage and length of time were all considerations of the re-billing process. Complainant cites to no statute, rule, regulation or decision, which limits the ALJ from considering all factors in reviewing the bill issued to a customer.

2. Denied. It is specifically denied that ALJ Jandebour erred in finding that:

Indeed, had the Complainant contacted the Respondent as requested the issue would have been resolved in 2009 and not 2011. It is not reasonable to have called once and not waited for a response. Since the Complainant hung up it is even more unreasonable to have not placed the call again considering the language of the letter. Furthermore, the Complainant knew with his first \$8 bill that something was amiss and simply chose to continue to receive electric service without notifying the Respondent that something was wrong with his bill. The Complainant is equally at fault as the Respondent for the trajectory of this meter failure and the make-up bill.

(Decision at 6-7). Moreover, it is denied that ALJ Jandebour's Decision and Order was entered for punitive purposes.

On his own side of the case, Complainant produced a letter he received on or about July 28, 2009, advising him "[i]t's very important that we talk to you regarding your electric service account." (Complainant's Exhibit 1). Complainant had retained this letter, and admitted he had received the same. In addition, when he received this correspondence, he had been receiving bills of \$8.31 for several months, despite historical usage of ranging between \$52 and \$90 per month. (PPL's Exhibit 1). Despite being armed with the knowledge that his electric bills had drastically declined, and despite receiving correspondence from PPL asking that he contact the Company to discuss his bills, Complainant alleges he made only one attempt to contact PPL and hung up when he did not immediately reach a Customer Service Representative. Such uncontested evidence amply supports the finding of the ALJ that Complainant failed to take any reasonable measures to ensure he was being properly billed for electric service. In fact, the evidence supports a finding that Complainant was aware that his bills were improperly low and failed to comply with PPL's request to discuss the same.

In filing a Complaint, Complainant requested that the Public Utility Commission review the re-bill issued by PPL and enter an Order as to the same. In so doing, ALJ Jandebour acted as a neutral fact finder, and thereafter applied the existing law to the facts. What Complainant contends is that anytime a Complainant files a Complaint concerning the amount of a bill, the Commission is legally obliged to enter an Order affirming the bill or directing the bill be lowered, but does not have the power to review the bill de novo and enter an Order directing the utility to provide a corrected bill based upon the evidence and existing law. Such contention is incorrect. ALJ Jandebour found that a utility should bill a customer for all service provided, and accordingly entered an Order that PPL Electric issue a bill for the entire unbilled period on the average kilowatt consumption. Such was absolutely consistent with 52 Pa. Code § 56.14.

Moreover, the case law is consistent with PPL rebilling for all un-billed electric service. Even in cases where a utility issues a bill in error, payment of such is no defense. The customer remains liable for the difference between what the customer should have been billed and the amount paid. West Penn Power Company v. Nationwide Mutual Ins. Co., 69 P.U.R. 3d 61 (Pa. Super. 1967). The customer is responsible to pay for the service used.

3. Denied. Complainant seemingly contends that PPL lacks authority to negotiate settlements in disputed matters of billing since the Pennsylvania Statutory Law provides:

No public utility shall, directly or indirectly, by any device whatsoever, or in anywise, demand or receive from any person, corporation, or municipal corporation a greater or less rate for any service rendered or to be rendered by such public utility than that specified in the tariffs of such public utility applicable thereto. The rates specified in such tariffs shall be the lawful rates of such public utility until changed, as provided in this part. Any

public utility, having more than one rate applicable to service rendered to a patron, shall, after notice of service conditions, compute bills under the rate most advantageous to the patron.

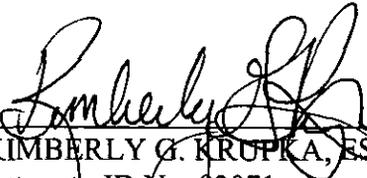
66 Pa.C.S. § 1303. Such argument is without merit. In matters of good faith disputes, the Commission encourages the parties to settle their differences. However, where it is undisputed that Complainant was not charged for consumption for thirty (30) months, and where by the time of the hearing there is substantial information about consumption for periods before and after the meter malfunction, the ALJ acted appropriately in applying 52 Pa. Code §56.14 to the entire period.

4. Admitted in part and denied in part. It is admitted that ALJ Jandebour Ordered “[t]hat within twenty (20) days form the Commission’s final order in this case, PPL Electric Utilities Corporation shall rendered a corrected make-up bill charging Matthew Gillette 608 KWH per month for thirty (30) months of electric service provided at the tariff rate in place for each month during the period from November 11, 2011 through June 13, 2011.” (Order, page 8). In so much as there is no time period between November 2011 and June 2011, and in so much as the Decision, when read in its entirety, refers to a thirty (30) month period, it is evident that a typo was made and ALJ Jandebour meant November 11, 2008 through June 13, 2011. Moreover, the third numbered paragraph of the Order references thirty (30) months. Finally, PPL’s account activity statement (PPL Exhibit 1), shows that the initial bill rendered for just the basic customer charged was issued on November 11, 2008. Accordingly, the parties are not left “to guess.” Nonetheless, PPL would agree that the Order should be corrected to reflect that the period of rebilling be for thirty (30) months, from November 11, 2008 through June 13, 2011.

For the foregoing reasons, PPL respectfully requests the Commission deny the Exceptions of Complainant and affirm the decision of the Administrative Law Judge, except to the extent that Paragraph 2 of the Order be clarified to reference the period of November 11, 2008 through June 13, 2011.

Respectfully submitted,

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By: 

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Attorneys for PPL Electric Utilities Corporation

Date: June 7, 2012

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**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

BEFORE THE
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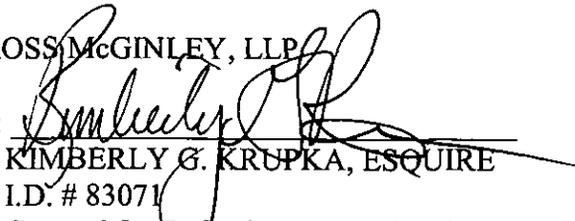
CERTIFICATE OF SERVICE

This is to certify that the **REPLIES TO EXCEPTIONS OF COMPLAINANT, MATTHEW GILLETTE**, was mailed to counsel/complainant of record on behalf of Complainant by first class United States mail, postage on this the 7th day of June 2012.

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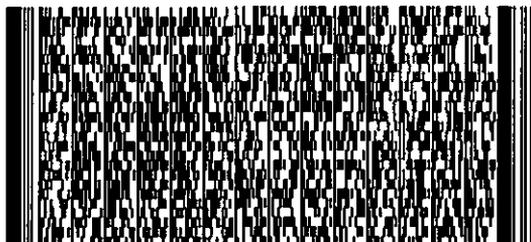
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