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August 22, 2012

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

RE: Godfrey Kalaluka v. Pennsylvania-American Water Company
Docket No. C-2011-2262810

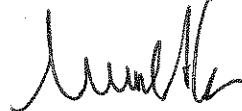
Dear Secretary Chiavetta:

Enclosed for filing on behalf of Pennsylvania-American Water Company is an original of its Reply to Exceptions in the above-referenced matter. This document was e-filed at the Pennsylvania Public Utility Commission's website. Copies have been served on the Complainant in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Best Regards,

STEVENS & LEE



Michael A. Gruin

Encl.

cc: Certificate of Service
Administrative Law Judge Ember Jandebour
Cheryl Walker Davis, Director, Office of Special Assistants w/encl. (Hardcopy and CD, via U.S. Mail)

Philadelphia • Reading • Valley Forge • Lehigh Valley • Harrisburg • Lancaster • Scranton
Wilkes-Barre • Princeton • Cherry Hill • New York • Wilmington

A PROFESSIONAL CORPORATION

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GODFREY KALALUKA
Complainant

v.

PENNSYLVANIA-AMERICAN
WATER COMPANY
Respondent

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Docket No. C-2011-2262810

**PENNSYLVANIA-AMERICAN WATER COMPANY'S
REPLY TO EXCEPTIONS**

Pursuant to 52 Pa Code § 5.535, Pennsylvania-American Water Company (“PAWC” or “Company”), hereby replies to the Exceptions filed by the Complainants Gregory and Monica Kalaluka (“the Kalalukas”, or “Complainants”). As set forth below, the Complainant’s Exceptions should be denied, and the Initial Decision should be upheld by the Commission.

I. Background and Procedural History

The Kalalukas filed their Formal Complaint in this matter on September 8, 2011. The Complaint made several allegations, including that the overdue balance on their account of more than \$15,000 was incorrect, that PAWC refused to accept medical certification, that PAWC did not follow proper termination procedures, and that PAWC’s service representatives were abusive. On or about October 6, 2011, PAWC filed an Answer and New Matter denying the material allegations of the Complaint. On or about October 25, 2011, the Complainants filed their Response to the New Matter.

The Initial Hearing in the case was held on March 27, 2012 before Administrative Law Judge Ember Jandebour ("ALJ Jandebour"). As the hearing, the Complainants testified on their own behalf and submitted six exhibits into the record. PAWC presented the testimony of one witness and submitted fourteen exhibits into the record.

The Initial Decision in this case was issued on July 20, 2012. The Initial Decision recommended dismissal of the Complaint in its entirety. The Initial Decision recounted the Complainants' poor payment history, broken payment arrangements, and dismissed bankruptcy filings that have resulted in a current outstanding water and sewer service balance of over \$15,000.

On August 6, 2012, the Kalalukas filed Exceptions to the Initial Decision, arguing that they have met their burden of proof regarding all of their allegations. PAWC now files this Reply to the Kalaluka's Exceptions.

The Kalalukas' Exceptions are meritless and provide no basis for rejecting or modifying the Initial Decision. It is clear from the record that the Complainants' outstanding balance is correct, and is a direct result of their persistent non-payment of their water/sewer bills. It is also clear that PAWC has attempted to work with the Complainants repeatedly over the years to address their unpaid balance, and was completely justified in ultimately terminating their service for non-payment after following the proper termination procedures.

II. Replies to Exceptions

A. The Complainants' Account Balance is Correct.

PAWC Exhibits 1, 2 and 3 reflect the Complainants' extremely poor payment history. The Complainants in this case have a long history of non-payment for water and sewer service, and multiple broken payments arrangements, which have resulted in an unpaid balance of over \$15,000. For instance, during a period in 2007 -2008, the Complainants made no payments on their water and sewer account whatsoever for thirteen months. Then, after making two consecutive monthly payments, the Complainants did not make another payment for an additional thirteen months. In total, the Kalalukas were provided with 16 separate payment arrangements to address their unpaid balance, and they defaulted on each such payment arrangement. PAWC Ex. 4 and N.T. 71.

In their Exceptions, the Kalalukas argue that their PAWC account balance should not include certain amounts that were included in the two bankruptcies that they filed. The Kalalukas are wrong. As the ALJ noted, both of the bankruptcy cases filed by the Kalaluka's were dismissed, and none of their unpaid PAWC arrearages were discharged in connection with those bankruptcy cases. See N.T. 13, 18, 35-35, and 67. Contrary to the Kalalukas' claims, this was explained to them on many separate occasions by PAWC representatives (See PAWC Ex. 5) and via letters issued on July 30, 2010 and April 25, 2011 (PAWC Exs. 6 and 7). At the hearing, PAWC provided the exact amounts of the Complainants' balances that were set aside when the bankruptcies were filed, and then demonstrated how the set-aside balances were transferred to the Complainants' current account. See PAWC Ex. 1,2 and 3, and N.T. 65-67. As ALJ Jandebeur correctly noted,

nothing in the Public Utility Code or the Commission's regulations prevents a utility from requiring payment of an unpaid balance that is more than four years old. An unpaid balance for utility services is not extinguished after any period of time, and a utility can continue to require payment of the balance.

