

Godfrey and Monica Kalaluka

9399 Birch Lane

Tobyhanna, PA 18466

August 6, 2012

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AUG 8 2012

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Godfrey and Monica Kalaluka

V.

Pennsylvania American Water Company
C-2011-2262810

EXCEPTIONS of Godfrey and Monica Kalaluka

Secretary of the Commission

2nd FLOOR, KEYSTONE BUILDING

400 NORTH STREET

HARRISBURG, PA 17105-3265

Since the history of the proceedings of the case has been documented elsewhere before, we are going to respond directly to judge Jandebour's initial decision, starting with the Section of Discussion on page 5, focusing on the Burden of Proof on p.5.

Burden of Proof

The judge has cited several trial cases whose outcome has satisfied the burden of proof: *Patterson v. Bell Telephone Company of Pennsylvania*, 72 PA PUC 196 (1990); *Feinstein v. Philadelphia Suburban Water Company*, 500 PA PUC 300 (1976).

Although the foregoing cases fulfilled the burden of proof on behalf of the complainant by extrapolations or/and inferentially, a much more sure way would be a statement issued directly by the utility company itself.

During a review discussion of **account #2048011** with **three (3) PAWC account managers on 6/14/11**, regarding the large overdue balance of the account arrearages, we told them that the large arrearages are from **two bankruptcies** that were dismissed. One of the **PAWC account managers** who identified herself as **Tiffany**, stated: "Looking at your account data, the balance that went into your first bankruptcy satisfies the statute of limitation" (**Tiffany - Account Manager, PAWC, 2011**). We asked: "what does that mean?" she said "**It means that we are no longer going to collect on that amount that came from your first bankruptcy**" (**Tiffany - Account Manager, PAWC, 2011**). We then asked: "how can we be sure that what you are telling us is true?" Tiffany responded by stating that, "there are three (3) of us PAWC account managers reviewing your water account, and here is my **operation #169076** for confirmation of our discussion" (**Tiffany - Account Manager, PAWC, 2011**).

The foregoing statements issued by PAWC account managers is more pertinent to certify that **PAWC** is responsible for identifying the amount that went into the first

bankruptcy, as the amount to be deducted from the account balance, thereby satisfying the burden of proof more significantly and more relevant than in the cases of (i) *Patterson v. Bell Telephone Company of PA*, 72, PA PUC 196(1990); *Feinstein v. Philadelphia Suburban Water Company*, 50, PA PUC 300(1976).

Furthermore, these statement of PAWC account managers **Tiffany et al**, provide a more significant preponderance of evidence of the responsibility of PAWC in identifying the amount of reduction in the account balance, which is more relevant and significant to the present case than the case of *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 1950. The remaining cases cited on p.5 paragraph 3, tend to be general in nature. They do not specifically deal with account balances of water bills, whereas our case has been addressed by PAWC account managers (**Tiffany et al.**) themselves directly not by extrapolation as in the case of *Eric Resistor Corp v. Unemployment Compensation Board of Review*, 166 A 2 d. 6(Pa Super 1960); *Murphy v. Commonwealth Dept. of Public Welfare, White Haven Center*, 480 A. 2d 382(PA Cmwlth, 1984).

In light of the foregoing, the case regarding this account is more significant than some of the cases cited above as already alluded to. Consequently, the burden of proof applies because the nature of the problem and the amount to be deducted from the overdue balance came directly from PAWC account managers (**Tiffany et al., 2011**).

With respect to the last paragraph on p.5, certain portions of the paragraph have already been addressed as per the foregoing statements of **PAWC account managers (Tiffany et al.)**.

During the tenure of the first bankruptcy from Sept. 11, 2006 to Oct. 23, 2008, the bankruptcy court that was in charge of the case never collected any payment on behalf

of PAWC, PPL, credit cards, car loans, etc. because all these were referred to as **'unsecured debts'**, therefore were not given any priority in the debt settlement of the bankruptcy. If the bankruptcy was discharged with no payment for water, was PAWC going to send unpaid water bills to the bankruptcy court?

Both PPL and PAWC are utility companies operating under similar statutory instruments. Water is a God given natural resource. Human beings do not produce or manufacture water. Water already exists in nature, although structures for water conveyance are installed in situ. In the case of PPL, electricity does not occur in nature like water. Physical facilities have to be erected to produce electricity. It is more costly to generate electricity than water, yet PPL has never demanded the payment of their electric bills when the two bankruptcies were dismissed. Even if PAWC demanded the payment of its debt after the dismissal of the bankruptcies, it is morally wrong to combine an old debt with the current bill because of the aspect of double billing. Being an **unsecured debt**, the water debt from bankruptcy should have been handled differently.

