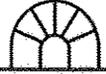


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January 21, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
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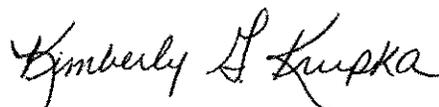
**RE: Kimberly A. Hrenyo v PPL Electric Utilities Corporation
No. F-2012-2314680**

Dear Ms. Chiavetta:

Enclosed please find the Replies of PPL Electric Utilities Corporation to the Exceptions of Complainant, Kimberly A. Hrenyo.

Pursuant to 52 Pa. Code §1.11, the enclosed Replies to Exceptions is deemed to be eFiled on the date as indicated above.

Very truly yours,



KIMBERLY G. KRUPKA

KGK/dm

Enclosures

cc: Kimberly A. Hrenyo (w/ enclosure)
Administrative Law Judge Elizabeth Barnes (w/ enclosure)
Kimberly R. Safford (w/ enc); *via email only*
Kristin M. Cressman (w/ enc)

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

KIMBERLY A. HRENYO,

COMPLAINANT,

VS.

PPL ELECTRIC UTILITIES CORPORATION,

RESPONDENT.

COMPLAINT DOCKET

NO. F-2012-2314680

**PPL ELECTRIC UTILITIES CORPORATION'S REPLIES TO EXCEPTIONS
OF COMPLAINANT, KIMBERLY A. HRENYO**

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 Elizabeth Barnes committed an error of law or abuse of discretion in finding that Complainant "failed to show a *prima facie* case that her usage remained unchanged from 2008 through 2011; therefore, she failed to prove a *prima facie* case of high billing." (Conclusion of Law 4). Complainant specifically Excepts to ALJ's finding that her pole garage was completed in January 2011. (Finding of Fact No. 3). In reviewing the entire Opinion, it appears that Finding of Fact No. 3 may have included a typographical error.

In fact, the ALJ states within her Discussion:

However, I infer from the testimony that in December, 2010 the construction project was taking place, probably using electricity from the house to construct the pole barn. In December, 2011, the pole barn had been completed, and since it is heated with electric heat and a furnace, the heat was probably turned on in December, 2011. And this would account for additional usage of electricity compared to usage in 2008 and 2009.

(Opinion at 6). Clearly the ALJ found that the pole garage was completed in December 2011, which is consistent with the Complainant's allegations of completion in January 2012.

In addition, Complainant requests that the Commission review two documents which she has attached to her Exceptions as Exhibits "A" and "B". As these documents are not part of the record, they should not be reviewed or considered in deciding these Exceptions. The Commission properly assigned an Administrative Law Judge to this case for the taking and receiving of evidence. (66 Pa.C.S.A. §331.) At the duly scheduled hearing, every part was entitled to present a case or defense through oral and documentary evidence, to submit rebuttal evidence and to conduct cross-examination as deemed required for full and true disclosure of the facts. (66 Pa.C.S.A. § 332.) The right to reopen the record to supplement with additional evidence is available when there has been a change in facts or law that occurred since the conclusion of the hearing which could affect the decision. 52 Pa. Code. § 5.571. In this instant case, Complainant simply chose not to introduce certain documentary evidence into the record at the time of the duly scheduled hearing. She cannot now attempt to use such documents in support of her Exceptions. Accordingly, Exhibits "A" and "B" should not be considered.

2. Denied. PPL Electric specifically denies that the Administrative Law Judge Elizabeth Barnes committed an error of law or abuse of discretion in regard to the construction of the pole garage. Complainant is again attempting to introduce evidence and Exhibits, which were not introduced at the time of the hearing. A Complainant cannot rely upon evidence outside of the record to support Exceptions. (See PPL Electric's Reply to Exception 1, above.) In addition, where such evidence was available

to Complainant prior to the hearing and Complainant chose not to introduce the same at the hearing, the Commission should not examine such evidence.

3. Denied. PPL Electric specifically denies that the Administrative Law Judge Elizabeth Barnes committed an error of law or abuse of discretion in regard to the investigation performed by William Stoffregen. First, the ALJ determined “that Complainant has failed to prove a *prima facie* case of high billing” and accordingly PPL was not obligated to disprove any allegations. (See Opinion pg. 6). Therefore, PPL Electric was not even required to perform an in home investigation of usage. Nonetheless, PPL Electric did perform such investigation and such investigation was proper. The testimony as supported with Exhibit “6” is clear that Mr. Stoffregen performed a thorough investigation. Any investigation is limited to an examination of the items within a home which have the potential to use electric and are then assigned a kilowatt calculation equal to the average electric usage of such item. This “potential usage” is then compared with “actual usage” to determine if the two are within range. In this case, the actual usage was quite similar to the potential usage. In addition, a test of the meter was performed which documented accuracy of 100.5%. (PPL Electric Hearing Exhibit 6). This evidence strongly supports the ALJ’s finding that the meter was recording electric usage accurately. Complainant presented no evidence to rebut such test.

4. Denied. PPL Electric specifically denies that the Administrative Law Judge Elizabeth Barnes committed an error of law or abuse of discretion in regard to Finding of Fact 10, “[t]he furnace was not ducted out throughout the house. It was ducted out where the furnace was.” This is the only reference within the Opinion to the

furnace's ductwork and this is a correct statement. Even Complainant does not contest this statement. Rather, she implies that the ALJ reached an improper Conclusion related to this Finding. A thorough review of the Opinion reveals that the ALJ did not reference this Finding of Fact anywhere within her Conclusion of Law or Discussion. Accordingly, no error or abuse is related to this accurate Finding of Fact.

