

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

KAREN ESAK,

COMPLAINANT,

VS.

PPL ELECTRIC UTILITIES CORPORATION,

RESPONDENT.

COMPLAINT DOCKET

NO. F-2012-2309448

**PPL ELECTRIC UTILITIES CORPORATION'S REPLIES TO EXCEPTIONS
OF COMPLAINANT, KAREN ESAK**

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. PPL Electric specifically denies that the Administrative Law Judge Ember S. Jandebour committed an error of law or abuse of discretion in finding that Complainant's outstanding balance was for electric service provided to her residence from the time of request until PPL Electric disconnected service for non-payment on November 18, 2009.

As background, Complainant previously resided at 174 Cayuga Circle, Hazelton, Pennsylvania. This account had a mailing address of 1033 Valley of the Lakes, Hazelton, Pennsylvania. On or about May 1, 2009, Complainant Esak filed for bankruptcy but did not specifically notify PPL Electric, which learned of the filing in June 2009. Upon learning of the bankruptcy filing, PPL opened a new account, for billing purposes, in the name of Complainant Esak. PPL then wrote off Complainant Esak's pre-petition balance and began billing Complainant Esak for services rendered after May 1, 2009. The

bankruptcy notification did not cause PPL to interrupt service to Complainant. The new account number was assigned simply to segregate pre-petition and post-petition charges.

Despite no request of PPL Electric to discontinue service, Complainant Esak denies that she should be responsible for any service provided after May 1, 2009 when she filed for bankruptcy. On or about June 8, 2012, Complainant filed a Complaint with the Pennsylvania Public Utility Commission disclaiming a \$483.53 bill accumulated at 174 Cayuga Circle, Hazelton, Pennsylvania. More specifically, Complainant asserted that she had moved out of the Cayuga Circle premises on May 1, 2009 and any responsibility for service should end as of that date.¹ In addition, Complainant contends that PPL was billing her for service with a mailing address of 4128 Valley of Lakes, rather than 1033 Valley of Lakes. PPL Electric denied Complainant's claims with evidence that Complainant never called in May 2009 to disconnect service, thereby she remained responsible for the service until she ultimately contacted PPL Electric on November 18, 2009. In addition, all billed service was provided to Complainant's residence and mailed to her attention.

The testimony and documentary evidence strongly supports the findings of the Administrative Law Judge that Complainant Esak is responsible for the outstanding balance associated with service rendered to 174 Cayuga Circle, Hazelton, Pennsylvania. As indicated through PPL Electric's Exhibits 1A and 2B, Complainant had a long standing account, number 55510-29018, with PPL which serviced 174 Cayuga Circle, Hazelton, Pennsylvania. In fact, up until March 2009, Complainant made consistent timely payments, keeping her account current. (PPL Exhibit 1A). Complainant testified that she filed for bankruptcy on May 1, 2009. (Tr. At 8). This is consistent with PPL

¹ Complainant further alleges that the bank foreclosed on the property in June 2009. (Tr. at 8).

Electric's Exhibits 1A and 2B. PPL Electric Hearing Exhibit 2B is a statement of contacts on Complainant's account, number 55510-29018. On June 5, 2009, PPL Electric noted "bankruptcy ch. 7; 09-03422; filed 5/1/09 – wrote off \$343.38 up to file date on 55510-29018, the new account is 55510-29027, total amount due on new account is \$235.26 (35.26 used from 5/1 to 5/14 and sec dep of \$200) if customer calls, the sec dep can be split up over 4". PPL Electric Hearing Exhibit 1A which is the Complainant's account activity statement for Account number 55510-29018 is consistent with the notation in PPL Electric Exhibit 2B. Although an Electric Service bill was issued on May 14, 2009, the same was cancelled. Thereafter, the entire balance of \$343.38 was written off. In addition, the "Mail to" address was changed to PPL Utilities – Rev Coll Supv" to ensure that PPL Electric did not attempt to collect on a matter in bankruptcy. (PPL exhibit 1A).

Thereafter, PPL Electric opened account number 55510-29027 and continued billing Complainant for the service at the same address post-bankruptcy filing. (PPL Exhibit 1D). PPL Exhibit 2A is the Customer Contacts on this Account. The contact from June 4, 2009 clearly denotes that this account was opened after the bankruptcy notice was processed. In addition, the contact from September 25, 2009 clearly denotes this account serviced mailing address 1033 Valley of the Lakes, Hazleton, PA as it states "Changed m/a from 1033 Valley of the Lakes Hazleton Pa to PO Box 135 Rock Glen PA 187426 per ret mail." Complainant contends that 1033 Valley of the Lakes, Hazleton, Pa was her correct address, and PPL Exhibit 2A verifies the bill was provided to this address. ALJ acted well within her discretion by applying the evidence to find that PPL

Electric properly billed Complainant Esak for service provided to 174 Cayuga Circle, Hazelton, Pennsylvania.

Complainant further contends she could not have used \$496.07 between May 1, 2009 and November 5, 2009 as the bank locked her out of the home as of June 2009. (Tr. 8). However, a review of PPL Exhibit 1A (the Account prior to the bankruptcy) and PPL Exhibit 1D (the Account after the bankruptcy) shows a significant decrease in usage. By way of example, in September 2008, Complainant was billed for 1458 kWh used over 31 days. (PPL Exhibit 1A). In September 2009, Complainant was billed for 732 kWh used over 32 day, a nearly 50% decrease in electric usage. (PPL exhibit 1D). Moreover, the Customer Contacts for each of these accounts reveals that Complainant Esak never contacted PPL to request a disconnect of service. Rather, PPL terminated service on November 4, 2009, and only then did Complainant Esak contact PPL on November 18, 2009. (PPL 1D).

Complainant erroneously believed that the filing of bankruptcy was notice to PPL Electric that service should be disconnected. ALJ Jandebour correctly applied 52 Pa. Code § 56.16(a) in finding that since Complainant did not call PPL to request a disconnect of service and the main line to the furnace remained on, Complainant was responsible for the electricity used.

In summary, ALJ Jandebour correctly found that Complainant was billed for electric service provided to 1033 Valley of the Lakes, Hazleton, Pa, a residence where Complainant was residing. Moreover, the ALJ correctly found that in the absence of

notice to PPL Electric to discontinue service, the Complainant shall be responsible for services rendered in the amount of 496.07.²

WHEREFORE, Respondent, PPL, respectfully requests that the Commission deny the Exceptions of Complainant, and direct Complainant to pay the outstanding balance on her final account.

Respectfully submitted,

GROSS MCGINLEY, LLP



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Date: December 26, 2012

² Complainant asks the Commission to accept a new Exhibit, Attachment E, into evidence. As this document was not provided during the hearing and is hearsay, the same should not be accepted. Nonetheless, even if Attachment E was to be considered, such has no effect. ALJ Jandebour found that "When Ms. Esak left 174 Cayuga Circle/1033 Valley of the Lakes, she left the electricity to the main line and the furnace on. Tr. 8, 15." Finding of Fact 11. This is consistent with the hearsay statement of Bryan J. Dunnigan.

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CERTIFICATE OF SERVICE

This is to certify that the **REPLIES TO EXCEPTIONS OF COMPLAINANT, KAREN ESAK**, was mailed to counsel/complainant of record on behalf of Complainant by first class United States mail, postage on this the 26th day of December 2012.

KAREN ESAK
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ADMINISTRATIVE LAW JUDGE EMBER JANDEBEUR
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