If we look at professional methods of accounting, they handle old debts in a different manner from current debts. Even the schools of Business Administration from both Harvard and the London School of Economics, train their professionals to deal with old debts differently from current ones (Harvard School of Business Administration Catalog, 2011). Because of the way PAWC handles old debt, by lumping it with the current account; they (PAWC) become responsible for ballooning the current account as has been the case in this matter, and therefore the burden of proof applies. Thus, the debt amount is not a correct. The correct figure needs to be determined.

Overdue Balance

The overdue balance is a composite derived from the following:

- (i) Amount from the first bankruptcy account
- (ii) Amount from the second bankruptcy account
- (iii) Amount of the current account
- (iv) Amount of overdue charges, interest rates and late payment fees.

When we filed for bankruptcy in 2006, the account we had before the bankruptcy (**Acc. #1254536**) was closed by PAWC and a new distinct account was created (**Acc. #1803163**). When the bankruptcy was dismissed in 2008, the post-bankruptcy amount was brought back and mixed into the active account (Acc. #1803163). A bankruptcy filing of 2009 closed account **#1803163** and opened a new account (**Acc. #24-2048011**). When the bankruptcy case was dismissed in 2010, the bankruptcy amount was mixed into the current account (**#24-2048011**), ballooning the bill to an unimaginable debt, which included interest rates and late payment charges. This translates into a double billing because the interest charges and late payment fees from the old account are being charged on the active account as well. This should not have been the case. If the amounts that came from the bankruptcies were collected differently from the active account's balance, double billing would not have occurred. As it is, the overdue balance also reflects the interest rates and late payments of the active account because of having the post-bankruptcy amounts mixed into it, creating

erroneous amounts in the overdue balance and consequently introducing an error in the overdue arrearages. It is therefore incumbent upon the PAWC to derive the true overdue balance that would reflect the removal of double billing amounts, and all the associated fees and charges, the amounts identified by PAWC account managers **(Tiffany et al. 2011)**. Thus, the overdue balance of the account is flawed because of the archaic accounting procedures PAWC has used in collecting past debts which do not exist in both the academic principles of accounting and the professional practice of accounting. In view of the above, the overdue balance is wrong and the amount has been grossly exaggerated. PAWC needs to come out with a genuine and correct figure of the balance.

Termination Procedure

When PAWC issued a 10-day shut-off **(see Exhibit 1)** notice, we contacted them on the matter. The customer service representative who responded to the case read notes that were on the account and indicated that there was an ongoing open case on the account which was still being worked on, and told us to ignore the shut-off notice. When a 3-day shut-off was issued **(see Exhibit 2)**, again we called and talked to a customer service representative. The customer service representative read the notes that were posted on the account, and once again told us the same information - that there was an ongoing open case which the company was working on.

From these two shut-off types, it is evident that some violations were committed by PAWC. On both of the dates of the shut-off notices, there were notes on the account

indicating that there was an ongoing open case which the company was working on. The issuing of shut-off notices was therefore a contradiction to the open ongoing case. It was therefore wrong for PAWC to issue the shut-off notices while an ongoing open case was in place. These contrasting events evidently show irregularities committed by PAWC in carrying out the termination procedures. PAWC should not have issued any shut-off notices while an ongoing open case was posted on the account. On p.9 of Judge Jandebour's initial decision document, it is mentioned that a "48 Hour Shut Off notice (**see Exhibit 3**), was mailed to complainants on August 29, 2011." This is not true. The 48 hour shut-off notice was never mailed. It was posted on our garage door in the afternoon on August 31, 2011, after the water had been turned off in the morning. This evidently was a serious violation.

On August 31, 2011 our water was shut-off in the morning, and when I confronted the worker who came to shut-off the water, he just rudely said to me "You owe too much on your account, I have been sent to shut-off your water", and he drove away. He later came back in the afternoon and posted the 48 hour shut-off, which was dated 8/29/11, on the garage door.

This was a gross violation of shut-off procedures. How could they post a 48 hour shut-off notice after the water has already been shut-off? The date on the 48 hour shut-off notice was 8/29/11. This was the date of hurricane Irene and the whole region extending from South Carolina to Maine was under a state of emergency with massive evacuations. If PAWC could not post the 48 hour shut off notice because of hurricane Irene, they should have prorated the dates accordingly instead of committing a travesty

by posting a shut off notice and a 48 hour shut off notice on the same day. That was definitely wrong; the termination procedures were not followed accordingly.