5. Denied. PPL Electric specifically denies that the Administrative Law Judge Elizabeth Barnes committed an error of law or abuse of discretion in regard to Finding of Fact 11, concerning the testing of the meter. Complainant does not contest that the meter was pulled and tested. Complainant does not contest the results. Rather, it appears she objects to test not being performed at her home. PPL Electric performed a "shop test" in which the meter was tested by an engineer in a controlled environment. There is no evidence that the test was faulty. There is no evidence that the test was performed in an improper way. Accordingly, the finding of the ALJ is sufficiently supported through the evidence.

6. Denied. PPL Electric specifically denies that the Administrative Law Judge Elizabeth Barnes committed an error of law or abuse of discretion in regard to finding that the usage has not significantly changed in the past years. Complainant now asks the Commission to review Exhibit "F" in support of this proposition. This Exhibit was not part of the record and cannot be considered by the Commission. However, PPL Hearing Exhibit "1" was admitted into the record. The ALJ correctly interpreted this Exhibit in finding:

For example, Complainant's monthly kilowatt usage for September, 2011 versus September, 2012 was 1,468 to 1,261. N.T. 27-28. (Finding of Fact 14).

September 2011 reflected usage on the original meter whereas September 2012 reflected usage on the new meter. When divided into actual days within each cycle, Complainant used an average of 45.88 kWh per day in for the September 2011 period and 42.03 kWh per day in the 2012 cycle. Such usages are extremely consistent. Any significant differences occurred during heating seasons.

Complainant's monthly kilowatt usage for December, 2008 was 1,416 and for December, 2009 was 2,896 and in December 2011, it was 2,360. N.T. 31 (Finding of Fact 15).

In response, the ALJ correctly found:

Complainant's residence used forced hot air heat in the winter and central air conditioning in the summer months, and fluctuations in monthly kilowatt usage are reasonable given the seasonal temperature changes in the climate. N.T. 27-28 (Finding of Fact 16).

Complainant cannot dispute these findings. The evidence further reveals that during periods such as September when air conditioning and heating usage are limited, the usage is consistent.

7. Denied. PPL Electric specifically denies that the Administrative Law Judge Elizabeth Barnes committed an error of law or abuse of discretion in finding that the total outstanding amount due as of November 8, 2012 was \$1,197.80. Complainant Excepts stating that the account was paid in full as of March 14, 2011. PPL Electric does not dispute that according to the Account Activity Statement, Complainant issued payment on March 14, 2011 in the amount of \$1364.55 which paid all arrearages in full. (PPL Hearing Exhibit "1"). However, this is not inconsistent with the finding of the ALJ that as of November 8, 2012 Complainant had once again accumulated arrearages.

8. Denied. PPL Electric specifically denies that the Administrative Law Judge Elizabeth Barnes committed an error of law or abuse of discretion in finding that

Complainant “failed to show a *prima facie* case that her usage remained unchanged from 2008 through 2011; therefore, she failed to prove a *prima facie* case of high billing.” In this Exception, Complainant fails to identify that Finding of Fact, Conclusion of Law or statement to which she objects. Nonetheless, Complainant’s Exceptions do not support a finding of error of law or abuse of discretion.

It appears the Complainant is asserting that her usage from April through October increased from years 2009 through 2011. As rates themselves change overtime, any proper comparison has to be based on kilowatt hour usage. However, when comparing summer usage in a home such as this with air conditioning, the outside temperature must also be taken into consideration. In this case, the cooling degree days for each were: 582 for 2009, 975 for 2010, and 883 for 2011. (See PPL Hearing Exhibit “1”). When calculating the summer months, it is expected that usage will increase when cooling degree days increase. In addition, Complainant acknowledged that the pole garage was in the construction process during this time in 2011. It is expected that the electric tools used in the construction process would also lead to an increase in electric usage. There is absolutely nothing inconsistent about the usage from 2009 to 2011.

9. Denied. PPL Electric specifically denies that the Administrative Law Judge Elizabeth Barnes committed an error of law or abuse of discretion in finding that Complainant “failed to show a *prima facie* case that her usage remained unchanged from 2008 through 2011; therefore, she failed to prove a *prima facie* case of high billing.” Complainant selects one month from a calendar year in which to support her proposition that a meter which tested accurate at 100.5% was not working. In addition, there was a

change in usage during this time as Complainant acknowledges construction of pole garage during this time.

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

Respectfully submitted,

GROSS MCGINLEY, LLP



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Date: January 21, 2013

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

KIMBERLY A. HRENYO,

COMPLAINANT,

VS.

PPL ELECTRIC UTILITIES CORPORATION,

RESPONDENT.

COMPLAINT DOCKET

NO. F-2012-2314680

CERTIFICATE OF SERVICE

This is to certify that the **REPLIES TO EXCEPTIONS OF COMPLAINANT, KIMBERLY A. HRENYO** on behalf of PPL ELECTRIC UTILITIES CORPORATION was mailed to counsel/complainant of record KIMBERLY HRENYO, on behalf of Respondent by first class United States mail, postage on this the 21st day of January 2013.

KIMBERLY HRENYO
19 WOOD ST
PORT CARBON PA 17965

GROSS McGINLEY, LLP



By: _____

KIMBERLY G. KRUPKA, ESQUIRE

I.D. # 83071

Attorney for Respondent

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