The Kalaluka's Exceptions also argue that PAWC's calculation of their account balance is somehow improper with respect to late charges. The Kalaluka's submitted no evidence to support their allegations of improper billings or balance calculation. PAWC submitted three separate account histories for the Kalalukas which reflect every billed amount, late fee, payment, and credit since 2004. See PAWC Ex. 1, 2 and 3. In this case, PAWC continuously billed the Kalalukas' for the unpaid balances on their account, and demonstrated that the balances were in fact correct.

B. PAWC's Termination of Service to the Complainants was Authorized and Proper

The Complainants also take Exception to the ALJ's findings that PAWC's termination of their service was proper, and that PAWC followed the required termination procedures.

The Complainants' Exceptions on this issue are similarly without merit. PAWC was entitled to shut-off water and sewer service to the Complainant's due to the non-payment of their water and sewer bills. See 66 Pa.C.S.A. § 1406. PAWC's witness explained that the Kalalukas' service was shut off on August 31, 2011. N.T. 51. According to PAWC Exhibit 1, the Kalaluka's unpaid balance at that time was over \$15,000. Pursuant to 66 Pa.C.S.A. 1405(d), the Kalaluka's were not eligible for another payment arrangement to address their arrearage, because they had defaulted on 16 previous payment arrangements, including two prior PUC- ordered payment

arrangements. See PAWC Ex. 4 and N.T. 71. The most recent payment arrangement provided to the Kalalukas was put in place on June 30, 2011, and called for the Kalaluka's to make twenty-four payments of \$587.27 monthly starting on July 30, 2011. See PAWC Ex. 10. The Kalalukas defaulted on this payment arrangement when they failed to make the required \$587.27 payment by July 30, 2011. See PAWC Ex. 1.

Prior to the August 31, 2011 shut-off, the Kalalukas were mailed a ten-day termination notice, a copy of which was admitted into the record as PAWC Exhibit 11. The notice was mailed on August 17, 2011, and informed the Kalalukas that their water service would be shut-off on August 29, 2011 unless they made the overdue amount on their account. Then, on August 18, 2011, PAWC contacted the Kalalukas by telephone and left a voice message regarding the upcoming termination. See PAWC Ex. 5. On August 24, 2011, PAWC mailed a three-day termination notice to the Kalalukas. See PAWC Ex. 12. Finally, on August 29, 2011, PAWC provided a 48-hour shut-off notice to the Complainants. See PAWC Ex. 13. The Kalalukas' Exceptions alleged that the 48 hour notice was not posted until August 31. The Kalalukas also made this allegation at the hearing, but the allegation was rebutted by PAWC's witness and by the notice itself, which is clearly dated August 29, 2011. In any event, the Kalalukas were clearly aware that their service was scheduled to be terminated on August 29, 2011, because Mrs. Kalaluka contacted PAWC on August 24, 2011 and she was directly advised about the scheduled termination. See PAWC Ex. 5. In short, PAWC complied with all of the termination notice provisions required by the Public Utility Code and the Commission's regulations, as the ALJ correctly concluded.

C. The Kalalukas Were Not Entitled To Use Another Medical Certificate to Delay Termination of Their Service

As the ALJ correctly noted, the Kalalukas had used the medical certificate procedure on four occasions to prevent the termination of their water service. The Commission's regulations make it clear that a customer is only entitled to two 30-day medical certificates when a customer does not make equitable payment of utility bills. See 52 Pa. Code 56.114. In this case, it is clear that the Kalalukas failed to make equitable payment after utilizing their third medical certificate on April 8, 2008. Between April 2008 and April 2011, they made only eight payments, and their unpaid balance grew by several thousand dollars. See PAWC Exhibits 1 and 2. As such, the ALJ correctly concluded that PAWC was not required to accept any more medical certificates from the Kalalukas.

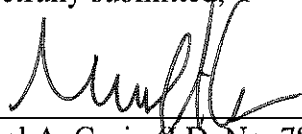
D. PAWC's Employees Were In No Way Abusive Towards the Complainants.

There is no credible evidence in the record to suggest that PAWC or its employees were abusive towards the Kalalukas in any way. To the contrary, as the ALJ correctly observed, PAWC bent over backwards to accommodate the Kalalukas, despite an ever-growing unpaid balance, and multiple broken payment arrangements. PAWC Exhibit 5 reflects the dozens of conversations that PAWC had with the Kalalukas about their unpaid balance. PAWC Exhibit 4 summarizes the long history of broken payment arrangements. Ultimately, after another broken payment arrangement and an unpaid balance in excess of \$15,000, PAWC terminated the Kalalukas' water service. The record reflects that PAWC was justified in doing so, and that nothing about PAWC's handling of the account or treatment of the Kalalukas was abusive.

III. Conclusion

For the reasons set forth above, the Commission should reject the Complainant's Exceptions, adopt the Initial Decision of ALJ Jandebaur in full, and dismiss the Complaint, with prejudice.

Respectfully submitted,



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Counsel for
Pennsylvania American Water Company

Dated: August 22, 2012

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

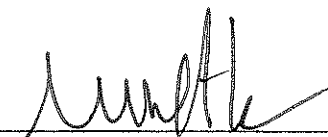
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v.	:	Docket No. C-2011-2262810
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PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Answer and New Matter upon the party listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA First Class U.S. Mail

Godrey Kalaluka
9399 Birch Lane
Tobyhanna, PA 18466



Michael A. Gruin

DATED: August 22, 2012