Medical Certification

The issue of medical certificate has generated such controversy to the extent that even to the present day, there is no acceptable understanding of when to use it, for how long, how many times in a year, how frequently and also the nature of the illness. In dealing with PAWC personnel – ranging from customer service representatives to account managers – the understanding of medical certification still remains nebulous. Customer service representatives expressed the notion that customers are allowed to use up to three (3) medical certificates in a year and no other conditions are required. Some managers especially those from the Florida office express the notion of three (3) *medical certificates per account and no mention of any other obligations that are necessary to be fulfilled*. With such a plethora of interpretations, controversies have occurred.

On p.30 of Judge Jandebour's explanation of medical certification, fulfillment of certain obligations seems to be more important than just the mere number of renewals. As a matter of fact, the judge mentions that a customer is allowed two 30-day certifications filed for the same arrearages. In judge Jandebour's explanation, there is no mention of any medical conditions, yet when PAWC issues shut-off notices, medical condition is mentioned as a necessary condition for not interrupting service (**see Exhibit 1**). The nature of my medical condition – IDDM (Insulin Dependent Diabetes Mellitus) –

is considered extremely serious and is not just Type 1 diabetes as the judge so lightly thinks of it. It is one of the most debilitating diseases which destroys body functions and organs, especially the heart, the nervous system, veins and arteries, the brain, the eyes, the liver, the kidneys etc. It is not curable and may or may not be brought under control. This has been the case with my condition. When doctors describe it as not under control, this means that all other organs of the body have been affected and some of them even impaired. The availability of running water is part of the necessary conditions of treatment.

Again, on p.10 of Judge Jandebour's document, four (4) medical certificates have been used: Dec 14, 2006, Sept 25, 2007, Apr 8, 2008 and Apr 27, 2011. I had no medical certificate for 2009 and 2010. Because of the debilitating nature of IDDM, the need for running water is even more critical for the control of the illness. We requested for a medical certificate to preserve life not to avoid the payment of bills. Judge Jandebour's comments on my medical condition are out of place here (p.10). She is just a judge, not a medical doctor. She is not qualified to make such statements. These statements belong to my medical doctors, who are more qualified by training and professional experience, on the subject matter than the judge.

Furthermore, all the shut-off notices of PAWC have given detailed information on how to give a Medical Emergency notice. We have responded to the provision of Medical Emergency notification provided by PAWC due to my medical condition. PAWC was contacted before the medical certificate was sent. They expressed willingness to receive the doctor's note, which was eventually sent by my doctor to PAWC (**see Exhibit 4**). Given the needs of my medical condition, we had to challenge the medical

certificate denial after PAWC had indicated that they were going to accept the certificate. To me this is a matter of life and death. It's unfortunate that the judge does not understand that a denial is like a death sentence due to the adverse nature of my medical condition.

Abusiveness

In the course of phone conversation with PAWC personnel, especially those from the Florida office, they were very abusive in their speeches. The use of the "S" word and shouting by some customer service representatives became commonplace at certain times. Even if PAWC has bent over backwards to accommodate us (p.11 of Judge Jandebour's document), that does not justify the abusive language and cussing the PAWC personnel used against us.

Conclusion

From the foregoing, it evident that PAWC committed a number of violations regarding our water account.

1. The correct overdue balance of this account has been compromised because of mixing the old debts with the new amounts, thereby introducing errors relating to interest rates being charged even on the new amount.

2. Double billing has been introduced into the equation, thereby causing errors to the amount of the overdue balance.
3. We still maintain that the three account managers (Tiffany et al. 2011) should be subpoenaed as material witnesses, who identified the amounts to be removed from the overdue balance.
4. The hearing that Judge Jandebour presided upon was a sham. From the outset, her position was that of a counsel for PAWC and posed as a prosecutor to us. Instead of assuming a neutral position, she was for the water company. What then was the purpose of us having the hearing under her? It was fait accompli. The entire hearing looked like a Kangaroo Court to say the least.
5. At the time of water shut-off, I was out of employment. I was first hospitalized in September of 2010, and after the hospital discharge, I was placed on medical leave of absence. Both my wife and I were unemployed for over a year (**see Exhibit 5**).

We are therefore requesting the Commissioner to resolve this matter which has been pending for more than a year. We are requesting that our water service be

restored and for a better payment arrangement to be made for the correct amount of the overdue balance.

Sincerely,

Godfrey Kalaluka
Monica Kalaluka

Godfrey & Monica
KALALUKA

EXHIBITS

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AUG 8 2012

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Pennsylvania American Water

P.O. Box 578, Alton IL 62002
1-800-565-7292

08/17/2011

Godfrey Kalaluka
9399 Birch Ln
Tobyhanna PA 18466-3846

Account Number: 24-2048011-9
Premise Number: 240217663
0373-J P.C.P.

10 DAY SHUT OFF NOTICE

Dear Customer:

Your water/sewer bill for \$14,040.83 is overdue. Because your water/sewer bill is overdue we will shut off water to 0373-J P.C.P. on or after 8:00 AM on Monday, August 29, 2011.

To stop shut off, you must do one of the following at once:

- 1) Pay the amount of the overdue water/sewer bill and call 1-866-358-3429 to verify the company received your payment.
- 2) Call 1-866-358-3429 to make a payment arrangement, to let us know that you made a payment; or to dispute the overdue bill.
- 3) Call 1-866-358-3429 if you or someone in your home has a serious illness or a medical condition. Read Medical Emergency Notice at the bottom of this form.

If we shut off your water, you may have to pay the following charges or the full outstanding balance to have your water turned back on:

Overdue Amount	\$14,040.83
Turn-On Charge	\$30.00
Total Amount Due	\$14,070.83

If you have any questions or need more information, please call us at 1-866-358-3429. If you are not satisfied after you talk to us, you may file a complaint with the Pennsylvania Public Utility Commission by calling 1-800-692-7380 toll free, or by writing to Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265. The Pennsylvania Public Utility Commission will delay the shut off if you file the complaint before the shut off date.

SINCERELY YOURS,
Pennsylvania American Water

MEDICAL EMERGENCY NOTICE

If someone living in your home is seriously ill, we will not shut off your water service during this illness if you do two (2) things:

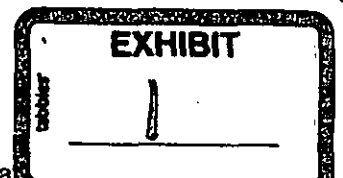
- 1) Have a doctor certify by phone or in writing that the illness exists and that the person will be in danger if you do not have water service.
- 2) Make arrangements to pay your overdue water/sewer and current water/sewer bills by calling the phone number listed above.

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

10DAYPCP



Pennsylvania American Water

P.O. Box 578, Alton IL 62002
1-800-565-7292

08/24/2011

Godfrey Kalaluka
9399 Birch Ln
Tobyhanna PA 18466-3846

Account Number: 24-2048011-9
Premise Number: 240217663
0373-J P.C.P.
Meter #: N73737756
Meter Loc: Pit / Tile
Region: Pocono Country Place

3 DAY SHUT OFF NOTICE

Dear Customer:

Your water/sewer bill for \$14,040.83 is overdue. Because your water/sewer bill is overdue we will shut off water to 0373-J P.C.P. on or after 8:00 AM on Monday, August 29, 2011.

To stop the shut off, you must do (1) of the following at once.

- 1) Pay the total amount of the overdue water/sewer bill and call 1-866-358-3429 to verify the company received your payment.
- 2) Call 1-866-358-3429 to make a payment arrangement, to let us know that you made a payment; or to dispute the overdue bill.
- 3) Call 1-866-358-3429 before Monday, August 29, 2011 if you or someone in your home has a serious illness or a medical condition. Read Medical Emergency Notice shown below.

MEDICAL EMERGENCY NOTICE

If someone living in your home is seriously ill, we will not shut off your water service during this illness if you do two (2) things:

- 1) Have a doctor certify by phone or in writing that the illness exists and that the person will be in danger if you do not have water service.
- 2) Make arrangements to pay your overdue water/sewer and current water/sewer bills by calling the phone number listed above.

If we shut off your water, you may have to pay the following charges to have your water turned back on:

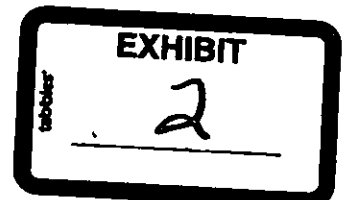
Overdue Amount	\$14,040.83
Turn-On Charge	\$30.00
Total Amount Due	\$14,070.83

If you have any questions or need more information, please call us at 1-866-358-3429. If you are not satisfied after you talk to us, you may file a complaint with the Pennsylvania Public Utility Commission by calling 1-800-692-7380 toll free, or by writing to P.O. Box 3265, Harrisburg, PA 17105-3265. The Pennsylvania Public Utility Commission will delay the shut off if you file the complaint before the shut off date.

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



To pay by credit card call 1-866-271-5522.

Pennsylvania American Water

P.O. Box 578, Alton IL 62002
1-800-565-7292

08/29/2011

Godfrey Kalaluka
9399 Birch Ln
Tobyhanna PA 18466-3846

Account Number: 24-2048011-9
Premise Number: 240217663
0373-J P.C.P.
Meter #: N73737756
Meter Loc: Pit / Tile
Region: Pocono Country Place

48 HOUR SHUT OFF NOTICE

Dear Customer:

Your water/sewer bill for \$14,080.83 is overdue. Because your water/sewer bill is overdue we will shut off water to 0373-J P.C.P. on or after 8:00 AM on Wednesday, August 31, 2011.

To stop the shut off, you must do (1) of the following at once.

- 1) Pay the total amount of the overdue water/sewer bill and call 1-866-358-3429 to verify the company received your payment.
- 2) Call 1-866-358-3429 to make a payment arrangement, to let us know that you made a payment; or to dispute the overdue bill.
- 3) Call 1-866-358-3429 before Wednesday, August 31, 2011 if you or someone in your home has a serious illness or a medical condition. Read Medical Emergency Notice shown below.

MEDICAL EMERGENCY NOTICE

If someone living in your home is seriously ill, we will not shut off your water service during this illness if you do two (2) things:

- 1) Have a doctor certify by phone or in writing that the illness exists and that the person will be in danger if you do not have water service.
- 2) Make arrangements to pay your overdue water/sewer and current water/sewer bills by calling the phone number listed above.

If we shut off your water, you may have to pay the following charges to have your water turned back on:

Overdue Amount	\$14,080.83
Turn-On Charge	\$30.00
Total Amount Due	\$14,110.83

If you have any questions or need more information, please call us at 1-866-358-3429 . If you are not satisfied after you talk to us, you may file a complaint with the Pennsylvania Public Utility Commission by calling 1-800-692-7380 toll free, or by writing to P.O. Box 3265, Harrisburg, PA 17105-3265. The Pennsylvania Public Utility Commission will delay the shut off if you file the complaint before the shut off date.

To pay by credit card call 1-866-271-5522.

Sincerely,

Customer Service

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AUG 8 2012

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



POCONO INTERNAL MEDICINE SPECIALISTS, Ltd.

447 Office Plaza
500 Plaza Court
East Stroudsburg, PA 18301
Telephone: (570) 421-8526
Fax: (570) 421-7899
Website: www.pimsdoc.com

CHART
COPY

WILLIAM T. KESSELRING, Jr., M.D.
VINCENT FRANCESCANGELI, Jr., M.D.

JONATHAN A. GOLDNER, D.O., F.C.C.P.
RALPH DAVID HAWKS, M.D.

Diplomates of the American Board of Internal Medicine

Date: 8-31-2011

Re: Godfrey Kalaluka

9399 Burch Lane
Tobyhanna, Pa. 18466
Acct # 2420480119

To Whom It May Concern:

Please accept this letter as a Certificate of Medical Necessity. The above named patient requires Bunning Water due to a chronic medical condition. The diagnosis is as follows: Uncontrolled Type 1 Diabetes (Good Hygiene needed)

Thank you for your consideration.

Sincerely,

William Kesselring, Jr.

William Kesselring, Jr., M.D.
Vincent Francescangeli, Jr., M.D.
Jonathan A. Goldner, D.O.
Ralph D. Hawks, M.D.



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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

FAXED

AUG 31 2011

BY: Nam F.



355 Lincoln Ave
E. Stroudsburg, Pa 18301
Phone 570-424-8415
Fax 570-424-8526
www.walmart.com

July 28, 2012

To Whom It May Concern,

This letter is sent to advise you that Godfrey and Monica Kalaluka were on an approved medical "Leave of Absence" from 9/20/2010 until his release to return to work on 10/14/2011.

Thank you for your consideration in this matter.

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AUG 8. 2012

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Sincerely,

Lynn A. Stevens
Personnel Manager
Walmart Stores, Inc. 2368



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Mo. 8 Day 8 Year	Scheduled Time of Delivery Month 8 Day 11	COD Fee \$	Insurance Fee \$
Time Accepted 5:06 PM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Total Postage & Fees \$ 17.40	
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lbs. ozs.			

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 I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.

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